

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

March 25, 2021

Ref. No.: 21KD-003

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

KAUAI

Issuance of Right-of-Entry Permit to Kauai Memorial Gardens, Inc. Onto State Lands For Disinterment Purposes, Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-8-008:018.

APPLICANT:

Kauai Memorial Gardens, Inc., a Hawaii corporation.

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Hanapepe, Waimea, Kauai, identified by Tax Map Key: (4) 1-8-008:018, as shown on the attached map labeled Exhibit A.

AREA:

Parcel Area:	8.968 acres, more or less.
Right-of-Entry Area:	100 square feet, more or less.

ZONING:

State Land Use District:	Urban
County of Kauai CZO:	Open

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES _____ NO x

CURRENT USE STATUS:

Unencumbered, but land has been used as a cemetery for many years.

CHARACTER OF USE:

For purposes of disinterring/exhuming human remains from an existing gravesite for relocation to an official cemetery.

TERM OF RIGHT-OF-ENTRY:

This right-of-entry shall be effective upon the date of acceptance and shall be for a term of one (1) month.

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification attached below as Exhibit B.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u> x </u>	NO
Registered business name confirmed:	YES <u> x </u>	NO
Applicant in good standing confirmed:	YES <u> x </u>	NO

REMARKS:

Joshua Simpkins is the funeral director representing the applicant, Kauai Memorial Gardens, Inc. On January 15, 2021, he contacted the Kauai District Land Office (KDLO) regarding the disinterment of Marciano Tagayuna from the Hanapepe Chinese, Filipino & Portuguese Cemetery (HCFP Cemetery). Mr. Tagayuna was buried at the cemetery on November 29, 1993. His wife died recently, and the family planned to bury her beside Mr. Tagayuna. But when Land Division learned last year that the cemetery has no disposition to a managing agency and is therefore unencumbered land, Land Division stopped additional burials from occurring. Marie Manzano, who is the daughter of the Tagayunas, then requested to have her father's body moved in order to have both parents laid to rest together at Kauai Memorial Gardens. The applicant has provided KDLO with Mr. Tagayuna's original death certificate and a disinterment permit from the DOH (see attached

Exhibit C).

In researching land jurisdiction on some lands in the Salt Pond area in Hanapepe, Kauai District Land Office (KDLO) staff discovered that the HCFP Cemetery is not being managed by any particular government agency. The parcel is approximately 8.97 acres and approximately a third of the property contains gravesites (see attached Exhibit D photos). There were active burials taking place on the state parcel up until April 2020 at which time KDLO had requested the Department of Health (DOH) and a few of the mortuaries on island to cease any further burials. The mortuaries were under the impression that it was a county regulated public cemetery, but the land was never set aside to the county and is still showing as unencumbered State land. These burials have been conducted on this property for well over 50 years.

By letter dated July 23, 2020, the Department requested the county to accept an executive order setting the cemetery aside to it with no official response to date.

The Department then reached out to the Department of Accounting and General Services (DAGS) by memorandum dated January 20, 2021 and requested DAGS to assume management of the cemetery pursuant to Section 110-1, Hawaii Revised Statutes, which provides as follows:

[§110-1] Responsibility for state-owned cemeteries. The comptroller shall be responsible for the operation, maintenance, improvement, redevelopment, and disposal of state-owned cemeteries; for the determination of ownership of plots therein; and for the proper maintenance of records pertaining to the cemeteries, including cemetery plot plans, and records of plot ownership, interments, and disinterment. [L 1987, c 368, pt of §2].

On March 2, 2021, DAGS agreed to accept the transfer of jurisdiction of the cemetery (see attached Exhibit E).

While staff works on a submittal recommending the Board of Land and Natural Resources (Board) approve and recommend to the Governor the issuance of an executive order transferring the management of the cemetery to DAGS, Land Division respectfully requests that the Board approve this ROE so that the Tagayuna family may move their loved one.

The following State and COK agencies were consulted on this action with the results indicated:

Agency:	Comment:
Department of Accounting and General Services	Asked for a signed letter from a family member of the deceased with the request to disinter and move the body. See

	attached Exhibit F.
State Historic Preservation Division	No response by suspense date.
COK Parks and Recreation	No response by suspense date.

RECOMMENDATION: That the Board:

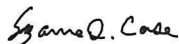
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a right-of-entry permit to Kauai Memorial Gardens, Inc. covering the subject area under the terms and conditions cited above, for the disinterment of a body from an existing grave site for relocation purposes, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.


