

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

August 14, 2006

Committee
Report No.

_____ 06-87 _____

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

Chair and Members:

Your Committee of the Whole, having met on August 1, 2006, makes reference to County Communication No. 05-23, from the Council Chair, regarding indemnification authorization.

Your Committee is in receipt of correspondence dated July 20, 2006, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "INDEMNIFYING EDWARD OGATA IN CIVIL NO. 05-1-0927, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY; DENNY C. WRIGHT and DEBORAH K. WRIGHT v. COUNTY OF MAUI, HAWAIIAN TELCOM, INC., and EDWARD OGATA". Attached to the request is a copy of the complaint. The purpose of the proposed resolution is to indemnify Edward Ogata, a County employee, in the referenced lawsuit.

By correspondence dated July 24, 2006, the Department of the Corporation Counsel transmitted a revised proposed resolution entitled "INDEMNIFYING EDWARD OGATA IN STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, ET AL. V. COUNTY OF MAUI, ET AL., IN CIVIL NO. 05-1-0927". The revised proposed resolution incorporates nonsubstantive formatting changes to the title and body of the resolution.

Your Committee notes that this case includes allegations of negligent damage of a vehicle.

At its meeting, your Committee met with three Deputy Corporation Counsel and the Director of Public Works and Environmental Management.

There was no public testimony. A Deputy Corporation Counsel provided a brief overview of the case noting that the incident involved the accidental severing of a utility line by a County employee while acting in the scope of his duties as he operated a County-owned truck. He said that the severed utility line caused a transformer or

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junction box attached to the utility line to fall upon the plaintiffs' parked automobile causing damages.

A Deputy Corporation Counsel noted that all the evidence regarding the case has not yet been disclosed. He indicated that the Department of the Corporation Counsel has received a police report regarding the incident, but the Department has not yet received an incident or accident report from the Department of Public Works and Environmental Management.

The Director of Public Works and Environmental Management noted that a commercial driver's license is required to operate the County vehicle that severed the utility line.

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.

Your Committee of the Whole RECOMMENDS that Resolution No. _____, as revised herein and attached hereto, entitled "INDEMNIFYING EDWARD OGATA IN STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, ET AL. V. COUNTY OF MAUI, ET AL., IN CIVIL NO. 05-1-0927" be ADOPTED.

Adoption of this report is respectfully requested.

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