

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

December 17, 2001

**Committee
Report No.** 01-248

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 December 4, 2001, makes reference to County Communication No. 01-90, from the Council Chair, regarding the settlement of claims and lawsuits.

By correspondence dated May 9, 1995, the Department of the Corporation Counsel requested an opportunity to present an update on Mualla Atahan, et al. vs. County of Maui, et al., Civil No. 95-0160 (1). This case alleges beach liability.

Your Committee notes that the prior Council's Committee of the Whole held three meetings to discuss the matter.

At its meeting of November 30, 1999, the Committee deferred the possible settlement of the case without discussion.

By correspondence dated January 25, 2000, the Department of the Corporation Counsel requested an opportunity to discuss the possible settlement of the case.

At its meeting of January 31, 2000, the Committee deferred the possible settlement of the case without discussion.

At its meeting of October 31, 2000, the Committee met with the Director of Parks and Recreation; the Corporation Counsel; five Deputy Corporation Counsel; and Kenneth Robbins, Esq. of Robbins & Rhodes.

There being no public testimony, the Corporation Counsel provided a brief overview of the case. Mr. Robbins also provided a brief overview of the case via speakerphone. The Corporation Counsel requested the opportunity to discuss the matter in an executive meeting.

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The 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, the Committee met with the Director of Parks and Recreation, the Corporation Counsel and five Deputy Corporation Counsel.

Following the executive meeting, the Committee reconvened in regular session. Based on the information received and the recommendation of the Department of the Corporation Counsel, the Committee deferred consideration of the possible settlement of the case.

At its meeting of November 14, 2000, the Committee recommended that Corporation Counsel's correspondence dated May 9, 1995 and January 25, 2000 be referred to the Council Chair for the term beginning January 2, 2001, for a recommendation as to referral or other disposition.

At its meeting of January 12, 2001, the Council referred Corporation Counsel's correspondence dated May 9, 1995 and January 25, 2000 to your Committee of the Whole (County Communication No. 01-15).

By correspondence dated November 26, 2001, the Department of the Corporation Counsel requested the opportunity to discuss the possible settlement of the case. Attached to the request was a copy of the complaint and other related documents, as well as a proposed resolution entitled "APPROVING A PROPOSED SETTLEMENT OF MUALLA ATAHAN, INDIVIDUALLY, ET AL. VS. COUNTY OF MAUI, ET AL., CIVIL NO. 95-0160 (1)". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the case.

At its meeting of December 4, 2001, your Committee met with the Corporation Counsel and Kenneth Robbins, Esq. of Robbins & Rhodes.

There being no public testimony, the Corporation Counsel provided a brief overview of the case and 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 Corporation Counsel and Kenneth Robbins, Esq. of Robbins & Rhodes.

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 MUALLA ATAHAN, INDIVIDUALLY, ET AL. VS. COUNTY OF MAUI, ET AL., CIVIL NO. 95-0160 (1)" be **ADOPTED**.

Adoption of this report is respectfully requested.

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