

COUNCIL OF THE COUNTY OF MAUI  
**COMMITTEE OF THE WHOLE**

April 4, 2003

Committee  
Report No. 03-35

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 March 5, 2003 and March 20, 2003, makes reference to County Communication No. 03-19, from the Council Chair, regarding the settlement of claims and lawsuits.

Your Committee is in receipt of correspondence dated February 24, 2003, from the Department of the Corporation Counsel, requesting consideration of the possible settlement of Deborah Charbonneau v. County of Maui, et al., Civil No. 01-1-0245 (2). Attached to the request was a copy of the first amended complaint and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF DEBORAH CHARBONNEAU V. COUNTY OF MAUI, ET AL., CIVIL NO. 01-1-0245 (2)". 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 first amended complaint alleges that the plaintiff was injured on July 9, 1999, on Baldwin Avenue in Paia, when she stepped on a metal lid covering a water valve assembly belonging to the Board of Water Supply, and the lid flipped open, causing her to trip.

At its meeting of March 5, 2003, your Committee met with the Deputy Director of Water Supply, the First Deputy Corporation Counsel, and two Deputy Corporation Counsel.

There being no public testimony, a 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 voiced concerns about convening an executive meeting without first receiving an opinion from the Department of the Corporation Counsel concerning the Department's representation of individual Council members on matters relating to their official duties. Your Committee requested that the Department transmit a response to the outstanding question prior to the Committee scheduling any items for consideration that require an executive meeting.

Your Committee deferred the matter because it could not agree 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.

By correspondence dated March 17, 2003, the Chair of your Committee transmitted an opinion dated March 14, 2003, from the Department of the Corporation Counsel, responding to the question of the Department's representation of individual Council members. The opinion responds to correspondence from the Chair of your Committee dated February 10, 2003, to the Department of the Corporation Counsel in connection with a separate Committee item (COW-5, Personal Liability of Council Members).

At its meeting of March 20, 2003, your Committee met with the First Deputy Corporation Counsel and three Deputy Corporation Counsel.

There being no public testimony, a Deputy Corporation Counsel provided a brief overview of the case and requested the opportunity to discuss the matter in an executive meeting.

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 First Deputy Corporation Counsel and two Deputy Corporation Counsel.

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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 approve the settlement of the matter under the terms proposed in the executive meeting.

Your Committee of the Whole RECOMMENDS that Resolution No. \_\_\_\_\_, attached hereto, entitled "AUTHORIZING SETTLEMENT OF DEBORAH CHARBONNEAU V. COUNTY OF MAUI, ET AL., CIVIL NO. 01-1-0245 (2)" be ADOPTED.

Adoption of this report is respectfully requested.

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**MICHAEL J. MOLINA** Member

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**DAIN P. KANE** Vice-Chair

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**WAYNE K. NISHIKI** Member

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