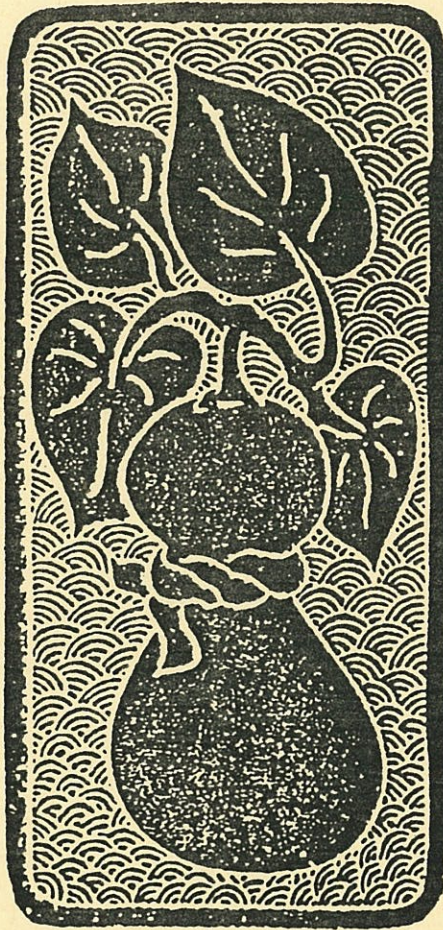




Office of Hawaiian Affairs

GUIDELINES

FOR THE CONSIDERATION OF TRADITIONAL NATIVE HAWAIIAN CULTURAL VALUES IN HISTORIC PRESERVATION REVIEW

Planning Department
HP -- 35

CURRENT STATUS

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BACKGROUND TO THE GUIDELINES

The Office of Hawaiian Affairs (OHA) Board of Trustees, on 25 July 1987, adopted a formal Policy on Native Hawaiian Sites and established an OHA Inventory of Sites. The adoption of these guidelines continues OHA's commitment to encourage more effective historic preservation efforts by all levels of government and to urge greater sensitivity to Hawaiian cultural values in the protection, planning, and management of native cultural resources.

These guidelines also provide an explicit basis for the Office to formulate consistent responses to proposed adverse impacts on historic sites; and to forge future memoranda of agreement (MOA) for the mitigation of unavoidable harm to historic properties.

It is important to note that these guidelines do not require historic preservation, only that OHA and Hawaiian interests and cultural values be considered and respected in planning and when making such decisions. A balance of interests can be found -- and when truly successful, is mutually beneficial.

Thus, it is the express recommendation and hope of the Office of Hawaiian Affairs that these guidelines and the example of the MOAs which have already been concluded will:

1. Lead to a clarification and strengthening of federal, state, and county laws and procedures to formally recognize and include OHA and Native Hawaiian cultural values in the full range of historic preservation reviews and decisions;
2. Draw attention to the mediating authority offered by the Office of Hawaiian Affairs and the adoption of these guidelines in the resolution of conflicts related to culturally-sensitive historic preservation issues; and
3. Encourage wider and more effective participation by Hawaiian communities and individuals -- especially by those with a special knowledge and traditional attachments to affected properties -- in decisions regarding historic preservation and cultural conservation.

Policy Statement. It is the policy of the Office of Hawaiian Affairs to seek full consideration of traditional cultural values in the review of all projects affecting Native Hawaiian historic properties.

Procedure. To implement this policy, the OHA Board of Trustees hereby adopts the following "Guidelines for the Consideration of Traditional Native Hawaiian Cultural Values in Historic Preservation Review."

GUIDELINES

● The Purpose of Historic Preservation

Hawaii is the homeland of the Native Hawaiian people. All that gives meaning to being Hawaiian -- the music, dance, literature, and arts -- find their source and continuing life here in the Islands. Also vital to this cultural identity and integrity of the Hawaiian people are the tangible links to the past represented in historic places and properties.

Further, as the host culture of the Islands, Native Hawaiian historical experiences and values -- with their continuing reflection in and influence on modern social, economic, and cultural patterns -- is a shared past which enhances the entire community's sense of history and identity.