Respectfully Submitted,



Alison Neustein
Land Agent WTM

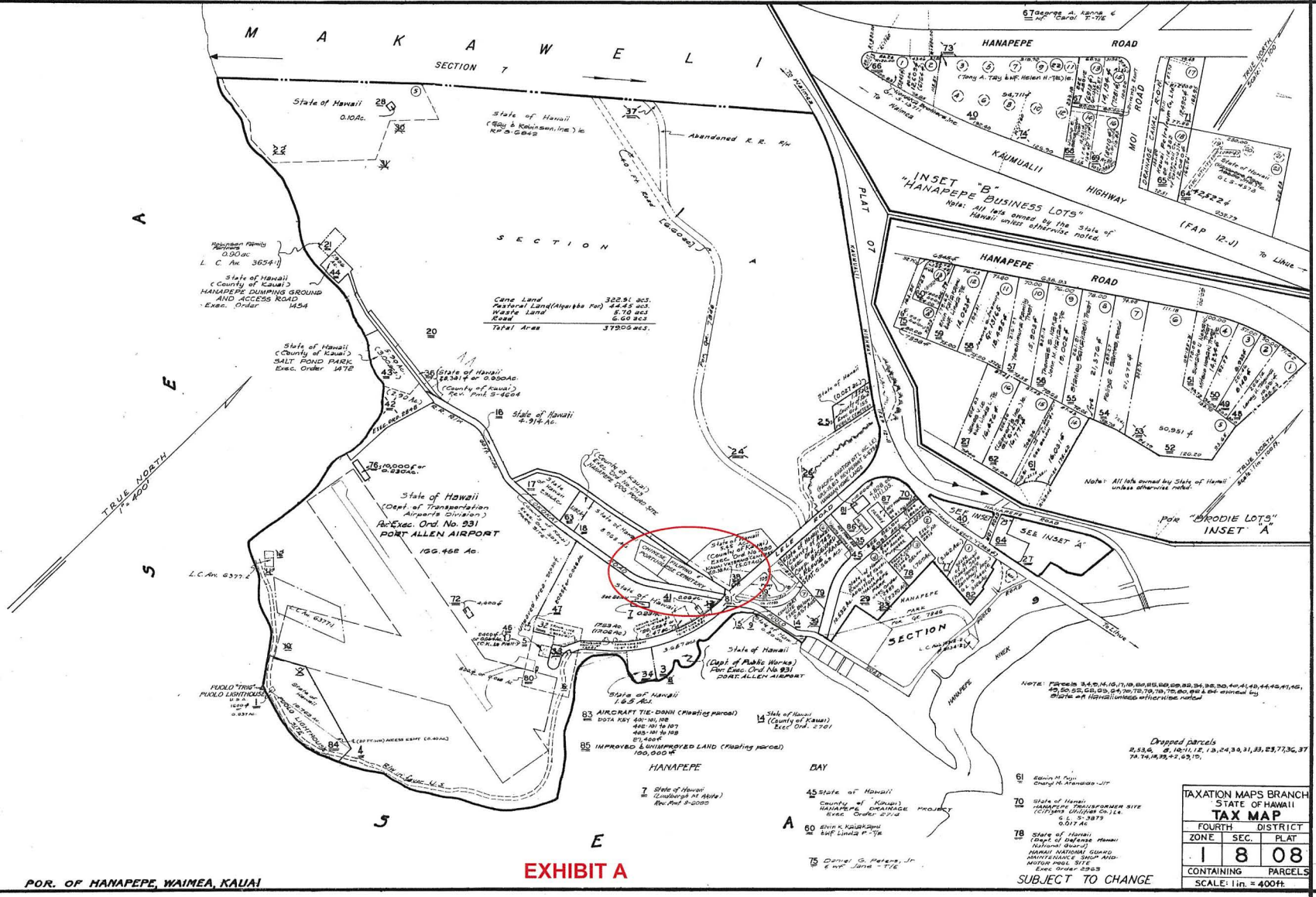
APPROVED FOR SUBMITTAL:





Suzanne D. Case, Chairperson

CORRECTED
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 MAY 23 1939
 JUN 13 1939
 JUL 13 1939
 AUG 9 1943
 OCT 18 1943
 JAN 12 1945
 JAN 21 1946
 APR 5 1947
 MAY 1 1950
 MAY 1 1951
 MAY 1 1952
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TAXATION MAPS BRANCH		
STATE OF HAWAII		
TAX MAP		
FOURTH DISTRICT		
ZONE	SEC.	PLAT
1	8	08
CONTAINING PARCELS		
SCALE: 1 in. = 400 ft.		

