

**COUNCIL OF THE COUNTY OF MAUI**  
**COMMITTEE OF THE WHOLE**

November 9, 2010

**Committee**  
**Report No.** \_\_\_\_\_

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 14, 2010, makes reference to County Communication No. 09-14, from Michael J. Molina, Chair of your Committee, regarding litigation matters submitted by the Department of the Corporation Counsel.

By correspondence dated October 6, 2010, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "INDEMNIFYING CHARMAINE TAVARES, ROY SILVA, MAHINA MARTIN, JEFFREY K. ENG, AND CLAYTON YOSHIDA IN MOLOKAI VETERANS CARING FOR VETERANS, ET AL. V. COUNTY OF MAUI, ET AL., CV 10-00538 JMS LEK". Attached to the request is a copy of the complaint. The purpose of the proposed resolution is to indemnify Charmaine Tavares, Mayor; Roy Silva, Executive Assistant to Mayor Tavares; Mahina Martin, County Community Relations and Communications Director; Jeffrey K. Eng, Director, Department of Water Supply; and Clayton Yoshida, Administrator, Department of Planning, in the case.

Your Committee notes that the complaint alleges constitutional and civil rights violations and supplemental State-law claims arising out of permitting issues pertaining to a proposed veterans' center on Molokai.

Your Committee further notes that under general legal principles, the County may be responsible for the tortious acts of its employees.

A Deputy Corporation Counsel provided a brief overview of the case. Because the County employees are being sued in their individual capacities and punitive damages are requested, the Deputy informed your Committee that a potential conflict of interest exists for the Department of the Corporation Counsel. Therefore, the Department cannot represent the County employees unless the Council authorizes indemnification. The Deputy further stated that based on her investigation, the Department of the Corporation Counsel recommends indemnification for each of the County employees in this case.

