

COUNCIL OF THE COUNTY OF MAUI

POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE

April 5, 2013

**Committee
Report No.** _____

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

Chair and Members:

Your Policy and Intergovernmental Affairs Committee, having met on March 15, 2013, makes reference to County Communication 13-41, from Council Chair Gladys C. Baisa, regarding litigation matters.

By correspondence dated February 22, 2013, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "INDEMNIFYING GARY YABUTA, JERALD PERKETT, JEFFREY CALIBUSO, KEOKI SANTOS, RICHARD DODS, CHRISTOPHER GANTALA, KENNETH CARROLL, CLIFFORD DAGULO, JAMIE WRIGHT, MATTHEW BROWN, EDUARDO BAYLE, CHRISTOPHER KEALOHA, CLIFTON PERREIRA, GREGG OKAMOTO, AND MATTHEW BIGOSS IN APRIL FREELAND, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL NO. 11-00617 ACK KSC", and transmitted a copy of the second amended complaint. The purpose of the proposed resolution is to indemnify Gary Yabuta, Jerald Perkett, Jeffrey Calibuso, Keoki Santos, Richard Dods, Christopher Gantala, Kenneth Carroll, Clifford Dagulo, Jamie Wright, Matthew Brown, Eduardo Bayle, Christopher Kealoha, Clifton Perreira, Gregg Okamoto, and Matthew Bigoss ("the Defendants"), employees of the Department of Police, in the case.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed resolution, approved as to form and legality, incorporating nonsubstantive revisions.

Your Committee notes the second amended complaint alleges the civil rights of April Freeland and Norman Freeland were violated by the Defendants when the Defendants wrongfully executed search warrants on the Freelands' home on April 15, 2011, resulting in damages and injuries.

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Your Committee further notes the Police Commission reviewed the matter pursuant to Section 52D-8, Hawaii Revised Statutes (“HRS”), and determined the Defendants are entitled to legal representation.

A Deputy Corporation Counsel gave a brief overview of the case and recommended the Committee consider the matter in an executive meeting.

Your Committee voted to convene an executive meeting, closed to the public, pursuant to Section 92-5(a)(4), HRS, to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

Following the executive meeting, your Committee reconvened in regular session.

Your Committee voted 5-0 to recommend adoption of the revised proposed resolution. Committee Chair Hokama and members Carroll, Cochran, Crivello, and Guzman voted “aye”. Committee Vice-Chair Couch and members Baisa, Victorino, and White were excused.

Your Policy and Intergovernmental Affairs Committee RECOMMENDS that Resolution _____, attached hereto, entitled “INDEMNIFYING GARY YABUTA, JERALD PERKETT, JEFFREY CALIBUSO, KEOKI SANTOS, RICHARD DODS, CHRISTOPHER GANTALA, KENNETH CARROLL, CLIFFORD DAGULO, JAMIE WRIGHT, MATTHEW BROWN, EDUARDO BAYLE, CHRISTOPHER KEALOHA, CLIFTON PERREIRA, GREGG OKAMOTO, AND MATTHEW BIGOSS IN APRIL FREELAND, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL NO. 11-00617 ACK KSC”, be ADOPTED.

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



G. RIKI HOKAMA, Chair

Resolution

No. _____

INDEMNIFYING GARY YABUTA, JERALD PERKETT, JEFFREY CALIBUSO,
KEOKI SANTOS, RICHARD DODS, CHRISTOPHER GANTALA,
KENNETH CARROLL, CLIFFORD DAGULO, JAMIE WRIGHT,
MATTHEW BROWN, EDUARDO BAYLE, CHRISTOPHER KEALOHA,
CLIFTON PERREIRA, GREGG OKAMOTO, AND MATTHEW BIGOSS
IN APRIL FREELAND, ET AL. V. COUNTY OF MAUI, ET AL.,
CIVIL NO. 11-00617 ACK KSC

WHEREAS, Gary Yabuta, Jerald Perkett, Jeffrey Calibuso, Keoki Santos, Richard Dods, Christopher Gantala, Kenneth Carroll, Clifford Dagulo, Jamie Wright, Matthew Brown, Eduardo Bayle, Christopher Kealoha, Clifton Perreira, Gregg Okamoto, and Matthew Bigoss, who were employees of the Department of Police on April 15, 2011, were named as defendants in the Second Amended Complaint filed on January 25, 2013, in the case of April Freeland, et al. v. County of Maui, et al., Civil No. 11-00617 ACK KSC; and

WHEREAS, Plaintiffs allege that their civil rights were violated and that they suffered damages and injuries as a result of an incident occurring on or about April 15, 2011, involving Jerald Perkett, Jeffrey Calibuso, Keoki Santos, Richard Dods, Christopher Gantala, Kenneth Carroll, Clifford Dagulo, Jamie Wright, Matthew Brown, Eduardo Bayle, Christopher Kealoha, Clifton Perreira, Gregg Okamoto, Matthew Bigoss, and Gary Yabuta as Chief of Police ("these Defendants"); and

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WHEREAS, the Police Commission has reviewed this matter under its statutory authority and determined that these Defendants are entitled to legal representation; and

WHEREAS, based upon an investigation of this matter, the Department of the Corporation Counsel believes there to be a good faith basis for indemnification and has recommended that the Council indemnify these Defendants for any damages that may be assessed against them in the above-referenced lawsuit; and

WHEREAS, Plaintiffs seek general, special, and punitive damages, attorney's fees, interest and costs of suit; and

WHEREAS, based upon the recommendation of the Department of the Corporation Counsel, it appears at this time that it would be in the best interest of the County of Maui to indemnify these Defendants in the above-referenced lawsuit; now, therefore,

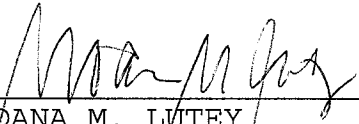
BE IT RESOLVED by the Council of the County of Maui:

1. That Gary Yabuta, Jerald Perkett, Jeffrey Calibuso, Keoki Santos, Richard Dods, Christopher Gantala, Kenneth Carroll, Clifford Dagulo, Jamie Wright, Matthew Brown, Eduardo Bayle, Christopher Kealoha, Clifton Perreira, Gregg Okamoto, and Matthew Bigoss are indemnified by the County of Maui for any damages that may be assessed against them in the above-referenced lawsuit; and

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

APPROVED AS TO FORM AND LEGALITY:



MOANA M. LUTEY
Deputy Corporation Counsel
County of Maui

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