As described in the proposed National Guidelines for the Consideration of Traditional Cultural Values in Historic Preservation Review:

"...The National Historic Preservation Act does not encourage the preservation of historic properties simply because 'they are there,' but in order that they can remain and become 'living part(s) of our community life and development in order to give a sense of orientation to the American people,' and in order for them to 'fulfill the social, economic, and other requirements of present and future generations.' As a result, the process set forth in the Council's regulations is designed to identify what is valued about the historic qualities of each historic property subject to effect, and to seek ways to preserve or even enhance such qualities in the context of development. Where preservation and enhancement are not feasible, the process seeks to establish agreement among concerned parties on ways to minimize the damage done by development to those

GUIDELINES

qualities that people value in the historic properties affected.

Actions undertaken, assisted, or even permitted by federal agencies can have profound impacts on places of traditional cultural value. Even where no direct demolition or other disturbance of such a location occurs, indirect effects of a project on traditional uses of the location, and on the fabric of traditional life in whose context the location has meaning, can be widespread. Where review of a project fails to consider these effects, it may miss the most serious impacts of the project on the values most meaningful to the most affected segments of the public..."

The practical wisdom of including those most affected by historic preservation decisions is not confined to Native Hawaiian participation and the consideration of our cultural values.

For example, if a planned development project threatened a 19th century Chinese cemetery or an early Japanese Buddhist temple, both protection and mitigation decisions would be better served and made more culturally-sensitive by including those with the greatest knowledge about such properties, and with the greatest insight into appropriate mitigation.

Like federal statutes, State historic preservation laws are also not predicated on the unquestioning protection of historic properties. Instead -- in line with required environmental impact statements -- an identification, assessment, and proposed mitigation of harm to archaeological sites is mandated.

Unlike national law, however, the State and counties make no explicit provision for the inclusion of groups or cultural values most affected, or have guidelines which promote both the inclusion of and sensitivity to the cultural values of affected populations.

Often the resistance to such inclusion is founded on the mistaken assumption that this participation would create an unacceptable burden of time and money or more "red tape" within existing governmental review processes.

GUIDELINES

As with national historic preservation purposes, though, the explicit consideration of traditional cultural values is to more accurately assess and mitigate harm to historic sites by actively including those most affected -- not to give any one segment of the community a "veto power" over all proposed development.

- Definitions

The definition of terms and description of values used in the guidelines are drawn from existing guidelines utilized by the National Parks Service, a proposal circulated by the National Advisory Council On Historic Preservation in response to parallel efforts by the National Congress of American Indians to assure cultural sensitivity and native participation, and standards adopted by the Society for Hawaiian Archaeology.

Other definitions will be provided where appropriate. However, the following terms are basic components and are used throughout these guidelines:

1. Cultural Resources: those tangible and intangible aspects of cultural systems, both past and present, that are valued by or representative of a given culture, or that contain information about a culture;

2. Cultural value: means the contribution made by an historic property to an on-going society or cultural system. In a sense, any historic property has cultural value; by inspiring or informing us about the past, by illustrating a form of architecture, or by serving a modern purpose through adaptive reuse, it contributes to our ongoing cultural life. The focus of attention in these guidelines, however, is on those properties whose primary value springs from the role they play in maintaining the cultural identity and integrity of the Native Hawaiian people;

3. Historic property: means any prehistoric or historic district, site, building, structure, or object included or eligible for inclusion on the National, State, or OHA Register of Historic Sites. This term includes artifacts, records, and remains that are related to and located within such properties;

GUIDELINES

4. Memorandum of agreement: formal document of conditions and terms reflecting agreed-upon mitigation of impact on historic sites;

5. Mitigation: the process by which impacts to the cultural resources are avoided and/or minimized. Research activities are central to this process, and may include data from ethnohistory, natural history, and archaeology. Ethnographic data include archival material, oral histories, and traditionally based contemporary practices. Natural history may include information on geology, soils, flora and fauna, and marine resources. Archaeological information is derived from such activities as surface surveys, artifact collections, and data recovery excavations.

6. Preservation: the activity to sustain the existing form, integrity, and material of the cultural resources. This may include actions which facilitate and implement the establishment of (a) an adequate protective zone, (b) stabilization; (c) restoration; (d) interpretation of the cultural resources; and (e) traditional use.

7. Protection: the activity by which present and future adverse impacts to cultural resources are avoided. In its broadest sense, protection includes long term efforts to guard against deterioration and loss as well as to deter vandalism, theft, and desecration of the cultural resources.

