

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

May 10, 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 April 15, 2011, makes reference to County Communication No. 11-30, from Council Chair Danny A. Mateo, regarding litigation matters.

By correspondence dated April 4, 2011, the Department of the Corporation Counsel requested consideration of the possible settlement of Michael Magliato, Individually and as Special Administrator of the Estate of Keone Anthony Magliato v. Forrest Taniguchi, et al., Civil No. 09-1-0043(3). Attached to the request is a copy of the First Amended Complaint and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF MICHAEL MAGLIATO, INDIVIDUALLY AND AS SPECIAL ADMINISTRATOR OF THE ESTATE OF KEONE ANTHONY MAGLIATO VS. FORREST TANIGUCHI, ET AL., CIVIL NO. 09-1-0043(3)". 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, in part, from the County's negligent failure to warn of roadway hazards. The complaint alleges that this failure contributed to a motor-vehicle accident at the intersection of Kauhikoalani Place and Kauhikoa Road in Haiku, Maui, Hawaii, on October 27, 2008. Your Committee further notes that the Council previously authorized settlement of the case by Resolution No. 11-33.

A Deputy Corporation Counsel provided an overview of the case, noted the presence of special counsel Jonathan Ortiz, 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 5-0 to recommend adoption of the proposed

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resolution to authorize the settlement of the matter under the terms proposed in the executive meeting. Committee Chair Hokama and members Cochran, Couch, Mateo, and White voted "aye". Committee Vice-Chair Carroll abstained. Committee members Baisa, Pontanilla, and Victorino were excused.

Your Policy Committee RECOMMENDS that Resolution No. _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF MICHAEL MAGLIATO, INDIVIDUALLY AND AS SPECIAL ADMINISTRATOR OF THE ESTATE OF KEONE ANTHONY MAGLIATO VS. FORREST TANIGUCHI, ETAL., CIVIL NO. 09-1-0043(3)", be ADOPTED.

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



G. RIKI HOKAMA, Chair

Resolution

No. _____

AUTHORIZING SETTLEMENT OF MICHAEL MAGLIATO,
INDIVIDUALLY AND AS SPECIAL ADMINISTRATOR
OF THE ESTATE OF KEONE ANTHONY MAGLIATO VS.
FORREST TANIGUCHI, ET AL., CIVIL NO. 09-1-0043(3)

WHEREAS, Plaintiffs Michael Magliato, individually and as Special Administrator of the Estate of Keone Anthony Magliato, filed a lawsuit against Forrest Taniguchi in the Circuit Court of the Second Circuit Court on January 21, 2009, Civil No. 09-1-0043(3), claiming damages for the death of Keone Anthony Magliato as a result of a collision between a vehicle driven by Forrest Taniguchi and the motorcycle driven by Keone Anthony Magliato at the intersection of Kauhikoalani Place and Kauhikoa Road in Haiku on or about October 27, 2008; and

WHEREAS, Plaintiffs filed a First Amended Complaint on March 18, 2009, adding County of Maui as a Defendant; and

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

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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 to reach resolution of this case by way of a negotiated settlement or Offer of Judgment by the Department of the Corporation Counsel, 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

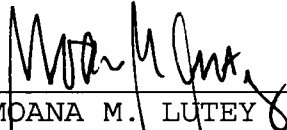
2. That it hereby authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

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

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

APPROVED AS TO FORM AND LEGALITY:



MOANA M. LUTEY
Deputy Corporation Counsel
County of Maui

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