

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

August 8, 2008

**Committee
Report No.**

08-89

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

Chair and Members:

Your Policy Committee, having met on July 29, 2008, makes reference to County Communication No. 07-11, from the Council Chair, regarding the settlement of claims and lawsuits.

By correspondence dated July 21, 2008, the Department of the Corporation Counsel requested consideration of the possible settlement of Daniel K. Kanahale, et al. v. Maui County Council, et al., Civil No. 08-1-0115(3). Attached to the request is a proposed resolution entitled "AUTHORIZING SETTLEMENT OF DANIEL K. KANAHELE, ET AL. VS. MAUI COUNTY COUNCIL, ET AL.; CIVIL NO. 08-1-0115(3), SECOND CIRCUIT COURT, STATE OF HAWAII". 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 that the Maui County Council violated the State's Sunshine Law, Chapter 92, Part I, Hawaii Revised Statutes (HRS).

At its meeting, your Committee met with the Corporation Counsel and a Deputy Corporation Counsel.

There was no public testimony.

The Deputy Corporation Counsel requested the opportunity to discuss the matter in an executive meeting.

Your Committee voted to convene an executive meeting for the purpose of consulting with legal counsel on liability issues in the matter, pursuant to Section 92-5(a)(4), HRS.

At its executive meeting, your Committee met with the Corporation Counsel and a Deputy Corporation Counsel.

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

The Deputy Corporation Counsel provided your Committee with the following documents entitled (1) "ORDER GRANTING PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION"; (2) "PLAINTIFFS' ANSWERS TO INTERVENORS' FIRST REQUEST FOR INTERROGATORIES TO DANIEL K. KANAHELE"; and (3) "PLAINTIFFS' SECOND ANSWERS TO DEFENDANTS' FIRST REQUEST FOR INTERROGATORIES TO PLAINTIFFS".

Based on the information received and the recommendation of the Department of the Corporation Counsel, your Committee voted to recommend the filing of the correspondence.

Your Policy Committee **RECOMMENDS** that the correspondence dated July 21, 2008, attached hereto, be FILED.

Adoption of this report is respectfully requested.

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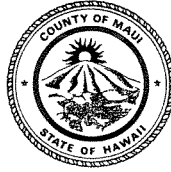
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POL-1(20)

CHARMAINE TAVARES
Mayor



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DEPARTMENT OF THE CORPORATION COUNSEL

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July 21, 2008

MEMORANDUM

MEMO TO: Danny A. Mateo, Chair
Policy Committee

FROM: Mary Blaine Johnston 
Deputy Corporation Counsel

SUBJECT: Settlement Authorization of Claims and Lawsuits
Kanahele, et al. vs. Maui County Council, et al.
Civil No. 08-1-0115(3); Second Circuit Court (POL-1)

Pursuant to Section 3.16.020 of the Maui County Code, our Department respectfully requests the opportunity to discuss settlement of the above-referenced case in executive session at the next available meeting of the Policy Committee. A copy of the proposed resolution is enclosed for consideration.

Should you have any questions, please do not hesitate to contact me.

MBJ:lk

Enclosure

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Resolution

No. _____

AUTHORIZING SETTLEMENT OF DANIEL K. KANAHELE, ET AL.
VS. MAUI COUNTY COUNCIL, ET AL.; CIVIL NO. 08-1-0115(3),
SECOND CIRCUIT COURT, STATE OF HAWAII

WHEREAS, the Maui County Council and County of Maui have been named as defendants in the case of Daniel K. Kanahele, et al. vs. Maui County Council, et al.; Civil No. 08-1-0115(3), filed in the Circuit Court of the Second Circuit on March 5, 2008; and

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

WHEREAS, the Department of the Corporation Counsel has been presented with a settlement proposal, which terms were discussed in an executive meeting of the Policy Committee; and

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

WHEREAS, the Council finds that settlement of this lawsuit is in the public interest; now, therefore,

Resolution No. _____

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

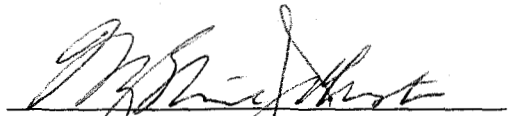
1. That it hereby approves settlement of this lawsuit on the terms discussed in an executive meeting of the Policy Committee; and

2. That it hereby authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this lawsuit, 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 to satisfy said settlement of this lawsuit, 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 Maui County Council, and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:



MARY BLAINE JOHNSTON
Deputy Corporation Counsel
County of Maui