

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

November 7, 2003

Committee
Report No. 03-134

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 October 13, 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 October 3, 2003, from the Department of the Corporation Counsel, requesting consideration of the possible settlement of Cherlyn Ponce, et al. v. Gina Guzman, et al., Civil No. 01-1-0442 (2). Attached to the request is a copy of the complaint and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CHERLYN PONCE, ET AL. VS. GINA GUZMAN, ET AL., CIVIL NO. 01-1-0442 (2)". 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 filed by Plaintiffs Cherlyn Ponce, individually and as next friend of Waipuulani Tachera, a minor, alleges general and special damages arising from a collision that occurred on April 29, 2000, on Kawaipuna Street in Wailuku, Maui.

At its meeting, your Committee met with the First Deputy Corporation Counsel and a Deputy Corporation Counsel.

There being no public testimony, the Deputy Corporation Counsel provided a brief overview of the case. The case involves allegations that Gina Guzman was operating a motor vehicle on Kawaipuna Street in Wailuku when she crashed into a child on a bicycle, maiming the child's left foot. The plaintiffs claim that the County controlled the roadway where the point of impact allegedly occurred. The Deputy Corporation Counsel informed your Committee that trial is currently scheduled for February 2004, and mediation is scheduled for October 27, 2003. The Deputy Corporation Counsel 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 First Deputy 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 Committee of the Whole **RECOMMENDS** that Resolution No. _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF CHERLYN PONCE, ET AL. VS. GINA GUZMAN, ET AL., CIVIL NO. 01-1-0442 (2)" be **ADOPTED**.

Adoption of this report is respectfully requested.

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