

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

March 16, 2007

**Committee
Report No.** 07-31

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

Chair and Members:

Your Policy Committee, having met on February 27, 2007 and March 1, 2007, makes reference to County Communication No. 07-11, from the Council Chair, regarding the settlement of claims and lawsuits.

Your Committee is in receipt of correspondence dated January 18, 2007, from the Department of the Corporation Counsel, requesting consideration of the possible settlement of Constance C. Deans et al. v. County of Maui et al., Civil No. 06-1-0175(1). Attached to the request is a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CONSTANCE C. DEANS, ET AL. VS. COUNTY OF MAUI, ET AL., CIVIL NO. 06-1-0175(1)". 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 general and special damages arising from the death of Stuart R. Deans on August 11, 2005, at the Lahaina Aquatic Center, Lahaina, Maui.

By correspondence dated January 22, 2007, the Department of the Corporation Counsel transmitted a copy of the first amended complaint.

At its meeting of February 27, 2007, your Committee deferred discussion on the matter due to a shortage of time. Your Committee recessed its meeting to March 1, 2007.

At its reconvened meeting of March 1, 2007, your Committee met with the Corporation Counsel and a Deputy Corporation Counsel.

There was no public testimony.

The Deputy Corporation Counsel provided a brief overview of the case and requested the opportunity to discuss the matter in an executive meeting.

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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.

At its executive meeting, your Committee met with the Corporation Counsel and a 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 voted to recommend adoption of the proposed resolution to authorize the settlement of the matter under the terms proposed in the executive meeting.

Your Policy Committee RECOMMENDS that Resolution No. _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF CONSTANCE C. DEANS, ET AL. VS. COUNTY OF MAUI, ET AL., CIVIL NO. 06-1-0175(1)", be ADOPTED.

Adoption of this report is respectfully requested.

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Resolution

No. _____

AUTHORIZING SETTLEMENT OF
CONSTANCE C. DEANS, ET AL. VS. COUNTY OF MAUI, ET AL.,
CIVIL NO. 06-1-0175(1)

WHEREAS, Plaintiffs Constance C. Deans, individually and as Fiduciary/Executrix of the Estate of/in the matter of Stuart R. Deans, and as Next Friend of Spencer Deans and Trevor Deans, minors and Emily Deans (hereinafter "Plaintiffs") filed a lawsuit in the Second Circuit Court on May 17, 2006, Civil No. 06-1-0175(1), against the County of Maui, claiming general and special damages arising from injuries allegedly sustained by Plaintiffs on or about August 11, 2005, in Lahaina, Maui, Hawaii; 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 for an amount not to exceed the range of authority granted by the Council on this case; 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 of Judgment by the Department of the Corporation Counsel; now,

Resolution No. _____

therefore,


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

1. That it hereby authorizes the Department of the Corporation Counsel to negotiate settlement of this case and, if appropriate, to serve an Offer of Judgment in an amount not to exceed the range of authority granted by the Council on this case; and

2. That it hereby authorizes the Director of Finance of the County of Maui to satisfy said settlement of this case in Civil No. 06-1-0175(1), under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

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

APPROVED AS TO FORM
AND LEGALITY:



JANE E. LOVELL
Deputy Corporation Counsel
County of Maui