

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

December 19, 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 December 8, 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 Tommy Russo v. County of Maui, et al., Civil 13-00165 HG RLP. Attached to the request is a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF TOMMY RUSSO V. COUNTY OF MAUI, ET AL., CIVIL NO. 13-00165 HG RLP", 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 civil rights violations and physical injuries arising from an incident involving the Department of Police on April 12, 2011.

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

The Corporation Counsel provided a brief overview of the case. Because the case involves ongoing litigation and confidential medical information, he 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.

Following the executive meeting, your Committee reconvened in regular session. Based on the information received and the recommendation of the Department of the

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

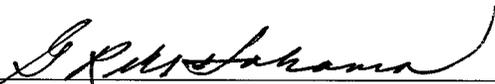
Page 2

**Committee
Report No.** _____

Corporation Counsel, your Committee voted 6-0 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 Carroll, Cochran, Crivello, and White voted "aye". Committee members Baisa, Guzman, and Victorino were excused.

Your Policy and Intergovernmental Affairs Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF TOMMY RUSSO V. COUNTY OF MAUI, ET AL., CIVIL NO. 13-00165 HG RLP", 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
TOMMY RUSSO V. COUNTY OF MAUI, ET AL.,
CIVIL NO. 13-00165 HG RLP

WHEREAS, Plaintiff Tommy Russo filed a lawsuit in the United States District Court for the District of Hawaii on April 8, 2013, Civil No. 13-00165 HG RLP, against the County of Maui, Gary Yabuta, and Nelson Johnson alleging civil rights violations and physical injuries on or about April 12, 2011; 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

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

Resolution No. _____

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:

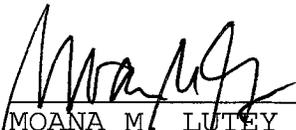
1. That it hereby approves settlement of this case under the terms set forth in an executive meeting before the Policy and Intergovernmental Affairs Committee; and

2. That it hereby authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County, Gary Yabuta, and Nelson Johnson 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 Chief of Police, and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:



MOANA M. LUTEY
Deputy Corporation Counsel
County of Maui