● Kinds of Historic Value

It has been more than 25 years since the passage of the National Historic Preservation Act, and its mandate for the creation of State Historic Preservation Offices to coordinate governmental decisions affecting historic properties. Over that time, there has been the acceptance of broad categories of public value which may be present in historic properties. Among these values are:

- * Architectural value: the importance of a property as an example of an architectural type or period, the work of a particular architect or group, or the application of particular concepts, methods, or technology.
- * Associative value: the importance of a property as a reminder of an event, a person, a process or trend

GUIDELINES

affecting the history of the world, the nation, or a region, community or group.

- * Use value: the potential of an historic property for continued productive use as a part of modern society;
- * Informational value: the potential of an historic property to provide information, through recordation or archaeological research, that is useful to the study of important aspects of the past;
- * Cultural value: the contribution made by an historic property to an ongoing society or cultural system. It is this sort of value that is the focus of these guidelines.

In a general sense, all historic properties have cultural value, since history is itself a cultural phenomenon. As used here, however, cultural value applies to the role played by a property in an on-going, contemporary cultural system. A cultural system, in turn is a group of people linked together by shared values, beliefs, and historical associations, together with such a group's social institutions and the physical objects necessary to the operation of the institutions.

There is no question that Native Hawaiians historically shared a cultural system. What many governmental reviews either implicitly deny or ignore is that Hawaiians continue to constitute a group united by particular spiritual views and beliefs about social organization, relationships with natural forces and resource use, and continuing traditional practices and perspectives linked to particular properties.

Thus, a traditional hula form would not be the subject of historic preservation review -- unless it was linked to a particular property. For example, decisions affecting Ha'ena State Park, particularly Kaula o Laka Heiau, would have significant implications for the religious practices, integrity and performance of hula associated with Laka, and the Pele-Hi'iaka-Lohiau cycle of chants and dance.

Pre-contact in origin, this heiau continues to be a culturally special place with sacred resonance. Not to recognize the cultural significance and sensitivity of this

GUIDELINES

heiau could diminish the cultural integrity of the Hawaiian people. In addition, if only professional archaeologists were consulted regarding treatment and interpretation of this site, the general community would also be deprived of a deeper understanding of Hawai'i's past and present.

- Religious Considerations

One of the most difficult and least understood aspects of Hawaiian cultural values are traditional religious beliefs and practices.

Although most Hawaiians are Christians -- there is an undeniable depth of "respect" for the old religions which would be declared as belief except for the implicit pressures of possible ridicule or reprisal from churches and the larger community.

Further, traditional Hawaiian sacred beliefs are so interwoven into daily life and practice that little conscious notice is given to the "religious" aspect of such activities. Wearing a ti leaf, offering gin to Pele, placing a lei at a hula heiau are overt expressions -- clearly a form of religious practice.

Frequently, though, Hawaiian cultural/religious values cannot be segregated. Unlike Western religions, there is no separation of the "religious" from other aspects of society. Such values are so integrated into life that virtually every cultural institution -- the language, the dance, the 'oli -- are "religious" to some degree.

Less acknowledged are the religious aspects often connected with activities considered non-religious by the non-Hawaiian community. Virtually every activity continues to have a sacred resonance to the Hawaiian mind, whether while fishing -- returning a part of the catch; the gathering of medicinal plants -- reciting prayers associated with healing power; or building a house -- blessings and making sure that no two exterior doors are in alignment with each other.

Consistent with such an integrated religion, traditional Hawaiian religious practice -- as known today -- is not always associated with a physical structure like a heiau. Rather,

GUIDELINES

places of worship and veneration are in effect cultural landscapes: valleys, streams, rocks, and other natural features.

The difficulty for the non-Hawaiian in recognizing, much less assessing, harmful impact on such landscapes is obvious. As summarized in a Congressional report:

"...Religious sites such as churches, mosques, the Vatican, and the Wailing Wall hold religious significance for Jews, Christians, and Moslems. Because non-Indians are more familiar with these structures, it is easier for them to understand the effect of a law that would forbid access to them or that would allow tourists to come in at any time during high mass, for example, and take photographs of the ceremony. However, it is more difficult for non-Indians to understand the burden on Native American religions of such laws governing access to Federal lands, for example, even though some lands, rivers, or mountains may hold as much religious significance for an American Indian as the church does for the Christian..." (CCR 1983:30)

Not widely known in Hawai'i -- and less appreciated -- is that the federal government acknowledges more than the Bill of Rights "freedom of religion" doctrine as applied to Native Americans.

