

COUNCIL OF THE COUNTY OF MAUI
**POLICY AND INTERGOVERNMENTAL
AFFAIRS COMMITTEE**

November 21, 2014

**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 November 6, 2014, makes reference to County Communication 13-41, from Council Chair Gladys C. Baisa, regarding litigation matters.

By correspondence dated October 28, 2014, the Department of the Corporation Counsel requested consideration of the possible settlement of Charles E. Bick v. County of Maui, et al., Civil 13-1-0086(1). Attached to the request is a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF CHARLES E. BICK V. COUNTY OF MAUI, ET AL. CIVIL NO. 13-1-0086(1)", along with a copy of the complaint. The purpose of the proposed resolution is to authorize settlement of the case.

Your Committee notes the complaint alleges injuries and damages as a result of Plaintiff Charles E. Bick's trip and fall on the sidewalk along Kenolio Road, near the entrance to Southpointe at Waiakoa, in Kihei, Maui, Hawaii, on April 15, 2012.

Your Committee further notes Section 3.16.020(B), Maui County Code, requires Council authorization for any settlement in excess of \$7,500.

A Deputy Corporation Counsel provided a brief overview of the case. Because the case involves ongoing litigation and confidential medical information, the Deputy requested the opportunity to convene an executive meeting.

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; and to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a State or Federal law, or a court order, pursuant to Section 92-5(a)(8), Hawaii Revised Statutes.

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

Your Policy and Intergovernmental Affairs Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF CHARLES E. BICK V. COUNTY OF MAUI, ET AL. CIVIL NO. 13-1-0086(1)", 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

Resolution

No. _____

AUTHORIZING SETTLEMENT OF
CHARLES E. BICK V. COUNTY OF MAUI, ET AL.
CIVIL NO. 13-1-0086(1)

WHEREAS, Plaintiff Charles E. Bick filed a lawsuit in the Second Circuit Court, Civil No. 13-1-0086(1), against the County of Maui, on January 25, 2013, claiming general and special damages as a result of a trip and fall on the sidewalk along Kenolio Road, near the entrance to Southpointe at Waiakoa, Kihei, on April 15, 2012; 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

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 and Intergovernmental Affairs Committee; and

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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 and Intergovernmental Affairs Committee; and

2. That it hereby authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County of Maui 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, the Director of Public Works, and the Corporation Counsel.

Resolution No. _____

APPROVED AS TO FORM AND LEGALITY:



THOMAS W. KOLBE
Deputy Corporation Counsel
County of Maui