

May 29, 2023

For Atty. Gandhi

PC&co.

DENR MIMAROPA
RECORDS SECTION
RECEIVED

JUN 05 2023

DEPARTMENT OF ENVIRONMENT & NATURAL RESOURCES

MIMAROPA REGION

7th Floor, DENR by the Bay Bldg.,

1515 Roxas Blvd., Manila

<input type="checkbox"/> INCOMING	<input type="checkbox"/> OUTGOING
BY: <i>fy</i>	DATE NO. _____
TIME: _____	

Dear Sir/Madam

This is a follow up to our previous letter to your office dated June 15, 2020 inquiring the **status of the ocular/validation conducted last November 12, 2019** by DENR personnel under **Atty. Gandhi G. Gagni-Flores**, regarding our complaint on the claim of the heirs of Santiago Valencia on our property referred to as **Lot No. 2422 and 2424, Notice of Ocular/Validation** is hereby attached.

During this ocular inspection, attended by our authorized representative **Grata S. Plata** and the representative of Valencia Heirs, Santiago Valencia II, we furnished your DENR personnel a copy of the **Approved Plan dated April 12, 1950** from the **Bureau of Lands with PSU No.126422** to further prove and clarify our ownership of the land in question. Mrs. Grata was then asked by your DENR personnel to submit a copy of her Special Power of Attorney which she complied per attached letter. However, it may be informed that up to this date, we have not received any update as to the status of your investigation on this case.

Hoping for your kind and immediate reply on the above matter. Thank you.

Very truly yours,



LUISITO M. AUSTRIA

Attorney-in-Fact/Protestant

Heirs of Pacifico and Dativa M. Austria

Email Ad.

Postal Address: 23 Scout Limbaga St., QC-

CP No. 0917-845-5958

Copy Attached:

1. Copy of Memorandum of Engr. Cynthia Lozano to The Regional Director, DENR-MIMAROPA Region dated May 02, 2019.
2. Copy of letter of our lawyer, Atty. Danilo P. Cariaga dated July 25, 2019.
3. Copy of Notice of Ocular/Validation dated November 12, 2019
4. Copy of Letter submitting the Special Power of Attorney of Grata S. Plata as our authorized representative to this case.
5. Copy of Letter dated June 15, 2020, requesting an update as to the status of ocular/validation conducted on November 12, 2019.
6. Copy of our Approve Plan Issued by the Bureau of Lands dated September 11, 1950 with PSU No. 126422 submitted to the Office of Atty. Gandhi G. Gagni-Flores, Chief, Legal Division.
7. Relocation Plan prepared by our Geodetic Engineer, Erick Licon.

May 02, 2019

MEMORANDUM

**FOR : The Regional Director
DENR - MIMAROPA Region**

THRU : The Chief, Legal Division

**FROM : In Charge, Office of the PENRO & Chief, Technical Services
Division**

**SUBJECT : Investigation Report on the Protest Filed by Heirs of
Pacifico and Dativa Austria, Rep. by Luisito M. Austria,
Claimants/ Complainants
VS
Hrs. of Santiago Valencia, Rep. by Santiago Valencia II,
Claimants/ Respondents over Lot Nos. 2422 & 2424,
Cad.612-D Barangay Tigwi, Torrijos, Marinduque.**

Respectfully forwarded herewith is the case folder together with the investigation report dated January 23, 2019 of the above-noted case for your review and dispositive action.

Please be informed that based on the evaluation of all the documents presented, Annexes, Affidavits/ or Sinumpaang Salaysay of Witnesses and Sworn Statements of both the Complainants and Respondents, it appears that the documents presented/submitted during preliminary conference are proofs of ownership of the Respondents except the survey plan (PSU No. 126422) which was surveyed in favor of the Heirs of Felipe Madlangbayan.

Further, upon request of the Respondents, a projection was made by Engr. II. Earnswell Q. Quilang of Land Registration Authority (LRA) which revealed that said survey (PSU No. 126422) had overlapped with Lot 2306, Cad. 612-D and not on Lot Nos. 2422 & 2424, which owned by Respondents Heirs of Santiago Valencia. As per ocular inspection conducted by representative of this Office, it was ascertained that the Complainants are not in actual possession of the subject parcel of lands, while the Respondents are in open, adverse and continuous possession of the land and paying the corresponding realty tax thereon as early as in 1949 up to present.