PRINTED

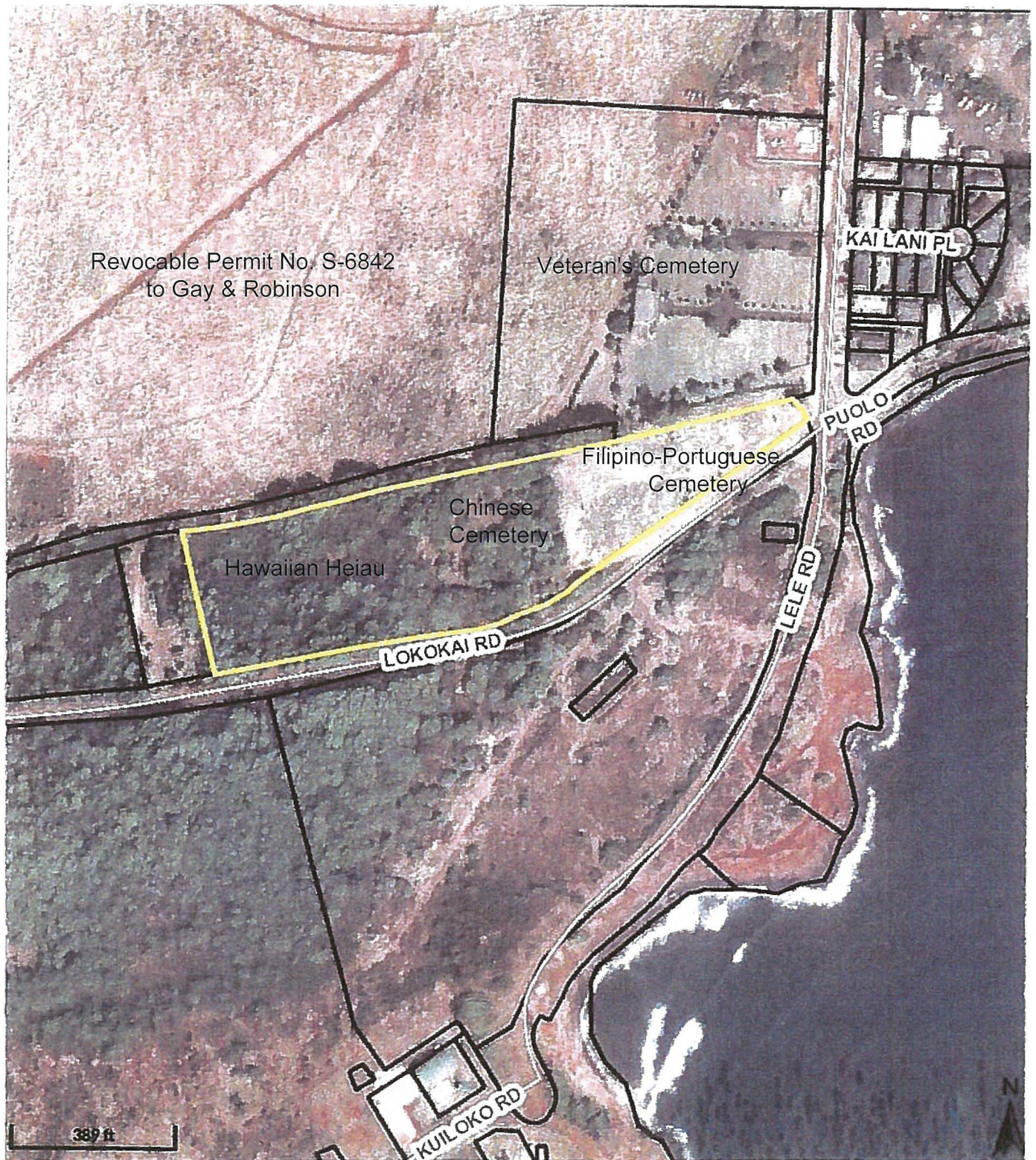


EXHIBIT A

DAVID Y. IGE
GOVERNOR OF HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

March 25, 2021

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1, HAR

Project Title: Issuance of Right-of-Entry Permit to Kauai Memorial Gardens, Inc. Onto State Lands For Disinterment Purposes, Hanapepe, Waimea, Kauai, Tax Map Keys: (4) 1-8-008:018.

Project / Reference No.: 21KD-003

Project Location: Portion of Government lands situated at Hanapepe, Waimea, Kauai, identified by Tax Map Key: (4) 1-8-008:018, as shown on the attached map labeled Exhibit A.

Project Description: Issuance of Right-of-Entry Permit to Kauai Memorial Gardens, Inc. Onto State Lands For Disinterment Purposes.

Chap. 343 Trigger(s): Use of State Land.

