

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

March 29, 2011

Committee
Report No. _____

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

Chair and Members:

Your Policy Committee, having met on March 22, 2011, makes reference to County Communication No. 11-30, from Council Chair Danny A. Mateo, regarding litigation matters.

By correspondence dated February 4, 2011, the Department of the Corporation Counsel requested consideration of the possible settlement of Molokai Veterans Caring for Veterans, et al. v. County of Maui, et al., Civil No. 10-00538 LEK. Attached to the request is a copy of the Amended Complaint and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF MOLOKAI VETERANS CARING FOR VETERANS, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL NO. CV 10-00538 LEK". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the case.

Your Committee notes that the complaint alleges damages resulting from plaintiffs' inability to obtain a building permit for a proposed veterans' center in Kaunakakai, Molokai, Hawaii. Your Committee notes that the plaintiffs sued not only the County and Mayor Charmaine Tavares, but also certain individuals who are officers and employees of the County ("County defendants").

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

Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel pursuant to Section 92-5(a)(4), Hawaii Revised Statutes.

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 7-0 to recommend adoption of the proposed resolution to authorize settlement of the matter on behalf of the County defendants under the terms proposed in the executive meeting. Committee Chair Hokama,

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Vice-Chair Carroll, and members Baisa, Cochran, Couch, Victorino, and White voted “aye”. Committee members Mateo and Pontanilla were excused.

Your Policy Committee RECOMMENDS that Resolution No. _____, attached hereto, entitled “AUTHORIZING SETTLEMENT OF MOLOKAI VETERANS CARING FOR VETERANS, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL NO. CV 10-00538 LEK”, be ADOPTED.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.



G. RIKI HOKAMA, Chair

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Resolution

No. _____

AUTHORIZING SETTLEMENT OF
MOLOKAI VETERANS CARING FOR VETERANS, ET AL.
V. COUNTY OF MAUI, ET AL.,
CIVIL NO. CV 10-00538 LEK

WHEREAS, Plaintiffs Molokai Veterans Caring for Veterans, a Hawai`i non-profit corporation; Maximo Agan; Luella Albino, as personal representative for Donald Albino (deceased); Franklin Augustiro; Benjamin Bali; Patsy Bird; George Denison; Jesse Dudoit; Richard Ellertsen; Wendall Defreitas; Manuel Garcia; Melvin Hanohano; Hilarion H. Helm; Terrace Kekahuna; Moana Keohuloa, as personal representative for John Keohuloa (deceased); Adolphus Lankford; John Logan; Cumins Mahoe; Frank Maniago; Robert McKee; Kelson K. Poepoe; Kaipō Ramos; Wayne Rawlins; Raymond Sambueno; Irene C. Tancayo, as personal representative for Michael Tancayo (deceased); and Laslo Toth (hereinafter "Plaintiffs") filed a lawsuit in the United States District Court for the District of Hawai`i on September 17, 2010, Civil No. CV 10-00538 LEK, against the County of Maui, Charmaine Tavares, Roy Silva, Mahina Martin, the Department of Water Supply, Jeffrey K. Eng, the Board of Water Supply, the Department of Planning, and Clayton Yoshida, claiming general and special damages as the result of Plaintiffs' inability to obtain a building permit for a proposed veterans center in Kaunakakai, Molokai; and

WHEREAS, the County of Maui, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, has attempted to reach a resolution of this case by way of a negotiated settlement; and

WHEREAS, the Department of the Corporation Counsel has requested authority to settle this case under the terms set forth in an executive meeting before the Policy Committee; and

WHEREAS, having reviewed the facts and circumstances regarding this case and being advised of attempts by the Department of the Corporation Counsel to reach resolution of this case by way of a negotiated settlement, the Council wishes to authorize the settlement; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:


1. That it hereby approves settlement of this case under the terms set forth in an executive meeting before the Policy Committee; and

2. That it hereby authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

3. That it hereby authorizes the Director of Finance of the County of Maui to satisfy said settlement of this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

4. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



JANE E. LOVELL
Deputy Corporation Counsel
County of Maui

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