Records show that Respondents have been in open and continuous possession of the land (Lot 2422 & 2424) for more than thirty (30) years and that the corresponding realty tax thereon has been paid religiously by the Respondents.



In view hereof, taking into consideration the projection made by Engr. Earnswell Q. Quilang of Land Registration Authority which appeared that the parcel of land owned by the Protestants covered by (PSU-126422) does not overlapped with the lots owned by the Respondents (Lot Nos. 2422 & 2424), but to the other lot (Lot No. 2306), the continuous and open possession by the Respondents to the controverted parcels of land for more than thirty (30) years; and the payment of corresponding realty tax by the Respondents, it appears that Respondents **Heirs of Santiago Valencia, represented by Santiago Valencia II is the true and lawful owners of Lot Nos. 2422 & 2424, Cad. 612-D** located at Brgy. Tigwi, Torrijos, Marinduque. Hence it is recommended that subject protest **be dismissed** for lack of merit.

For information, record and further appropriate action.

ENGR. CYNTHIA C. LOZANO

Copy Furnished:

1. **Mr. Luisito M. Austria**
#23 Scout Limbiaga Street, Quezon City
2. **Grata S. Plata**
Brgy. Murallon, Boac, Marinduque
3. **Mr. Santiago Valencia II**
Brgy. Tanza, Boac, Marinduque



DANILO P. CARIAGA

ATTORNEY AT LAW

No. 1 Diamond Street, Villa Aurora, Aurora Blvd., Loyola Heights, Quezon City

Mobile No. 0917-8867729 e-mail: dcariagalaw@yahoo.com

July 25, 2019

THE REGIONAL DIRECTOR

DENR, MIMAROPA Region

DENR by the Bay Bldg., 1515 Roxas Blvd., Manila

THRU: The Chief, Legal Division DENR

Dear Sir

This is to register the protest of our clients, the heirs of Pacifico and Dativa Madlangbayan Austria as represented by Luisito Austria to the findings and recommendations of Engr. Cynthia Lozano, Chief Technical Service Division of DENR PENRO Office, Boac, Marinduque contained in her Memorandum dated May 2, 2019, copy attached for your reference.

The conclusion of Engr. Lozano that the Heirs of Santiago Valencia represented by Santiago Valencia II are the true and lawful owners of the land subject of the memorandum is premature, incorrect and without factual and legal basis.

Please take note of the following:

1. The erroneous conclusion made by a certain Engr. Earnswell Q. Quilang of the LRA which reveals that the lot of the Madlangbayans which is a part of Lot 2 with survey plan (PSU No. 126422) had overlapped with **Lot 2306, Cad.612-D (Tax Declaration and Tax Map, copy attached)** and not with Lots 2422 & 2424 of the respondents. Per evaluation of our clients' geodetic engineer, the property and Lot 2306 are situated in

two (2) different places, therefore, there cannot be an overlapping. Attached is a survey plan prepared by a licensed Geodetic Engineer Erick R.Licon, who conducted an actual land survey of the property of our clients which revealed that their property overlapped with the property of the Valencias.

Our client believes that there is no approved survey plan of the Valencias and what the PENRO used only a tax map from a cadastral survey.

2. In the report of Engr. Lozano, an ocular inspection ascertained that the Madlangbayans are not in actual possession of the land in question and the Valencias are in open, adverse and continuous possession of it. According to our clients, this is an utter falsity. This conflicts with the **Certification of the Barangay Chairman of Tigwi, Torrijos** and a **sworn affidavit (copies attached)** of the old time residents of Tigwi, Torrijos. An actual land survey should have been conducted witnessed by the DENR to determine once and for all the boundaries of our property with the Valencias. Yet, Engr. Lozano for unknown reason, failed to do so.
3. Attached for your reference are copies of a) Protest filed by the Heirs of Dativa Madlangbayan Austria, dated December 1, 2017 b) Letter of the DENR dated December 28, 2017 to the VALENCIAS to submit a response and counter affidavit to support their claim, c) Letter of reply of DENR dated April 11, 2018, on the request of the Santiago Valencia II for an extension of time to file response/counter affidavit, and motion of the respondents for a extension of time to file response and was given a ten (10) day extension by the DENR, d) motion of the respondents for an additional period of thirty(30) days to

submit their response and counter affidavit. Insofar as our clients are concerned, the Valencias failed to submit their response/counter affidavit considering the Madlangbayans/Austrias have not been furnished a copy thereof, if any had been filed. e) **Order of an Investigation dated April 27, 2018, citing the claim of the Madlangbayan/Austria is sufficient in form and substance.**

