

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

November 2, 2001

**Committee
Report No.**

01-210

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Committee of the Whole, having met on October 16, 2001, makes reference to County Communication No. 01-90, from the Council Chair, regarding the settlement of claims and lawsuits.

Your Committee is in receipt of correspondence dated October 3, 2001 and October 5, 2001, from the Department of the Corporation Counsel, requesting consideration of the possible settlement of the consolidated cases of Maalaea Kai Enterprises, Inc., et al. vs. Oahu Construction Company, Ltd., et al., Civil No. 98-0630 (3) and Kevin M. Hogan, et al. vs. Oahu Construction Company, Ltd., et al., Civil No. 99-0132 (3). Attached to the request was a copy of the complaints and a proposed resolution entitled "APPROVING A PROPOSED SETTLEMENT OF MAALAEA KAI ENTERPRISES, INC., ET AL., vs. OAHU CONSTRUCTION COMPANY, LTD., ET AL., CIVIL NO. 98-0630 (3), KEVIN M. HOGAN, ET AL. vs. OAHU CONSTRUCTION COMPANY, LTD., ET AL., CIVIL NO. 99-0132 (3)". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the consolidated claims.

Your Committee notes that the consolidated claims include allegations of negligence, nuisance, trespass, civil conspiracy, pollution, and punitive damages.

Your Committee recessed its meeting to October 17, 2001 with no discussion.

At its reconvened meeting of October 17, 2001, your Committee met with the Corporation Counsel and a Deputy Corporation Counsel.

There being no public testimony, the Deputy Corporation Counsel provided a brief overview of the consolidated cases. The Corporation Counsel requested the opportunity to discuss the matter in an executive meeting.

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Your Committee voted to convene an executive meeting for the purpose of consulting with legal counsel on liability issues in the matter, pursuant to Section 92-5(a)(4), Hawaii Revised Statutes.

At its executive meeting, your Committee met with the Deputy Planning Director, the Corporation Counsel, and a Deputy Corporation Counsel.

Following the executive meeting, your Committee reconvened in regular session. Based on the information received and the recommendation of the Department of the Corporation Counsel, your Committee voted to recommend adoption of the proposed resolution to approve the settlement of the matter under the terms proposed in the executive meeting.

Your Committee of the Whole RECOMMENDS that Resolution No. _____, attached hereto, entitled "APPROVING A PROPOSED SETTLEMENT OF MAALAEA KAI ENTERPRISES, INC., ET AL., vs. OAHU CONSTRUCTION COMPANY, LTD., ET AL., CIVIL NO. 98-0630 (3), KEVIN M. HOGAN, ET AL., vs. OAHU CONSTRUCTION COMPANY, LTD., ET AL., CIVIL NO. 99-0132 (3)" be ADOPTED.

Adoption of this report is respectfully requested.

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