

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

November 16, 2007

Committee
Report No.

07-136

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

Chair and Members:

Your Policy Committee, having met on October 30, 2007, makes reference to County Communication No. 07-9, from the Council Chair, regarding indemnification authorization.

By correspondence dated October 10, 2007, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "INDEMNIFYING DARREN AGARANO, RYAN AIKALA, STUART KUNIOKA, AND HALAYUDHA MACKNIGHT IN TROY MATTOS, ET AL. V. DARREN AGARANO, ET AL., CIVIL NO. CV07-00220 DAE BMK". Attached to the request is a copy of the complaint, filed April 26, 2007. The purpose of the proposed resolution is to indemnify Darren Agarano, Ryan Aikala, Stuart Kunioka, and Halayudha Macknight, employees of the Department of the Police, in the case.

Your Committee notes that this case includes allegations of violations of Plaintiff's rights under 42 U.S.C. §1983 and the Fourth, Fifth, Eighth, Ninth, and Fourteenth Amendments to the United States Constitution.

At its meeting, your Committee met with the Deputy Chief of Police, the Corporation Counsel, and two Deputy Corporation Counsel.

There was no public testimony.

A Deputy Corporation Counsel provided a brief overview of the case. She explained that the police officers named in the case responded to a domestic dispute call in which one of the officers entered the home to ensure the safety of the other residents. She noted that the police officers were acting within the scope of their duties.

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), Hawaii Revised Statutes.

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At its executive meeting, your Committee met with the Deputy Chief of Police, the Corporation Counsel, and two Deputy Corporation Counsel.

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 recommended that the proposed resolution be adopted.

Your Policy Committee RECOMMENDS that Resolution No. _____, attached hereto, entitled "INDEMNIFYING DARREN AGARANO, RYAN AIKALA, STUART KUNIOKA, AND HALAYUDHA MACKNIGHT IN TROY MATTOS, ET AL. V. DARREN AGARANO, ET AL., CIVIL NO. CV07-00220 DAE BMK" be ADOPTED.

Adoption of this report is respectfully requested.

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Resolution

No. _____

INDEMNIFYING DARREN AGARANO, RYAN AIKALA,
STUART KUNIOKA, AND HALAYUDHA MACKNIGHT
IN TROY MATTOS, ET AL. V. DARREN AGARANO,
ET AL., CIVIL NO. CV07-00220 DAE BMK

WHEREAS, Officers DARREN AGARANO, RYAN AIKALA, STUART KUNIOKA, and HALAYUDHA MACKNIGHT, who were employees of the Department of Police on August 23, 2006, have been named as defendants in their individual capacities, in the case of Troy Mattos, et al., v. Darren Agarano, et al., Civil No. CV07-00220 DAE BMK, filed in the United States District Court for the District of Hawaii on April 26, 2007; and

WHEREAS, the complaint alleges violations of Plaintiffs' rights under 42 U.S.C. § 1983 and the Fourth, Fifth, Eighth, Ninth, and Fourteenth Amendments to the U.S. Constitution; 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 to the Council that the body act to indemnify these Defendants for any damages that may be assessed against them in the above-referenced lawsuit. The damages being requested within the Complaint are: general, special, and punitive; pre-judgment and post-judgment interest; costs and expenses of suit, including attorneys' fees; and

Resolution No. _____

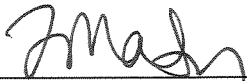
WHEREAS, based upon the recommendation of the Department of the Corporation Counsel, it appears at this time that it would be in the best interest of the County of Maui to indemnify these Defendants in the above-referenced lawsuit; now, therefore,

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

1. That Darren Agarano, Ryan Aikala, Stuart Kunioka, and Halayudha MacKnight be indemnified by the County of Maui for any damages that may be assessed against them in the above-referenced lawsuit; and

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:



LAUREEN L. MARTIN
Deputy Corporation Counsel
County of Maui

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