The American Indian Religious Freedom Act (42 U.S.C. 1996) establishes that:

"It shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects and the freedom of worship through ceremonials and traditional rites."

The impact of this legislation is felt in Hawai'i. The National Parks Service at Volcano National Park has recognized "traditional gathering and religious freedom"

GUIDELINES

access to Native Hawaiians assured by the waiver of fees. Pu'ukohola Heiau at Kawaihae allows only Native Hawaiians to enter that sacred structure.

The State and counties of Hawai'i, however, have made no such provisions for the recognition and protection of traditional Hawaiian religious rights and values. More sensitivity is required. Consultation with traditional Hawaiian leaders and others with religious concerns about historic properties should be a fundamental part of all historic preservation review.

• Non-Religious Cultural Values

Although it may be difficult to identify Hawaiian cultural values which are not in some way religious, religious values are not the only cultural concerns that should be recognized during historic preservation review. As outlined in national "Section 106" guidelines, such review should also be sensitive to non-religious cultural values. Among the traditional values included are:

- * A Hawaiian community that has long resided in an historic district may ascribe traditional cultural value to the area as its traditional home and the embodiment of its traditional organization. The Mokauea Fishing Village is an example of this cultural value.
- * A community may ascribe cultural value to the landscape in which it exists as a physical manifestation of its values and social organization. Kalaupapa Peninsula, and its Hansen's Disease settlement is an example.
- * A community or other group may ascribe traditional cultural value to a property that plays and has traditionally played an important role in the group's social cohesion and interaction. Kawaiaha'o Church is an example of this value.
- * A group may ascribe traditional cultural value to a property that is symbolic of the group's identity or history. Nu'uuanu Pali holds such value.

GUIDELINES

● The Role of OHA in Historic Preservation Review

Chapter 10, Hawai'i Revised Statutes, charges the Office of Hawaiian Affairs with the responsibility for "assessing the policies and practices of other agencies impacting on native Hawaiians and Hawaiians, and conducting advocacy efforts for native Hawaiians and Hawaiians."

This statutory responsibility is further clarified by OHA "Master Plan" goals, Board of Trustees policies and procedures. Two of the three major areas identified in the "Master Plan" directly influence the development of OHA's role in historic preservation review:

- * Revive, enhance, preserve, and perpetuate Hawaiian culture.
- * Promote full participation of the beneficiary community in the democratic process.

As part of this mandate, further, OHA has adopted the following policies and procedures regarding historic preservation of Native Hawaiian cultural resources which include:

- * A commitment to preserve and protect Native Hawaiian historic sites;
- * Establishment of an "Office of Hawaiian Affairs Inventory of Native Hawaiian Sites" which currently lists more than 500 known sites which are located on private property; and
- * Adoption of a Board procedure for the implementation of formal mitigation through Memoranda of Agreement.

These policies and procedures describe the interest of the Hawaiian people in historic preservation decisions and define the role of OHA to act on behalf of the Hawaiian people.

In addition, the Office seeks the recognition of its role as consistent with national "Native American" status provisions.

GUIDELINES

For example, when OHA sought participation as a "concurring party" in the federally-mandated Memorandum of Agreement required for the H-3 project, the Office cited the parallel interest and status of Native Hawaiians to that ascribed to Indian tribes in the regulations of the Advisory Council on Historic Preservation (36 CFR Part 800: "Protection of Historic Properties"):

"...(iii) Indian tribes. The Agency Official, the State Historic Preservation Officer, and the Council should be sensitive to the special concerns of Indian tribes in historic preservation issues... When an undertaking will affect Indian lands, the Agency Official shall invite the governing body of the responsible tribe to be a consulting party and to concur in any agreement..."

OHA's inclusion in the memoranda concluded for the O'ahu H-3 and the realignment of Ali'i Drive in Kailua-Kona, was sought because of the parallel with the role assigned Indian tribes. However, actual participation was only possible with the concurrence of the federal agency, state and county departments, and the National Advisory Council on Historic Preservation.