4. Very significant fact is disclosed in the attached copy of a Real Estate Tax Receipt for Lot 2, then with Tax Declaration No.6410 dated May 31, 1978 paid personally in behalf of the Heirs of Felipe Madlangbayan by Santiago Valencia, the late encargado of the Madlanbayans and Grandfather of Santiago Valencia II, which clearly means that he has full knowledge that the property in question is a real property of the Madlangbayans.

In view of the above, we are requesting your office to re-investigate, re-evaluate and immediately rectify the erroneous findings and conclusions of Engr. Cynthia Lozano that will result to the damage and prejudice to our clients. Otherwise, we shall be constrained to take appropriate legal action against all concerned DENR officials in order to protect the rights and interest of our clients, the Heirs of Pacifico and Dativa Austria.

Thank you for giving this matter your prompt attention and consideration.

Very truly yours,


ATTY. DANILO P. CARIAGA
Counsel for the Heirs of Pacifico and Dativa
Austria as represented by Luisito Austria

Attachments:

1. Memorandum of PENRO dated May 2, 2019 to the Regional Director, DENR-MIMAROPA
2. Protest filed by the HEIRS of PACIFICO/DATIVA MADLANGBAYAN AUSTRIA
3. Tax Declaration & Tax Map Cad. Lot 2306, owned by Juana Del Mundo.
4. Survey plan of Lot 2 based on the actual land survey of **Geodetic Engineer Erick Licon**.
5. Certification of Barangay Chairman of TIGWI, TORRIJOS.
6. Affidavit of old time residents of Tigwi, Torrijos.
7. Letter of PENRO to the respondents to submit response and counter affidavit to the Protest filed by the Complainants.
8. Letter of reply of PENRO to the respondents request for time extension to response.
9. Motion filed by the respondents requesting PENRO for a thirty (30) days extension to response on the Madlangbayan Protest.
10. Order of Investigation of the PENRO dated April 27, 2018.
11. Tax Declaration No. 6410 of Lot 2 and Official Receipt of Real Estate Tax paid by Santiago Valencia, Grandfather of Santiago Valencia II.

Copy furnished by Registered Mail:

ENGR. CYNTHIA LOZANO
PENRO DENR
Boac, Marinduque



Republic of the Philippines
Department of Environment and Natural Resources
MIMAROPA Region

**HEIRS OF PACIFICO AND DATIVA AUSTRIA,
REP. BY LUISITO M. AUSTRIA**
Protestant,

-versus-

**Lot Nos. 2422 and 2424, Cad. 612-D
Barangay Tigwi, Torrijos, Marinduque**

**HEIRS OF SANTIAGO VALENCIA,
REP. BY SANTIAGO VALENCIA II**
Protestee.

X-----X

NOTICE

TO:

**HEIRS OF PACIFICO AND
DATIVA MADLANGBAYAN AUSTRIA
REP. BY LUISITO M. AUSTRIA**

23 Scout Limbaga Street, Quezon City

GRATA S. PLATA

Barangay Murallon, Boac, Marinduque

**HEIRS OF SANTIAGO VALENCIA
REP. BY SANTIAGO VALENCIA II**

Barangay Tanza, Boac, Marinduque

GREETINGS:

NOTICE is hereby given that an ocular inspection/validation of **Lot Nos. 2422 and 2424, Cad. 612-D, Barangay Tigwi, Torrijos, Marinduque**, will be conducted on the said lot on **November 12, 2019 at 2:00 P.M.**

Issued this 31st of October 2019 in the City of Manila, Philippines.

