



[Advertisement - Click to support our sponsors.](#)



Monday, July 3, 2000

City: No liability in firetruck suit

**However, rather than make
'very good people' relive a fatal
accident, \$1.2 million was paid**

By Debra Barayuga
Star-Bulletin



The city admits no liability in agreeing to a \$1.2 million settlement with a family whose daughter was killed when the car she was driving collided with a firetruck responding to a call.

But it settled with the family of Tracey Teruya because the crash was a "very tragic situation by very good people, and we didn't want them having to relive the incident again," said Darolyn Lendio, an attorney with the law firm McCorriston Miller Mukai Mackinnon, hired to represent the city and Honolulu Fire Department.

On Feb. 23, 1998, Teruya was driving on Kewalo Street in Makiki approaching Wilder Avenue when she entered the intersection and her car was broadsided by a firetruck.

The Teruya family sued the city, Honolulu Fire Department and firefighter Richard Spelman in August 1998, and the case was scheduled to go to trial this month.

Among the disputed issues were the speed both drivers were

traveling, who had the green light, whether Teruya could hear the truck's siren and whether the Fire Department was negligent in training Spelman.

The plaintiffs dropped Spelman, who was driving the firetruck, as a defendant last month.

Countering statements made recently by Teruya's family attorney David Dezzani, the city's investigation revealed that Spelman did not enter the intersection on a red light and was not "excessively" speeding when the crash occurred, Lendio said. "He was operating a fire engine in a safe manner in what I believe was a reasonable speed."

Siren, traffic light at issue

During its investigation, the city found that Spelman and Teruya were both going about 32 mph in a 25 mph zone, Lendio said.

The firetruck managed to stop 80 feet from the point of impact. Had the firetruck been speeding "excessively" as Dezzani claims, a 3,000-pound firetruck would have ended up twice as far from the point of impact, Lendio said.

While Spelman, two of his passengers and an on-duty policeman said the light was red before the accident occurred, a bicyclist who was standing right at the intersection facing the approaching firetruck provided sworn testimony that the light had turned green 15 feet before the firetruck entered the intersection, Lendio said.

The woman saw the green light and was going to allow the firetruck to pass before entering herself when she saw Teruya's red car out of the corner of her eye, Lendio said.

Dezzani contends Spelman failed to follow Fire Department procedures that require its drivers approaching a red light to slow down, establish eye contact with other drivers and stop if needed before proceeding.

"The driver admitted that he did not see Tracey's car at all because he did not look in her direction as he entered the intersection," he said.

Spelman didn't make eye contact because he didn't see Teruya, Lendio said.

The city's acoustic tests indicate Teruya could have heard the siren if she didn't have her radio on, Lendio said.

Teruya's car windows were up and had to be shattered to remove her from the wreckage, Lendio said.

A half-second's difference

Dezzani had said experts who conducted tests at the intersection concluded that at the speed the truck was going and the configuration of the intersection, Teruya would not have heard the siren.

Under law, motorists have the "absolute duty" to pull to the side when an emergency vehicle approaches, Lendio said.

"Our theory is, she was trying to beat the short green light." The light on Kewalo stays green for a shorter period than on Wilder, which is more heavily traveled.

What is tragic is that based on the city's experts' calculations, had Spelman or Teruya been traveling a half-second slower or faster, the collision would not have happened, Lendio said.

Spelman was traumatized by the incident, Lendio said.

Before the accident, Spelman had a clean record and excellent performance reviews.

While he remains at the Makiki Station, Spelman is now a driver trainer and a hazardous-materials specialist for his battalion.

While Dezzani says the accident could have been prevented had the firetruck been outfitted with an Opticom sender, which can turn the lights to green as emergency vehicles approach, he did not allege in the suit that the firetruck was defective, Lendio said.

There is no law mandating that all firetrucks and intersections be equipped with the Opticom system, Lendio said.

Since the crash, all fire companies in Maikiki now have the Opticom senders.

[E-mail to City Desk](#)

Text Site Directory:

[\[News\]](#) [\[Business\]](#) [\[Features\]](#) [\[Sports\]](#) [\[Editorial\]](#) [\[Do It Electric!\]](#)
[\[Classified Ads\]](#) [\[Search\]](#) [\[Subscribe\]](#) [\[Info\]](#) [\[Letter to Editor\]](#)
[\[Feedback\]](#)

© 2000 Honolulu Star-Bulletin

<http://starbulletin.com>