

COUNCIL OF THE COUNTY OF MAUI  
**POLICY COMMITTEE**

September 23, 2008

**Committee**  
**Report No.**

08-113

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

Chair and Members:

Your Policy Committee, having met on September 2, 2008, makes reference to County Communication No. 07-9, from the Council Chair, regarding indemnification authorization.

By correspondence dated August 13, 2008, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "INDEMNIFYING HERBERT KINORES, JR., IN DOLORES ABREU V. HERBERT KINORES, JR., ET AL., CIVIL NO. 07-1-0216(1)". Attached to the request is a copy of the complaint, filed on June 15, 2007. The purpose of the proposed resolution is to indemnify Herbert Kinores, Jr., a County employee, in the case.

Your Committee notes that the Plaintiff in the case, Dolores Abreu, has sued Mr. Kinores for injuries she sustained on December 20, 2006. Ms. Abreu alleges that, while on-duty, Mr. Kinores was negligent and careless in the operation of a County garbage truck by parking his vehicle in an unsafe manner.

Your Committee further notes that under general legal principles, the County may be responsible for the tortious acts of its employees.

At its meeting, your Committee met with the Chief of the Solid Waste Division, Department of Environmental Management; and a Deputy Corporation Counsel.

There was no public testimony.

The Deputy Corporation Counsel provided a brief overview of the case. She explained that during a regularly scheduled trash pick-up on December 20, 2006, Mr. Kinores parked his garbage truck on Keoni Place with the front of the truck protruding onto Kula Highway. While traveling on Kula Highway, Ms. Abreu's vehicle collided with the front of the garbage truck, causing her to suffer multiple injuries.

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Based on the information received and the recommendation of the Department of the Corporation Counsel, your Committee voted to recommend adoption of the proposed resolution.

Your Policy Committee RECOMMENDS that Resolution No. \_\_\_\_\_, attached hereto, entitled "INDEMNIFYING HERBERT KINORES, JR., IN DOLORES ABREU V. HERBERT KINORES, JR., ET AL., CIVIL NO. 07-1-0216(1)" be ADOPTED.

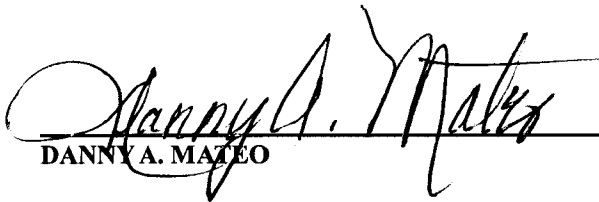
Adoption of this report is respectfully requested.

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**JO ANNE JOHNSON** Member

# Resolution

No. \_\_\_\_\_

INDEMNIFYING HERBERT KINORES, JR., IN  
DOLORES ABREU V. HERBERT KINORES, JR., ET AL.,  
CIVIL NO. 07-1-0216(1)

WHEREAS, Herbert Kinores, Jr., has been named as a defendant in his individual capacity, in the case of Dolores Abreu v. Herbert Kinores, Jr., et al., Civil No. 07-1-0216(1), filed in the Circuit Court of the Second Circuit on June 15, 2007, and received by Corporation Counsel's office on June 25, 2008; and

WHEREAS, the complaint alleges that Plaintiff suffered injuries to her right hip, right elbow, right and left knees, lower back, chest, right ankle, and upper extremities; 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 this Defendant for any damages that may be assessed against him in the above-referenced lawsuit. The damages being requested within the Complaint are: general, special, and exemplar; pre-judgment and post-judgment 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

**Resolution No. \_\_\_\_\_**

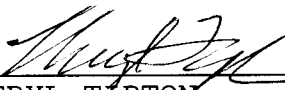
be in the best interest of the County of Maui to indemnify this Defendant in the above-referenced lawsuit; now, therefore,

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

1. That Herbert Kinores, Jr., is indemnified by the County of Maui for any damages that may be assessed against him in the above-referenced lawsuit; and

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

APPROVED AS TO FORM AND LEGALITY:

  
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CHERYL TIPTON  
Deputy Corporation Counsel  
County of Maui