Although such participation represents a tacit acknowledgment of Native Hawaiian concerns and OHA's "governing body" role as substantially similar to those of Indians and their tribal councils, explicit federal recognition is still needed. Without changes in federal "Section 106" procedures, OHA participation and concurrence is not required.

The Office is empowered by statute and established in a manner conducive to participating in review processes. Funding and staffing levels allow a concentration of resources and time not usually available in a community organization. Further, the Office feels comfortable and competent in assessing and asserting Native Hawaiian concerns related to significance criteria and professional standards affecting archaeological and cultural resource planning and management.

However, the existing parallel role of OHA to Indian tribal councils as representative of a people affected by preservation decisions also infers certain other kinds of

GUIDELINES

mutual responsibility from both government and OHA in the consideration of traditional cultural values when mitigating adverse impacts on historic properties and cultural resources.

Simply, no level of government or OHA can assert "knowing everything" about every historic property and its cultural significance in the State of Hawai'i.

Rather, the role of OHA is to protect and serve as advocate for those rights and cultural values which are shared by Hawaiians, and to seek the greatest participation by those Hawaiian communities and individuals most knowledgeable and most affected by particular historic preservation decisions.

Thus, it is necessary for OHA, as well as governmental bodies, to formally recognize and actively seek the traditional knowledge and participation of the Hawaiian community. This effort must also be culturally-sensitive and attuned to the nuance of cultural values.

Clearly, OHA offers the best opportunity for both seeking and assuring the incorporation of these viewpoints and values. However, for OHA to succeed in this effort, and to offer a model to other agencies -- it is necessary to identify and explicitly express how this process could be implemented.

- Considering Cultural Values

I. ORGANIZATION

The Office of Hawaiian Affairs endorses and urges the formal consideration and inclusion of Native Hawaiian cultural values in all historic preservation review. This effort shall include seeking amendments to federal, state, and county laws and ordinances for the recognition of the role OHA has in historic preservation determinations. Further, OHA shall also encourage and foster the participation of Hawaiian cultural authorities and affected communities in decisions related to historic preservation review.

GUIDELINES

II. IDENTIFICATION OF TRADITIONAL CULTURAL VALUES

OHA shall encourage all levels of government and will itself seek to identify properties that have traditional cultural value. As part of this effort, communities, groups, and knowledgeable individuals who may ascribe, or be expert in the ascription of traditional cultural values shall be consulted.

OHA recognizes that the kupuna are invaluable in such an effort. However, cultural knowledge and authority is not confined to a single generation or to a single school of learning. Therefore, OHA also recognizes and encourages the special insights which may be provided by formally-educated Hawaiians.

III. EVALUATION OF HISTORIC PROPERTIES

These guidelines provide a criteria reflecting possible traditional cultural values ascribed to properties included or eligible for inclusion on the OHA Inventory of Native Hawaiian Historic Sites. Future additions to the OHA Inventory will, as appropriate, make every effort to clearly describe the kind of cultural value being recognized.

In addition, OHA will seek similar recognition and assist in the coordination of resources in the determination of eligibility review associated with National and State Registers.

While such historic properties may already be eligible for or included on National and State Registers and Inventories under other criteria of review, additional efforts must be made to demonstrate a sensitivity to and recognition of traditional cultural values.

IV. CONSIDERING EFFECTS

In considering the effects of any governmental action on Native Hawaiian historic properties, the responsible

GUIDELINES

agency and State Historic Preservation Office should consult with OHA. OHA will then assist in the identification of any effects on traditional cultural values because of proposed actions affecting these properties. To achieve this coordination, OHA and the responsible agency will:

1. Consult with the communities and other groups ascribing traditional cultural value to historic properties;
2. Encourage that such consultation be conducted in a manner consistent with the cultural practices and modes of expression of the group being consulted. Such adjustments could include meeting without the usual constraints of written testimony, time limits on presentation, the use of the Hawaiian language, or other appropriate measures; and
3. Mediate where necessary to clarify issues and seek consensus on effects and alternatives.

