

**COUNCIL OF THE COUNTY OF MAUI**  
**PARKS, RECREATION, ENERGY, AND**  
**LEGAL AFFAIRS COMMITTEE**

June 2, 2017

**Committee**  
**Report No. \_\_\_\_\_**

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

Chair and Members:

Your Parks, Recreation, Energy, and Legal Affairs Committee, having met on May 16, 2017, makes reference to County Communication 15-6, from Councilmember Mike White, relating to litigation matters.

By correspondence dated May 6, 2016, the Department of the Corporation Counsel requested consideration of a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF DUKIE RACADIO v. COUNTY OF MAUI, ET AL., CIVIL NO. 14-1-0451(2)," and transmitted a copy of the Complaint. The Complaint alleges disability discrimination relating to Dukie J. Racadio's termination as a police officer on or about December 31, 2013. The purpose of the proposed resolution is to authorize settlement of the case.

Your Committee notes it previously reported on this matter through Committee Report 16-6, which recommended a proposed resolution authorizing settlement of the case be adopted. At its meeting of January 22, 2016, the Council adopted Resolution 16-2.

Your Committee also notes the Council's Committee of the Whole (2015-2017 Council term) met on May 17, 2016.

By correspondence dated May 9, 2017, the Department of the Corporation Counsel transmitted a revised proposed resolution, entitled "AUTHORIZING SETTLEMENT OF DUKIE J. RACADIO V. COUNTY OF MAUI, ET AL. CIVIL NO. 14-1-0451(2)," incorporating revisions to reflect the applicable Committee name.

**COUNCIL OF THE COUNTY OF MAUI**  
**PARKS, RECREATION, ENERGY, AND**  
**LEGAL AFFAIRS COMMITTEE**

Page 2

**Committee**  
**Report No. \_\_\_\_\_**

Your Committee notes Section 3.16.020(B), Maui County Code, requires Council authorization for any settlement in excess of \$7,500.

A Deputy Corporation Counsel provided a brief overview of the case. The Deputy said the parties engaged in mediation and trial is currently set to start on June 5, 2017. The Deputy informed your Committee the County received two settlement demands from Mr. Racadio.

Because the case involves ongoing litigation and confidential medical information, the Deputy requested the opportunity to convene an executive meeting.

Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel pursuant to Section 92-5(a)(4), Hawaii Revised Statutes; and to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a State or Federal law, or a court order, pursuant to Section 92-5(a)(8), Hawaii Revised Statutes.

Following the executive meeting, your Committee reconvened in regular session. Based on the information received and the recommendation of the Department, your Committee voted 8-0 to recommend adoption of the revised proposed resolution, as further revised to reference the prior settlement authorization. Committee Chair Guzman and members Atay, Carroll, Cochran, Crivello, Hokama, Sugimura, and White voted "aye." Committee Vice-Chair King was excused.

Your Committee is in receipt of a further revised proposed resolution, entitled "AUTHORIZING SETTLEMENT OF DUKIE J. RACADIO V. COUNTY OF MAUI, ET AL., CIVIL NO. 14-1-0451(2)," approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revision and a nonsubstantive revision.

**COUNCIL OF THE COUNTY OF MAUI**  
**PARKS, RECREATION, ENERGY, AND**  
**LEGAL AFFAIRS COMMITTEE**

Page 3

**Committee**  
**Report No. \_\_\_\_\_**

Your Parks, Recreation, Energy, and Legal Affairs Committee RECOMMENDS that Resolution \_\_\_\_\_, attached hereto, entitled "AUTHORIZING SETTLEMENT OF DUKIE J. RACADIO V. COUNTY OF MAUI, ET AL., CIVIL NO. 14-1-0451(2)," be ADOPTED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.

  
\_\_\_\_\_  
DON S. GUZMAN, Chair

prl:cr:17001(26)aa:cmn

# Resolution

No. \_\_\_\_\_

AUTHORIZING SETTLEMENT OF  
DUKIE J. RACADIO V. COUNTY OF MAUI, ET AL.,  
CIVIL NO. 14-1-0451(2)

WHEREAS, Plaintiff Dukie J. Racadio filed a lawsuit in the Second Circuit Court of the State of Hawai'i, Civil No. 14-1-0451(2), against the County of Maui on August 1, 2014, asserting a discrimination claim, following termination from employment with the Maui Police Department owing to a disqualifying medical condition; and

WHEREAS, by Resolution No. 16-2, the Council previously authorized settlement of the case; and

WHEREAS, the County of Maui, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, seeks to reach a resolution of this case by way of a negotiated settlement or Offer of Judgment; and

WHEREAS, the Department of the Corporation Counsel has requested authority to settle this case under terms set forth and discussed in an executive meeting before the Parks, Recreation, Energy and Legal Affairs Committee; and

**Resolution No. \_\_\_\_\_**

WHEREAS, having reviewed the facts and circumstances regarding this case and being advised of attempts to reach resolution of this case by way of a negotiated settlement or Offer of Judgment by the Department of the Corporation Counsel, the Council wishes to discuss the terms of settlement; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby approves settlement of this case under the terms set forth in an executive meeting before the Parks, Recreation, Energy and Legal Affairs Committee; and

2. That it hereby authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

3. That it hereby authorizes the Director of Finance of the County of Maui to satisfy said settlement of this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

4. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, the Chief of Police, and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:



DAVID A. GALAZIN  
BRIAN A. BILBERRY  
Deputies Corporation Counsel  
County of Maui