

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

June 30, 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
KAHOOLAWE 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 JOHN ALVA ZABRISKIE AND LESLIE LYNN HARAKAWA FOR THE HUMAN SKELETAL REMAINS REINTERRED ON THEIR PROPERTY AT PU'U ANAHULU AHUPUA'A, NORTH KONA DISTRICT, ISLAND OF HAWAII AT [TMK (3) 7-1-06: 128]

Submitted for your consideration is a request to enter into a reburial agreement with John Alva Zabriskie and Leslie Lynn Harakawa 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.

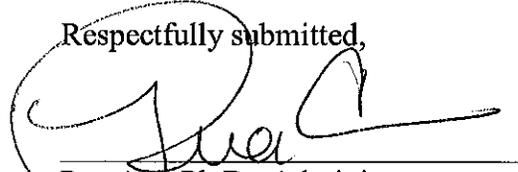
The office of the Attorney General has conducted a review of the Reburial Agreement and all suggested amendments were incorporated into the attached agreement.

ITEM I-2

RECOMMENDATION

That the Board authorize Chairperson Thielen to execute the attached Reburial Agreement with John Alva Zabriskie and Leslie Lynn Harakawa.

Respectfully submitted,



Pua Aiu, Ph.D., Administrator
Historic Preservation Division

APPROVED FOR SUBMITTAL:



LAURA THIELEN, Chairperson
Board of Land and Natural Resources

WHEREAS, the parties desire to enter into this Agreement to leave *in situ*, the possible burial site.

WHEREAS, the State, through its Department of Land and Natural Resources, pursuant to Chapter 6E, Hawaii 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 make this Declaration and agree to leave *in situ*, the unmarked burial sites containing the skeletal remains of ancestral Native Hawaiians.

1. Landowner agrees to allow the skeletal remains of ancestral Native Hawaiians to be left *in situ* in the Landowner's property located at Tax Map Key No. (1) 7-1-06:128 is attached hereto as Exhibit A and incorporated herein by reference.

2. Landowner, upon recommendation from the Department of Land and Natural Resources and the Hawai'i Island Burial Council (HIBC), agrees to establish a minimum of twenty foot (10) square permanent buffer zone around SIHP Site -19415. The buffer zone will be delineated by landscaping and/or a low berm. No planting of deep rooted plants will be permitted within the buffer zone. The Landowner agrees to perpetually maintain the site in a respectful condition. Except for burial site maintenance activities and visitation by recognized lineal descendants, no other physical activities shall take place within the delineated permanent buffer zone.

3. Landowner agrees to provide identified descendants wishing to visit the site with a right of access at reasonable times and upon reasonable advanced notice, subject to the rules and policies of Landowner. The phrase "right of access" shall mean reasonable ingress and egress to and from. The right of access extends only to visitation during reasonable hours for purposes usually associated with cemetery visits, upon providing written advance notice to Landowner. Each individual intending to access the site must provide the Landowner with a signed release agreement to indemnify and hold harmless the Landowner, his heirs and assigns. It will be the responsibility of the descendants to provide the Landowner with current contact information.

4. Landowner covenants and agrees not to willfully or intentionally disturb in any manner, or authorize the disturbance of in any manner, the repose of the human skeletal remains interred on the property. The obligations imposed by these restrictive covenants shall be effective in perpetuity and shall be deemed to run as a binding servitude with the property, and shall extend to and be binding upon Landowner, its successors and assigns.

5. In the event Landowner learns that the human skeletal remains, or any part thereof, are unearthed by natural causes or otherwise, Landowner agrees to immediately notify the Department of Land and Natural Resources. Landowner agrees not to handle the remains in

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: _____

W
R-673

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

DEC 02, 1997 10:45 AM

Doc No(s) 97-168051

18/CARL W. WATANABE
ACTING
REGISTRAR OF CONVEYANCES
CONVEYANCE TAX: \$650.00

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail (XX) Pickup ()

To:

382936-B

MS LESLIE L. HAKAKAWA
FLAT B 9/F
WOODLAND GARDENS
62A-F CONDUIT RD,
HONG KONG

TG: 370101

TGE: 97-301-0671

Janet Lum Wong

Total Pages: 7

pjl/05600/0001/SUBDVSN/Harakawa
TMK Nos. (3) 7-1-6: 68, 69, 70 & 128

DEED

KNOW ALL MEN BY THESE PRESENTS:

That PUU LANI RANCH CORP., a Hawaii corporation, with business address at 71-1572 Puulani Drive, Kailua-Kona, Hawaii 96740, hereinafter called the "Grantor," in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration paid to it by JOHN A. ZABRISKIE and LESLIE L. HAKAKAWA, husband and wife, both of whose mailing address is Flat B 9/F, Woodland Gardens 62A-F, Conduit Road, Hong Kong, hereinafter called the "Grantees," the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto the Grantees as tenants by the entirety:

ALL of those certain parcels of land
situate at Puuanahulu, North Kona, Island

and County of Hawaii, State of Hawaii, more fully described in Exhibit "A" attached hereto and made a part hereof, subject to the encumbrances and reservations mentioned in Exhibit "A."

