

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

August 5, 2005

**Committee
Report No.**

05-100

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 12, 2005, makes reference to County Communication No. 05-24, from the Council Chair, regarding the settlement of claims and lawsuits.

Your Committee is in receipt of correspondence dated July 5, 2005, from the Department of the Corporation Counsel, requesting consideration of the possible settlement of Lynne T. Takakura and Esther E. Takakura vs. County of Maui, Civil No. 03-1-0471(3). Attached to the request is a copy of the complaint and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF LYNNE T. TAKAKURA AND ESTHER E. TAKAKURA VS. COUNTY OF MAUI, CIVIL NO. 03-1-0471(3)". 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 alleges the taking of real property without compensation.

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

There was no public testimony.

The Deputy Corporation Counsel provided a brief overview of the case noting that the matter involves the construction of a sidewalk on private property in 1941 without compensation. She said there is no documentation of a right of entry, easement, or other acquisition of real property for the use of the sidewalk. From 1941 until 1993, the property owners paid taxes on the portion of the property where the sidewalk was constructed. In 1993, the property owners requested that the sidewalk portion of their property be exempted from taxes and were assigned a separate tax map key number for the portion of property where the sidewalk was constructed. The Department of the Corporation Counsel has negotiated settlement of the case in the amount of \$22,000 to

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settle all claims against the County regarding the taking of the property without compensation, and to transfer title to the property beneath the sidewalk to the County.

Your Committee briefly discussed the potential liability of the County and the property owner for any accident that may occur on the sidewalk.

Your Committee voted to recommend that the proposed resolution be adopted.

Your Committee of the Whole RECOMMENDS that Resolution No. _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF LYNNE T. TAKAKURA AND ESTHER E. TAKAKURA VS. COUNTY OF MAUI, CIVIL NO. 03-1-0471(3)" be ADOPTED.

Adoption of this report is respectfully requested.

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