

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

July 18, 2003

Committee
Report No.

03-62

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 July 2, 2003, makes reference to County Communication No. 03-20, from the Council Chair, regarding proposed contracts for special counsel.

Your Committee is in receipt of correspondence dated June 25, 2003, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL MCCORRISTON MILLER MUKAI MACKINNON LLP, FOR JAMES B. TAKAYESU, FORMER CORPORATION COUNSEL, AND RICHARD K. MINATOYA, A FORMER DEPUTY CORPORATION COUNSEL, IN COUNTY OF MAUI v. HOLLAND, Civil No. 01-1-0642 (3) AND IN THE MATTER OF THOSE APPEALS BEFORE THE MAUI PLANNING COMMISSION RELATING TO THE MONTANA BEACH CONDOMINIUM PROJECT, PAIA, MAUI, HAWAII, Docket No.: Appeals 01-0001 through 01-0006". The purpose of the proposed resolution is to authorize the employment of McCorriston Miller Mukai MacKinnon LLP as special counsel to represent James B. Takayesu and Richard K. Minatoya in County of Maui v. Holland, Civil No. 01-1-0642(3), and in the matter of those appeals before the Maui Planning Commission, relating to the Montana Beach Condominium project, Paia, Maui, Hawaii, Docket No.: Appeals 01-0001 through 01-0006.

Your Committee notes that these cases involve disputes arising at the Montana Beach Condominium project adjacent to Baldwin Beach Park in Paia. The Department of the Corporation Counsel has informed your Committee that accusations have been made of "criminal extortion" by former County employees, James Takayesu and Richard Minatoya, in connection with the handling of these matters. Although neither individual has been named as a party to these actions, both will likely be deposed.

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The Department further informed your Committee that a potential conflict of interest exists in the Department's representation of Messrs. Takayesu and Minatoya in these matters. Accordingly, the Department has requested approval to retain special counsel to represent them at depositions and hearings in these matters.

At its meeting, your Committee met with two Deputy Corporation Counsel, and Lorraine Akiba, Esq. of McCorrison Miller Mukai MacKinnon LLP, who participated via teleconference.

There being no public testimony, a Deputy Corporation Counsel provided a brief overview of the matters. With respect to the selection of special counsel, she informed your Committee that procurement procedures had been followed in recommending McCorrison Miller Mukai MacKinnon LLP. The Deputy Corporation Counsel further advised your Committee that the Department considers it important to recommend counsel with whom the individuals in need of representation feel comfortable.

Your Committee discussed concerns over the hourly rates cited in the proposed resolution, which set forth an hourly rate for partners not to exceed \$325. Your Committee noted that \$200 is the highest hourly rate approved for special counsel in the last few years. Ms. Akiba agreed to discount the rate customarily charged to private-sector clients by attorneys at her firm, indicating that McCorrison Miller Mukai MacKinnon LLP would cap its hourly rate at \$200, with a total compensation not to exceed \$10,000, as an accommodation to the County. Your Committee further discussed the qualifications of the proposed special counsel firm.

Following further discussion, your Committee voted to recommend adoption of a revised proposed resolution to reflect the negotiated \$200 hourly rate for partners, as well as lower rates to be negotiated by the Department of the Corporation Counsel for associates and paralegals at the firm.

Your Committee is in receipt of a revised proposed resolution, approved as to form and legality, reflecting the following hourly rates: (1) \$200 for partners; (2) \$145 for associates; and (3) \$75 for paralegals.

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Your Committee of the Whole RECOMMENDS that Resolution No. _____, attached hereto, entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL MCCORRISTON MILLER MUKAI MACKINNON LLP, FOR JAMES B. TAKAYESU, FORMER CORPORATION COUNSEL, AND RICHARD K. MINATOYA, A FORMER DEPUTY CORPORATION COUNSEL, IN COUNTY OF MAUI v. HOLLAND, Civil No. 01-1-0642 (3) AND IN THE MATTER OF THOSE APPEALS BEFORE THE MAUI PLANNING COMMISSION RELATING TO THE MONTANA BEACH CONDOMINIUM PROJECT, PAIA, MAUI, HAWAII, Docket No.: APPEALS 01-0001 through 01-0006" be ADOPTED.

Adoption of this report is respectfully requested.

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