

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

November 16, 2001

**Committee
Report No.**

01-225

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 30, 2001, makes reference to County Communication No. 01-91, from the Council Chair, regarding proposed contracts for special counsel.

Your Committee is in receipt of correspondence dated October 24, 2001, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "INDEMNIFYING SAMUEL KALALAU III, JEREMY F. KOZUKI, BERNICE LU, STAR MEDEIROS, SUSAN MOIKEHA, HERMAN NASCIMENTO, JOSEPH PONTANILLA, MONA RICHARDSON, JOHN MIN, AND JUDITH NEUSTADTER FUQUA, IN CIVIL NO. CV01-00615 SPK KSC, HALE O KAULA CHURCH, ET AL. VS. THE MAUI PLANNING COMMISSION, ET AL.". The purpose of the proposed resolution is to authorize indemnification of a County employee, an administrative hearing officer retained by the Maui Planning Commission, and various Maui Planning Commissioners in the Hale O Kaula Church case.

Your Committee notes that this case includes allegations of civil rights violations.

By correspondence dated October 25, 2001, David Jenkins, Elder of Hale O Kaula Church, provided comments in opposition to the request for indemnification.

By correspondence dated October 25, 2001, Judith Neustadter Fuqua, administrative hearing officer retained by the Maui Planning Commission, supported the request for indemnification.

By correspondence dated October 26, 2001, Bernice W. Lu, Maui Planning Commissioner, supported the request for indemnification.

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By correspondence dated October 29, 2001, Mona Richardson, Maui Planning Commissioner, supported the request for indemnification.

By correspondence dated October 29, 2001, Joseph Pontanilla, Maui Planning Commissioner, supported the request for indemnification.

By correspondence dated October 30, 2001, the Department of the Corporation Counsel transmitted correspondence from Susan Moikeha, Maui Planning Commissioner, supporting the request for indemnification.

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

Your Committee received public testimony from four individuals. One person spoke in opposition to the request for indemnification and three people provided general comments on the item.

Your Committee received copies of the following: 1) "FINDINGS OF FACT; CONCLUSIONS OF LAW; DECISION AND ORDER OF HEARING OFFICER" dated April 30, 2001 for SUP 2 990016; and 2) Religious Land Use and Institutionalized Persons Act of 2000.

The Deputy Corporation Counsel provided a brief overview of the case and requested the opportunity to discuss the matter in an executive meeting.

Prior to the executive meeting, your Committee proceeded with as much of the discussion regarding this matter that your Committee Chair would allow in regular session.

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 Planning Director and two Deputy Corporation Counsel.

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Following the executive meeting, your Committee reconvened in regular session. The Department of the Corporation Counsel noted that revisions would be made to the proposed resolution to include the name of Maui Planning Commissioner Randy Piltz in the title and the first be it resolved paragraph.

Based on the information received and the recommendation of the Department of the Corporation Counsel, your Committee voted to recommend adoption of the revised proposed resolution to authorize indemnification under the terms agreed to in the executive meeting.

Your Committee is in receipt of a revised proposed resolution entitled "INDEMNIFYING SAMUEL KALALAU III, JEREMY F. KOZUKI, BERNICE LU, STAR MEDEIROS, SUSAN MOIKEHA, HERMAN NASCIMENTO, RANDY PILTZ, JOSEPH PONTANILLA, MONA RICHARDSON, JOHN MIN, AND JUDITH NEUSTADTER FUQUA, IN CIVIL NO. CV01-00615 SPK KSC, HALE O KAULA CHURCH, ET AL. VS. THE MAUI PLANNING COMMISSION, ET AL.", approved as to form and legality.

Your Committee of the Whole **RECOMMENDS** that Resolution No. _____, as revised herein and attached hereto, entitled "INDEMNIFYING SAMUEL KALALAU III, JEREMY F. KOZUKI, BERNICE LU, STAR MEDEIROS, SUSAN MOIKEHA, HERMAN NASCIMENTO, RANDY PILTZ JOSEPH PONTANILLA, MONA RICHARDSON, JOHN MIN, AND JUDITH NEUSTADTER FUQUA, IN CIVIL NO. CV01-00615 SPK KSC, HALE O KAULA CHURCH, ET AL. VS. THE MAUI PLANNING COMMISSION, ET AL.", be **ADOPTED**.

Adoption of this report is respectfully requested.

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