TOGETHER WITH BUT SUBJECT TO that certain Declaration of Covenants, Conditions and Restrictions for Puu Lani Ranch, dated December 29, 1986, recorded in the Bureau of Conveyances of the State of Hawaii in Book 20222 at Page 605, as amended, which Declaration provides, among other things, for access to and from the property described above, that any dedication to the County of Hawaii of the private roads serving the property shall be conditioned upon the Puu Lani Ranch Homeowners Association bearing the expense of all necessary roadway, drainage and street light improvements required by the County of Hawaii;

AND the reversions, remainders, rents, issues and profits thereof, together with all buildings, improvements, tenements, rights, easements, privileges and appurtenances to the same belonging or appertaining or held and enjoyed therewith, and all of the estate, right, title and interest of the Grantor both at law and in equity therein and thereto;

TO HAVE AND TO HOLD the same unto the Grantees and their assigns and the heirs, personal representatives, successors and assigns of the survivor of them, forever, in fee simple, subject to the encumbrances mentioned above;

AND the Grantor, for itself, its successors and assigns, hereby covenants with the Grantees: THAT the Grantor is the owner in fee simple of said land and premises; that the same are free and clear of and from all encumbrances except as mentioned herein and in Exhibit "A"; that the Grantor has good right to grant and convey the same unto the Grantees as aforesaid and will WARRANT AND DEFEND the same unto the Grantees forever against the lawful claims and demands of all persons except as aforesaid.

IN WITNESS WHEREOF, the Grantor has executed these presents this 27th day of October, 1997.

PUU LANI RANCH CORP.

By F. Newell Bohnett
Its President

STATE OF HAWAII)
CITY AND COUNTY OF HONOLULU) SS:

On this 27th day of October, 1997, before me appeared F. NEWELL BOHNETT, to me personally known, who, being by me duly sworn, did say that he is President of PUU LANI RANCH CORP., a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of such corporation, and that such instrument was signed and sealed on behalf of such corporation by authority of its Board of Directors; and said F. NEWELL BOHNETT acknowledged that he executed such instrument as the free act and deed of such corporation.

LEIMOMI JONES
Notary Public
State of Hawaii
My commission expires: JANUARY 30, 2000

Leimomi Jones
Notary Public, State of Hawaii
My commission expires: JANUARY 30, 2000

4. Thence along Lot 78 (roadway) of Puu Lani Ranch - Phase II, along the north corner of an intersection, on a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being:
74° 05' 28.28 feet;
5. 119° 05' 180.00 feet along the northeasterly side of Lot 78 (roadway) of Puu Lani Ranch - Phase II to the point of beginning and containing an area of 1.208 acres, more or less.

FOURTH:

Lot 76
of Puu Lani Ranch - Phase II

Being portions of Grant 6148 to K. Kuehu, Jr. and
Grant 8560 to Kelli Alpia

Situated at Puuanahulu, North Kona, Island of Hawaii, Hawaii

Beginning at the south corner of this parcel of land, on the northeasterly side of Lot 78 (roadway) of Puu Lani Ranch - Phase II, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PANINI" being 599.46 feet south and 4,522.10 feet east, thence running by azimuths measured clockwise from true south:

1. 119° 05' 106.09 feet along the northeasterly side of Lot 78 (roadway) of Puu Lani Ranch - Phase II;
2. Thence along the easterly side of Lot 78 (roadway) of Puu Lani Ranch - Phase II, on a curve to the right with a radius of 305.00 feet, the chord azimuth and distance being:
159° 03' 47.5" 391.94 feet;
3. Thence along the southeasterly side of Lot 78 (roadway) of Puu Lani Ranch - Phase II, on a curve to the right with a radius of 470.00 feet, the chord azimuth and distance being:
240° 48' 05" 626.03 feet;
4. 282° 33' 35" 80.62 feet along the southerly side of Lot 78 (roadway) of Puu Lani Ranch - Phase II;

5. 29° 05'

807.29 feet along Lots 15, 16 and 17 of Puu Lani Ranch -
Phase II, along the remainders of Grant 6148 to K.
Kuehu, Jr. and Grant 8580 to Kelli Alpa to the point
of beginning and containing an area of 6.074 acres,
more or less.

BEING portions of the land conveyed to the Grantor by Deed dated
August 31, 1992, recorded in the Bureau of Conveyances as Document No.
92-145172, and by Quitclaim Deed dated March 8, 1994, recorded as aforesaid
as Document No. 95-009343.

EXHIBIT A

All of that certain parcel of land situate at Puuanahulu, North Kona, Island and County of Hawaii, State of Hawaii, described as follows:

LOT 76 of Puu Lani Ranch - Phase II, being portions of Grant 6148 to K. Kuehu, Jr. and Grant 8560 to Kelii Aipia, containing an area of 6.074 acres, more or less.

BEING the premises conveyed to the Grantor above-named by Deed dated October 27, 1997, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 97-168051 ("Deed"). The property conveyed hereby is more particularly described in said Deed, which description is incorporated herein by reference.

SUBJECT, HOWEVER, to any and all encumbrances of record.

END OF EXHIBIT A