

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

March 16, 2007

**Committee
Report No.**

07-30

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 11, 2007, from the Department of the Corporation Counsel, requesting consideration of the possible settlement of Dat Nguyen, et al., v. County of Maui, Civil No. 006-1-0012(1). Attached to the request is a copy of the complaint and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF DAT NGUYEN AND CHAU NGUYEN, VS. COUNTY OF MAUI, CIVIL NO. 06-1-0012(1)". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the case for \$15,000.

Your Committee notes that the complaint alleges physical and mental injuries sustained during a motor-vehicle collision with a County vehicle on August 18, 2004, in Kahului, Maui, when a County vehicle rear-ended the plaintiffs' minivan.

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 Wastewater Reclamation Division Chief, Department of Public Works and Environmental Management; the Corporation Counsel; and a Deputy Corporation Counsel.

There was no public testimony.

The Deputy Corporation Counsel provided a brief overview of the case. He noted that the settlement amount includes lost income calculated at approximately \$1,000 per month for both plaintiffs. He further noted that a previous settlement offer was made by the County to cover damages to the plaintiffs' vehicle.

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

March 16,2007
Page 2

Committee
Report No. 07-30

Your Committee is in receipt of a revised proposed resolution from the Department of the Corporation Counsel correcting the year of the alleged injuries from "2005" to "2004" and correcting the spelling of the Deputy Corporation Counsel's first name.

Based on the information received and the recommendation of the Department of the Corporation Counsel, your Committee voted to recommend adoption of the revised proposed resolution to authorize the settlement of the matter for \$15,000.

Your Policy Committee RECOMMENDS that Resolution No. _____, as revised herein and attached hereto, entitled "AUTHORIZING SETTLEMENT OF DAT NGUYEN AND CHAU NGUYEN, VS. COUNTY OF MAUI, CIVIL NO. 06-1-0012(1)", be ADOPTED.


Adoption of this report is respectfully requested.

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COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

March 16, 2007
Page 3

Committee
Report No. 07-30



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Resolution

No. _____

AUTHORIZING SETTLEMENT OF
DAT NGUYEN AND CHAU NGUYEN, VS. COUNTY OF MAUI,
CIVIL NO. 06-1-0012(1)

WHEREAS, Plaintiffs Dat Nguyen and Chau Nguyen, hereinafter ("Plaintiffs"), filed a lawsuit in the Second Circuit Court on January 12, 2006, Civil No. 06-1-0012(1), against the County of Maui, claiming a County vehicle rear-ended Plaintiffs' minivan, causing physical injuries to Plaintiff Dat Nguyen on or about August 18, 2004, in Kahului, 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 the total amount of Fifteen Thousand Dollars (\$15,000.00); 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, therefore,

Resolution No. _____

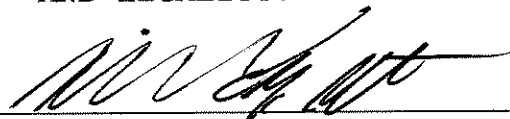
BE IT RESOLVED by the Council of the County of Maui:

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 Fifteen Thousand Dollars (\$15,000.00); 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. 06-1-0012(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, the Director of Public Works and Environmental Management and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



RICHARD B. ROST
Deputy Corporation Counsel
County of Maui