Exemption Class No. and Description: In accordance with HAR § 11-200.1-16 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, which states, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 44, that states "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."

EXHIBIT B

**Cumulative Impact of
Planned Successive
Actions in Same Place
Significant?**

No. The temporary use of the land for disinterment purposes would have no cumulative impacts.

**Action May Have
Significant Impact on
Particularly Sensitive
Environment?**

No. There are no sensitive environmental issues involved with the proposed use of the property.

Analysis:

The proposed exemption is appropriate because the applicant is requesting to disinter a body from an existing cemetery. According to the Applicant, the proposed project maintains the existing topography and is a minor alteration of the condition of the land and vegetation and should result in no material change or significant impact to the environment.

Consulted Parties:

Comments from the County of Kauai Parks and Recreation as well as the State of Hawaii Historic Preservation Division and the Department of Accounting and General Services were solicited.

Recommendation:

That the Board find that this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



DISINTERMENT PERMIT

Office of Health Status Monitoring
State of Hawaii, Department of Health

Permit Number
2021-000020

Permit is valid for 90 days from the date signed by the State Registrar.

Name of Deceased (First, Middle, Last) Marciano Corpuz Tagayuna		Date of Death [REDACTED]	Age [REDACTED]
Sex Male	Race Filipino	Place of Death (City or Town, County, State or Country) Waimea, Hawaii, Kauai	
Place of Disinterment (Name of Cemetery or Place of Burial) Hanapepe County Cemetery (Hanapepe Filipino)		Disinterment City or Town, Island, and State Lokokai Road Hanapepe Hawaii Kauai 96716	
Date of Disinterment			
Intended disposition, including plan for the remains and location of ultimate disposition (including City or Town, County, and State or Country) A permit for reburial, cremation, or removal must be obtained from the local Registrar of the district in which the disinterment occurs. Kauai Memorial Gardens, 4716 MAALO ROAD Lihue Hawaii 96766			
Name of Mortuary, Cemetery, or DOD that Submitted the Application Kauai Memorial Gardens and Funeral Home		Name of Mortuary, Cemetery, or DOD that will Disinter the Remains Seichi Oyama	
Name of Authorized Representative of Mortuary, Cemetery, or DOD that submitted the Application Joshua Simpkins			

An application for a disinterment permit having been filed, permission is given to disinter the remains.

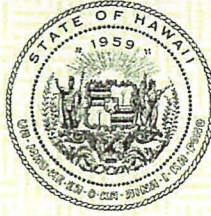
Signature of State Registrar <u>Alvin T. Onaka PhD</u>	Date <u>01/20/2021</u>	Authorized Disinterment as Stated Above Occurred on (Date): Name of Authorized Representative of Mortuary, Cemetery, or DOD* that Reported the Completion of the Disinterment
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*The mortuary, cemetery, or DOD that reported the completion of the disinterment is responsible for returning this permit to the State Registrar no later than 7 days after the date of the disinterment of the remains.

EXHIBIT C

CERTIFICATE OF DEATH

STATE OF HAWAII
DEPARTMENT OF HEALTH



CERTIFICATE NO. [REDACTED]

Name of Decedent

MARCIANO CORPUZ TAGAYUNA

City, Town or Location of Death

WAIMEA

County of Death

KAUAI

Island of Death

KAUAI

Actual or Presumed Date of Death

Actual or Presumed Time of Death

Date of Birth

Age at Death

[REDACTED]

7:55 PM

[REDACTED]

YEAR(s)

Sex

MALE

Race

FILIPINO

Citizenship

U.S.A.

Ever in Armed Forces?

NO

Social Security Number

[REDACTED]

Marital Status

MARRIED

Surviving Spouse (If Wife, Name Prior to First Marriage)

FAUSTINA ASPRIT

Father's Name

FREDERICO TAGAYUNA

Mother's Name (Prior to First Marriage)

VICTORIA CORPUZ

Disposition

BURIAL

Cemetery/Crematory: HANAPEPE COUNTY CEMETERY

Date: November 29, 1993

Location: HANAPEPE, HAWAII 96716

Permit #: 199300384

Funeral Home: GARDEN ISLAND MORTUARY

Certifier: HAROLD C. SPEAR III, M.D. PRIVATE PHYSICIAN

Date Certified: [REDACTED]

Cause of Death:

a. [REDACTED]

b. [REDACTED]

Date Filed by State Registrar: December 2, 1993

OHSM 1.2 (Rev.1/2013)

This copy serves as prima facie evidence of the fact of death in any court proceeding. [HRS 338-13(b), 338-19]

