

LINDA LINGLE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

May 21, 2008

Laura H. Thielen  
Chairperson  
Board of Land and Natural Resources  
Commission on Water Resource Management

Russell Y. Tsuji  
First Deputy

Ken C. Kawahara  
Deputy Director - Water

Aquatic Resources  
Boating and Ocean Recreation  
Bureau of Conveyances  
Commission on Water Resource Management  
Conservation and Coastal Lands  
Conservation and Resources Enforcement  
Engineering  
Forestry and Wildlife  
Historic Preservation  
Kahoowawe Island Reserve Commission  
Land  
State Parks

Chairperson and Members  
Board of Land and Natural Resources  
State of Hawai'i  
Honolulu, HI 96813

Land Board Members:

**SUBJECT: REQUEST FOR APPROVAL TO ENTER INTO A REBURIAL AGREEMENT WITH 407 PARTNERS, LLC FOR THE HUMAN SKELETAL REMAINS REINTERRED ON THEIR PROPERTY AT KAILUA AHUPUA`A, KO`OLAUPOKO DISTRICT, ISLAND OF O`AHU AT [TMK (1) 4-3-052:27]**

Submitted for your consideration is a request to enter into a reburial agreement with 407 Partners, LLC to implement the conditions agreed upon by the landowner and accepted by the State Historic Preservation Division.

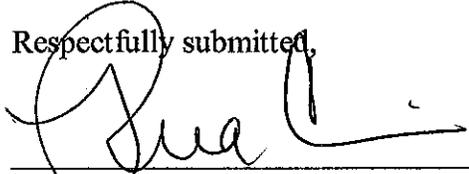
Section 6E-43, and 6E-43.6, Hawaii Revised Statutes, require the State to regulate the proper treatment of human skeletal remains over fifty years old, at any site other than a known, maintained, actively used cemetery. In order to provide perpetual protection for the newly established burial site for the skeletal remains, its location will be recorded in the Bureau of Conveyances together with the attached Reburial Agreement. This Reburial Agreement establishes a permanent preservation zone, access rights for lineal and cultural descendants and states that the burial will not be willfully disturbed by the landowner, its successors and assigns.

The office of the Attorney General has conducted a review of the Reburial Agreement and all suggested amendments were incorporated into the attached agreement.

**ITEM I-1**

RECOMMENDATION

That the Board authorize Chairperson Thielen to execute the attached Reburial Agreement with 407 Partners, LLC.

Respectfully submitted,  
  
\_\_\_\_\_  
Pua Aiu, Ph.D., Administrator  
Historic Preservation Division

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
LAURA THIELEN, Chairperson  
Board of Land and Natural Resources



WHEREAS, the State, pursuant to Section 6E-43 and 6E-43.6, Hawai'i Revised Statutes, is responsible for regulating the proper treatment of human skeletal remains over fifty years old, at any site other than a known, maintained, actively used cemetery; and

WHEREAS, the parties desire to enter into this Agreement to rebury the human skeletal remains of certain individuals.

NOW THEREFORE, in consideration of the above and the terms and conditions contained herein, the parties agree as follows:

1. The Landowner agrees to allow the skeletal remains of the ancestral Native Hawaiians to be reburied on the Landowner's property located at 408A Uluniu Street, Kailua, Hawai'i 96734.

2. The Landowner, upon recommendation from the Department of Land and Natural Resources agrees to establish the already constructed planter as a permanent buffer zone for the burial site.

3. The Landowner, upon recommendation from the Department of Land and Natural Resources, agrees to landscape and maintain the area surrounding the reburial site.

4. The Landowner agrees to use the already constructed planter made of cinder block approximately 6 meters long by 1.6 meters wide and 0.4 meters from ground level as the reinterment site.

5. The Landowner agrees to treat the exact location of reburial sites as confidential information as provided for by section 6E-43.5, Hawai'i Revised Statutes. The Landowner agrees to identify the location of the reburial sites on a map and provide such information to the Department of Land and Natural Resources, Division of Historic Preservation.

6. The Landowner agrees to provide living Cultural and Lineal descendants, as determined by the OIBC in conjunction with SHPD-Burial Sites Program, access rights to visit the burial sites for cultural purposes. The access rights shall be by the most direct route across the Landowner's real property. A list of names and contact information of the Cultural and Lineal descendants shall be provided to the Landowner by the SHPD-Burial Sites Program. Such right of access shall be subject to the rules and policies of the Landowner. Cultural and Lineal descendants are to contact the Landowner or their representatives thereof to confirm dates and times of visitation. The request for visitation must be made at least 7 days in advance to confirm date and time.

7. The Landowner, on behalf of itself and its successors and assigns, covenant and agree not to willfully disturb in any manner, or allow the disturbance of in any manner, the repose of the human skeletal remains reburied at its property at 408A Uluniu Street, Kailua, Hawai'i 96734.

8. In the event the Landowner learns that the human skeletal remains, or any part thereof, are unearthed by natural causes or otherwise, the Landowner agrees to immediately notify the Department of Land and Natural Resources. The Landowner agrees not to handle the human skeletal remains in any manner. The Department of Land and Natural Resources, shall take proper action to secure the remains in place.

IN WITNESS WHEREOF, the STATE OF HAWAI'I, by its Board of Land and Natural Resources, has caused the Seal of the Department of Land and Natural Resources to be hereunto affixed and the parties hereto have caused this Agreement to be executed as of the day, month, and year first above written.

STATE OF HAWAI'I

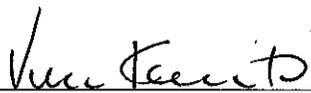
By \_\_\_\_\_  
Chairperson, Board of Land and Natural Resources

By \_\_\_\_\_  
Member, Board of Land and Natural Resources

LANDOWNER  
407 Partners, LLC

By \_\_\_\_\_

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Deputy Attorney General

Dated: 5-6-08

STATE OF HAWAI'I

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) SS.

COUNTY OF

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On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_ to me known to be the person described in and who executed the foregoing instrument and acknowledged that \_\_\_\_\_ executed the same as \_\_\_\_\_ free act and deed.

\_\_\_\_\_  
Notary Public, State of Hawai'i

My commission expires: \_\_\_\_\_

EXHIBIT "A"

All of that certain parcel of land situate at Kailua, District of Koolaupoko, City and County of Honolulu, State of Hawaii, described as follows:

Lot 333-A, area 29,400 square feet, as shown on Map 391, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 495 of Arthur Hyde Rice.

Together with a nonexclusive easement for the purpose of ingress and egress and for all utility purposes over, along, under and across Lot 332-F-1, area 4,033 square feet, as shown on Map 467 as Land Court Application No. 495, as granted by instrument dated May 28, 1987, filed in said Office of the Assistant Registrar as Document No. 1649484.

Being the land described in Transfer Certificate of Title No. 210,867 issued to KAILUA BUSINESS CENTER, a Hawaii general partnership.

SUBJECT, HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Grant dated April 5, 1949, in favor of Hawaiian Electric Company, Inc. and Hawaiian Telephone Company (now known as GTE Hawaiian Telephone Company Incorporated).

Property address:  
354 Uluniu Street  
Kailua, Hawaii 96734  
TMK (1) 4-3-52-23

END OF EXHIBIT "A"