V. MITIGATION OF IDENTIFIED IMPACT

Existing state law and county ordinances require archaeological impact assessments as a component of overall Environment Impact Statement (EIS) documents. Typically, the archaeological assessment will identify and evaluate properties, indicate anticipated impacts, and outline proposed mitigation. Although public comment is solicited before the acceptance of the EIS, no where is there explicit provision for the inclusion of OHA and community participation in the assessment of sites or of the mitigation plan.

Instead, only adversarial options are available -- either suing in court or intervening in the permit process. Such alternatives are both expensive and time consuming -- for all the parties involved.

A mediation process -- similar to the federal "Section 106 Process" -- should be statutorially available. Then, those most affected by the impacts of a proposed project could be directly involved, under the constraints of a reasonable time limit and with the understanding that the current procedure and options would continue if agreement

GUIDELINES

could not be reached.

Such mitigation efforts will be difficult where there is deep community emotion connected with traditional cultural values. For the affected community, and Hawaiians generally, it may seem virtually impossible to consider any alternate than to eliminate the potentially damaging action altogether.

In weighing impacts against perceived benefits, Native Hawaiians often accurately recognize that the benefits of a project flow away from the affected native community, while the adverse impacts are most absorbed by the same affected group. This perception is only re-enforced when non-adversarial participation is limited and the mitigation alternates do not directly address the harm being experienced.

For example, if a Hawaiian community values a property because of the medicinal plants that grow there, data recovery (total excavation) of a site for informational value "misses the point." Replanting or even design adjustments to avoid the area would be more sensitive and sensible.

As demonstrated by the MOAs executed by OHA, particularly those also signed by community groups, agreement is not only possible -- mitigation is enhanced by such cooperation. And the entire community, including the developer, benefits.

VII. SPECIAL CONCERNS

Three especially sensitive areas of concern to OHA and the Hawaiian community involved with historic preservation review decisions are:

- the treatment of Hawaiian human remains;
 - ethical conduct towards native cultural authorities;
- and

GUIDELINES

- a recognition and incorporation of traditional and customary Native Hawaiian rights.

These issues are addressed in separate attachments to these Guidelines.

GUIDELINES

Attachment IRESPECT FOR NATIVE HAWAIIAN BURIALS AND REMAINS

Background

Within the traditional Hawaiian culture, human bones are a metaphor for the shared bond of place and family, of mortal strength and sacred power. Hawaiian expressions of kinship and linkage to the land -- "na 'oiwi" and "ke kula iwi" -- refer directly to "the bones" and to family connections with particular areas as "the bone land."

As with all such Hawaiian metaphors, the poetic reference also has literal meaning. Traditional Hawaiian culture cherishes the bones of the dead. Respect and dignity demands careful and proper preparation and disposal of the departed. Historically, religious rituals were complex, and recognized that the soul could be summoned and directed for either beneficial or evil ends by those who possessed and "fed" the bones.

These traditional cultural values and religious beliefs continue to shape Hawaiian attitudes and concerns regarding the respectful treatment of burials and human remains.

Within the pre-contact society, burials were typically near living areas -- in sand dunes, nearby caves, or even within the foundation of a house site. As a result, archaeological sites and historic properties more frequently contain Hawaiian burials and human remains than not.

In addition, natural forces like wave, wind, and sand or soil erosions can expose burials. Excavations associated with construction can uncover previously unknown graves.

When excavation of a known site or an unavoidable disturbance in a burial area occurs, there is a need for special sensitivity and consultation with the Office of Hawaiian Affairs and affected community groups regarding proper burial treatment.

GUIDELINES

This Attachment discusses the traditional cultural values which are involved in such consultations, and outlines the areas of greatest sensitivity and potential disagreement between the Hawaiian community and others regarding human remains.

Few, if any, members of our community would ever personally approve of disturbing graves which are not threatened by some form of natural destruction. However, such feelings are typically confined to historic period cemeteries -- where deceased individuals have known identities and continuing family connections of responsibility and emotional commitment. However, pre-contact or early historic period burials are often unmarked, and now unknown to genetic descendents.

Without a broader historical sense -- an appreciation and respect for the past which is not reliant strictly on individual family attachments and obligation -- lives and deaths which preceded our own personal memory seem remote and literally unrelated to the present.

There are clearly instances when the needs of the living are more compelling than leaving burials in place. However, current planning laws and permit processes reflect an unquestioning willingness to remove graves without regard for whether there is sufficient cause to do so.

