

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

June 16, 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 June 6, 2017, makes reference to County Communication 17-6, from Council Chair Mike White, relating to litigation matters.

By correspondence dated May 12, 2017, the Department of the Corporation Counsel requested consideration of the possible settlement of Rana Kaiama, et al. v. County of Maui, et al., Civil 16-1-0048(2). Attached to the request is a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF RANA KAIAMA, ET AL. VS. COUNTY OF MAUI, ET AL., CIVIL NO. 16-1-0048(2)," and a copy of the First Amended Complaint. The Complaint alleges emotional distress, mental anguish, loss of enjoyment of life, and other special and general damages from a drowning incident that occurred at a County pool in Kihei, Maui, Hawaii, on February 16, 2014. The purpose of the proposed resolution is to authorize the Department to settle the case.

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 incident involved the drowning of a two-and-a-half-year-old child. The lawsuit was brought by the child's mother, father, 13-year-old brother, and the estate of the deceased child. The Deputy said the Department had received a settlement demand from the plaintiffs' attorney.

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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 Section 92-5(a)(8), Hawaii Revised Statutes, 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.

Following the executive meeting, your Committee reconvened in regular session. Based on the information received and the recommendation of the Department, your Committee voted 6-0 to recommend adoption of the proposed resolution. Committee Chair Guzman, Vice-Chair King, and members Atay, Carroll, Sugimura, and White voted “aye.” Committee members Cochran, Crivello, and Hokama were excused.

Your Parks, Recreation, Energy, and Legal Affairs Committee RECOMMENDS that Resolution _____, attached hereto, entitled “AUTHORIZING SETTLEMENT OF RANA KAIAMA, ET AL. VS. COUNTY OF MAUI, ET AL., CIVIL NO. 16-1-0048(2),” be ADOPTED.

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



DON S. GUZMAN, Chair

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Resolution

No. _____

AUTHORIZING SETTLEMENT OF
RANA KAIAMA, ET AL. VS. COUNTY OF MAUI, ET AL.,
CIVIL NO. 16-1-0048 (2)

WHEREAS, Plaintiffs Rana Kaiama, Individually, as Personal Representative for the Estate of G.T., deceased, and as guardian *prochain ami* for A.K., a minor, and Nathan Tavares filed a lawsuit in the Circuit Court of the Second Circuit in the State of Hawaii on January 29, 2016, Civil No. 16-1-0048(2), against the County of Maui, et al., claiming emotional distress, mental anguish, loss of enjoyment of life and other special and general damages from a drowning incident that occurred at a County pool on February 16, 2014; and

WHEREAS, the County of Maui filed its Answer and a Third-Party Complaint against Ruby Kaiama on August 3, 2016; and

WHEREAS, Plaintiffs filed a First Amended Complaint on October 14, 2016 to include claims against Ruby Kaiama; and

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

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

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 authorize the 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

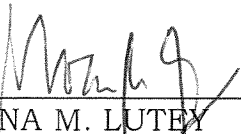
2. That it hereby authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

3. That it hereby authorizes the Director of Finance 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 Director of Parks and Recreation, and the Corporation Counsel.

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APPROVED AS TO FORM
AND LEGALITY:



MOANA M. LUTEY
Deputy Corporation Counsel
County of Maui