421023

ANY ALTERATIONS INVALIDATE THIS CERTIFICATE

EXHIBIT C



EXHIBIT D

DAVID Y. IGE
GOVERNOR



CURT T. OTAGURO
COMPTROLLER

AUDREY HIDANO
DEPUTY COMPTROLLER

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

March 2, 2021

VIA ELECTRONIC MAIL

TO: Suzanne Case, Chairperson
Board of Land and Natural Resources

FROM: Curt T. Otaguro, Comptroller
Department of Accounting and General Services

SUBJECT: TMK: (4) 1-8-008:018 – Government (Crown) Land of Hanapepe

Thank you for your memorandum dated January 20, 2021 referencing the above property in Hanapepe, Kauai. We appreciate you bringing this to our attention and clarifying responsibilities between the Department of Accounting and General Services (DAGS), the Department of Land and Natural Resources (DLNR) and the County of Kauai.

Based on additional research and discussion with the County of Kauai, we concur with your request to transfer management of the subject cemetery to the DAGS – Kauai District Office. Pursuant to Chapter 110-1, Hawaii Revised Statutes, the Comptroller shall be responsible for the operation, maintenance, improvement, redevelopment, and disposal of state-owned cemeteries; for the determination of ownership of plots therein; and for the proper maintenance of records pertaining to the cemeteries, including cemetery plot plans, and records of plot ownership, interments and dis-interments.

DAGS will work with the County of Kauai and reconstruct records that may be available pertaining to the cemetery. Unfortunately, we have been advised that existing records still need to be located. In any case, DAGS accepts management of the Hanapepe Cemetery effective immediately.

EXHIBIT E

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

3060 Eiwa Street, Room 208
Lihue, Hawaii 96766
PHONE: (808) 274-3491
FAX: (808) 241-3535
January 20, 2021

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RECEIVED
21 JAN 25 P1:38
HAWAII DISTRICT ENGINEER

Ref.No.:PSF 21KD-003
Author: LD-AN

MEMORANDUM

TO: **State Agencies:**
____ DOH
☒ DAPS-Accounting & General Svcs.
____ DLNR-Aquatic Resources
____ DLNR-Forestry & Wildlife
____ DLNR-Historic Preservation
____ DLNR-State Parks
____ DLNR-Conservation and Coastal Lands
____ DLNR-Water Resource Management
____ Department of Agriculture

County Agencies:
____ Planning
____ Parks & Recreation
____ Public Works
____ Water Department

Federal Agencies:
____ Corps of Engineers
____ NRCS

Other Agencies:
____ Office of Hawaiian Affairs

FROM: Alison Neustein, Land Agent

SUBJECT: Issuance of Right-of-Entry Permit to Kauai Memorial Gardens, Inc. Onto State Lands For Disinterment Purposes, Hanapepe, Waimea, Kauai, Tax Map Keys: (4) 1-8-008:018.

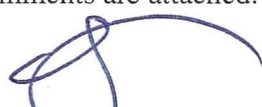
Transmitted for your review and comment is a copy of the above referenced request involving State lands. We would appreciate your comments on this application. Please submit any comments by February 4, 2021. If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact my office at 274-3491. Thank you.

Attachments

A signed letter should be submitted directly from the family member confirming the name of the deceased, their relationship to the deceased, their wishes to have the body disinterred/exhumed, and the new location of the remains.

() We have no objections.
() We have no comments.
(x) Comments are attached.

cc: Central Files
District Files

Signed: 
Eric M. Agena, District Engineer

Date: 1/28/2021

EXHIBIT F



Kauai Memorial Gardens & Funeral Home

4716 Maalo Road
Lihue, Kauai, Hawaii 96766
Phone: (808) 245-3661
Fax: (808) 245-7061

I, Marie Manzano, am the sole living child of Marciano Corpuz Tagayuna and thus have the authority to disinter my father from Hanapepe Filipino Cemetery and have him reinterred at Kauai Memorial Gardens with his wife, my mother, Faustina Asprit Tagayuna. I have provided Kauai Memorial Gardens and Funeral Home with a copy of my birth certificate as proof of relationship and authority for disinterment. I have also provided Kauai Memorial Gardens and Funeral Home all the information required for the Disinterment Permit pursuant to Hawaii Administrative Rules (HAR) section 11-118-7.

I certify that Joshua E. Simpkins and/or any other Funeral Director at Kauai Memorial Gardens and Funeral Home has the authority to file the disinterment and all other required documents on my behalf and to carry out the disinterment and reinterment of Marciano Corpuz Tagayuna.

DocuSigned by:

Marie Manzano

1/19/2021

65CF90361C0741C...

Marie Manzano



EXHIBIT F