



THIRTIETH LEGISLATURE
REGULAR SESSION OF 2019

**Report Pursuant to
Act 193, Session Laws of Hawaii 2018**

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

Submitted December 2018

Introduction

This report is filed pursuant to Act 193, Session Laws of Hawaii 2018 (Act 193), which requires the Department of Commerce and Consumer Affairs (DCCA) Director, in consultation with the Department of Accounting and General Services (DAGS) Comptroller, to develop strategies for the upkeep, repair, and maintenance of Sunset Memorial Park (Sunset) in Pearl City, Oahu and to report relevant findings and recommendations to the Legislature.

As noted in Act 193, Sunset (located at 848 4th Street, Pearl City, Hawaii) has been in a state of neglect for years. The cemetery has been the focal point of numerous complaints by people whose family members are buried there.

Sunset has existed at the Pearl City site for over 100 years through various forms of ownership. The cemetery holds approximately 5,000 plots and is presently held by Hawaiian Cemetery Association, Ltd. That entity was involuntarily dissolved in 2010. A small portion of the property that is the site of a columbarium is held by Garden Crypts, Inc. That entity was involuntarily dissolved around 2006.

The State's cemetery licensing law was enacted in 1967 (Act 199). Sunset became licensed in 1971; however, its license is no longer current. Sporadic maintenance is being performed by a caretaker. Family and community members voluntarily participate in cemetery upkeep.

Strategies for Upkeep, Repair, and Maintenance of Sunset

The DCCA is the agency with oversight over a number of professional and vocational licensing laws, including the Cemetery and Funeral Trust Program. Unlike other license types in which an entity with an expired license simply ceases to engage in activities that require a license, the winding up of a cemetery license ideally involves an orderly transfer of cemetery property and assets to an appropriate assignee. Unfortunately, the cemetery's age, years of neglect, poor recordkeeping, and potential liability concerns make Sunset difficult to market to a prospective successor licensee.

The DCCA strongly supported last session's Act 193, which granted limited liability for volunteers that maintain or repair cemetery grounds, as a stopgap measure to mitigate the continued deterioration of the site. In addition, the DCCA has begun the process of consolidating the Sunset records and maps it has obtained over the course of several years to identify the number of decedents interred. These records include:

- Copies of inventory cards organized alphabetically and numerically by cemetery section;
- Videotaped inventory taken in 2004 that identifies markers¹;
- Section inventory that corresponds to the videotaped inventory;
- Map entitled "Boundaries and Sections as of July 30, 2004 per Slim and Lago" and showing cemetery sections B through G, G-1, and mausoleum;
- Maps partially or entirely damaged by fire; and
- Copies of all documents found in Reverend Lago's office (e.g., contracts, Kardex cards).

Once sorted, the DCCA will electronically scan all paper records for digital access.

In addition, the DCCA plans to hire a vendor to create a: (1) master inventory that is searchable by name, plot number, and cemetery section and that may include inscription data, such as names, birth dates, death dates, family history, and type and style of markers; and (2) plot map. Commencement of this project could begin as early as mid-2019, after Sunset completes its second large cleanup.

After the vendor completes the master inventory and plot map, the DCCA plans to apply for a circuit court order that: (1) deems Sunset a dissolved corporation under Hawaii Revised Statutes chapter 414-422; (2) settles the unfinished business and winds up the affairs of the cemetery; and (3) distributes the cemetery's assets after identifying those with a legal interest in the cemetery. Finally, the DCCA plans to apply for a court order notifying interested parties that the cemetery will not accept further burials.

These foundational steps will be helpful in identifying and mapping cemetery decedents and identifying any unused plots. Once the inventory and mapping are completed, the DCCA will be in a better position to evaluate options for long-term maintenance of Sunset.

¹ However, this videotaped inventory does not identify all the markers in Sunset because the total number of plots is unknown.

Cemeteries Maintained by DAGS

Act 193 notes that attempts to have the State add Sunset to its currently state-owned cemeteries are ongoing. Based on that information, the DCCA consulted with the DAGS Comptroller regarding DAGS' experience with cemetery maintenance. According to DAGS, it currently maintains six cemeteries:

1. Puea Cemetery, 1440 North School Street, Honolulu
2. Makiki Cemetery, 1630 Pensacola Street, Honolulu
3. Puukamalii Cemetery, 1821 Kamalii Street, Honolulu
4. Aiea Government Cemetery, 99-123 Uahu Street, Aiea
5. Cemetery behind 85-235 Waianae Valley Road, Waianae (access is between 85-235 and 85-225 Waianae Valley Road)
6. Cemetery at 85-759 Farrington Highway, Waianae (access road is east of the KFC parking lot)

Unlike Sunset, all six cemeteries maintained by DAGS are inactive and not operational. In contrast, individuals may still request to inter decedents at Sunset.

DAGS has budgeted approximately \$60,000 (without fringe benefits) for three groundskeepers to maintain the above cemeteries for six months. As these positions have not yet been filled, DAGS is uncertain how much time will be spent on maintaining the cemeteries. To date, DAGS has spent \$38,456 (an average of \$5,507/month) in overtime pay to its existing employees, some of whom were involved in maintaining the cemeteries.

Conclusion

The DCCA intends to fully explore viable long-term options for Sunset, once its inventory and mapping have been successfully completed. While the DCCA recognizes that the State's control of the cemetery could be an option, it is concerned about the substantial costs and potential liability to the State resulting from that ownership. Sunset is significantly larger than all the other cemeteries in DAGS' inventory and would therefore require substantial maintenance funding, in perpetuity. In addition, the DCCA cautions against the State engaging in any action that could be considered a "bailout" of a failed business, due to the concerning precedent it could establish.