Even less regard is statutorially-reflected to acknowledge that the removal of known ancestral graves is deeply painful to Native Hawaiians.

There are two sources of this pain. The first is captured by the frequent comment from affected Hawaiian communities that "Hawaiians have no place in Hawai'i, they throw us out even after we're dead."

Such feelings are intensified by the continuing religious and traditional cultural values associated with ancestral bones. Tradition requires the observance of ho'oponopono before na 'oiwi are disturbed: an explanation and apology for the disturbance -- mihi; a sense of forgiveness for the offending action -- hala, and a resolution that the offense will not have future harmful consequence -- oki.

Whether specifically conducted in this manner, the cultural imperative to "bless" and "take care" of the bones is a cultural obligation that, if ignored or left unmet, is believed to have dire spiritual and even mental or physical health

GUIDELINES

consequences.

If Native Hawaiians do not mālama the bones, then the graves -- no matter how careful the treatment -- are desecrated, and those individuals who still ascribe traditional cultural value to the bones are spiritually vulnerable.

- Definitions

"Human remains" means the physical remains of human bodies, together with any artifacts or other materials interred or associated with with them;

"Genetic descendent" means any person known or reliably assumed to have a genetic relationship to a deceased person. For example, kuleana were typically awarded to long-time residents of an area -- it may be reliably assumed that the descendents of the awardee are genetically related to burials found nearby;

"Cultural descendent" means any person who, although not necessarily a direct lineal descendent of a particular deceased person, is associated with a cultural tradition to which the human remains of the deceased person has significance. For example, the Office of Hawaiian Affairs represents all native cultural descendents concerned with Hawaiian pre-contact and early historic period burials;

"Native Hawaiian community" means a localized Hawaiian group with a particular geographic and associated traditional cultural associations in common with the human remains who may or may not claim to be genetic descendents;

"Reburial" and "reinterment" refers to the replacement of disinterred human remains -- whether into the ground, into caves, or surface mortuary structures -- as was traditionally used in the area.

- Guidelines

1. Human remains should not be disinterred unless it is absolutely necessary to do so. Generally speaking, such a necessity exists only when the remains are in danger of destruction as the result of erosion, inundation, land disturbance, vandalism, or similar conditions.

2. When Native Hawaiian human remains are in danger, they should be disinterred according to the highest standards of ethical behavior, and in consultation with the Office of Hawaiian Affairs. Every effort should be made to identify and locate genetic descendants. If known family members can be identified, their wishes regarding the treatment of burials shall prevail.

3. Prior to disinterment, formal stipulations regarding publication of grave removal notices in the OHA newspaper "Ka Wai Ola O OHA," blessing of the remains, and security of the grounds shall be determined in consultation with OHA and the Native Hawaiian community.

4. When unknown burials are encountered during construction or other ground-disturbing activities, such activity shall cease. The Office of Hawaiian Affairs shall be notified immediately of the discovery of Native Hawaiian remains.

5. When pre-contact or early historic period burials are involved, disinterment should conform with professional expectations of conduct using the best archaeological methods available. No burials should ever be excavated solely for data recovery purposes. During disinterment, every effort should be made to retain individual integrity, to maintain records of presumed associations among burials, and to remove all such remains before the historic property in which they lie is destroyed.

6. The complex of issues regarding the study of Hawaiian remains and of curation are especially sensitive, and shall be decided on a case by case basis. Although the Office of Hawaiian Affairs recognizes that human remains often have significant scientific value, such study can be endorsed only when fully reviewed by OHA and the community and found to be justified and of benefit to the Hawaiian community. If the proposed research questions do not meet such standards, then no study should be allowed. Further, all agreements regarding curation conditions shall include a definite and reasonable schedule for approved study and reburial.

GUIDELINES

7. Disinterred human remains should be reburied in safe locations, in a manner as consistent as possible with the likely wishes of the deceased. Reburial locations and procedures should be selected and developed through consultation with the Office of Hawaiian Affairs, genetic descendents, and Hawaiian community groups, as appropriate. Full consideration should be given to the potential of fee title transfer for reburial sites to OHA as the best assurance that the graves are not disturbed again.

8. All costs associated with disinterment, reburial, and maintenance of reburial areas should be borne by the property owner on whose land the burials were encountered.