ATTACHED TRUE/PHOTO COPY
From THE ORIG. ON FILE;

Mar 10. 31. 2019
MARLENE M. BADILLA
Admin. Asst. III/ Records Officer-Designate
Legal Division, DENR MIMAROPA Region

g-f
ATTY. GANDHI G. GAGNI-FLORES
Chief, Legal Division

cc:

PENRO Marinduque

1515 L & S Building, Roxas Boulevard, Ermita, Manila 1000
DENR VOIP (632) 82483367/82483468/82493367 local 2700/1 (Regional Executive Director); 2709 (Legal Division)
Direct Line: (632) 84050157; Facsimile: (632) 84050046
Email: denr.rdmimaropa@gmail.com

file

NOV 26 2019

November 18, 2019

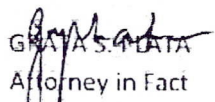
Atty. GHANDI G. FLORES
Chief, Legal Division
DENR MIMAROPA REGION
DENR by the Bay Bldg., 1515 Roxas Blvd.
City of Manila

Dear Sir:

I am submitting herewith the attached copy of the SPECIAL POWER OF ATTORNEY granted to me by the HEIRS OF DATIVA MADLANGBAYAN AUSTRIA /PACIFICO A. AUSTRIA, with regards to their property known as Lot-2 situated in Tigwi, Torrijos, Marinduque, being claimed by the Valencias, as per your instruction during the ocular inspection of subject property conducted by your office last November 12, 2019.

Thank you.

Very truly yours,


GRAY A. S. DATA
Attorney in Fact
Heirs of Dativa Madlangbayan

SPECIAL POWER OF ATTORNEY

KNOW ALL MEN BY THIS PRESENTS:

That we, Romulo M. Austria, Pauline A. Rivera, Ma. Lorenza A. Baliao, Pocholo M. Austria, all married, Erlinda A. Yoro, widow, Zenaida M. Austria, single and Luisito M. Austria, single, all Filipinos, all of legal age, with postal address at No.23 Scout Limbaga St., Quezon City, states that we are the compulsory heirs to our deceased mother, Dativa Madlangbayan Austria, who in turn were the compulsory heir to her deceased father, Eustacio Madlangbayan and grandfather Felipe Madlangbayan, do hereby name, constitute and appoint, Grata S. Plata, Filipino, of legal age, married, with resident of Boac, Marinduque, to be our true and lawful attorney-in-fact for us and in our name, place and stead to do and perform the following acts and deeds:

To represent the Heirs of Dativa Madlangbayan Austria/Pacifico Austria in any government offices, Barangay, Court of Law, regarding our property otherwise known as Lot 2-A (Portion of Lot 2, indicated in the SURVEY PLAN DULY APPROVED BY THE BUREAU OF LANDS DATED SEPTEMBER 11, 1950), located at Tigwi, Torrijos, Marinduque, to sign, file complaint in any government offices, Barangay or Court of Law against unlawful claims, and to establish, protect, defend the ownership of our land.

HEREBY GIVING AND GRANTING unto our said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite and necessary or proper to be done in and about the lands, as fully to all intents and purposes as we might or could do if personally present and hereby ratifying and confirming all that our attorney-in-fact shall lawfully do or cause to be done by virtue of this instrument.

IN WITNESS WHEREOF, we have hereunto set our hand this Aug 10 day of 2018
at QUEZON CITY.

Grantors:

1. Romulo M. Austria

2. Pauline A. Rivera

3. Ma. Lorenza A. Baliao

4. Pocholo M. Austria

5. Erlinda A. Yoro

6. Zenaida M. Austria

7. Luisito M. Austria

CONFORME:

Gracia S. Plata
Gracia S. Plata
Attorney-in-Fact

WITNESS MY HAND AND SEAL this 10 day of April 2018

SIGNED IN THE PRESENCE OF:

[Signature]

[Signature]

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
QUEZON CITY)S.S.

I certify that on this day 10 of April 2018, before me, a notary public duly authorized in the city named above to take acknowledgments, personally appeared:

1. Romulo M. Austria TIN No.120-944-961
2. Erlinda A. Yoro SSS ID No.03-2087590-2
3. Zenaida M. Austria TIN No.128-239-815
4. Luisito M. Austria TIN No.143-013-131
5. Pauline A. Austria SSS ID No.03-3406802-2
6. Ma.Lorenza A.Baliao TIN No.301-104-022
7. Pocholo M.Austria TIN No.131-963-145

who were identified by me through competent evidence of identity to be the same persons described in the foregoing instrument, stated therein, and who declared to me that they have executed this instrument as their free, voluntary act and deed.

Doc No. 572
Page No. 104
Book No. 16
Series of 2018

NOTARY PUBLIC

[Signature]
ATTY. RAUL V. MACATANGA
NOTARY PUBLIC UNTIL DEC. 31, 2018
66 Mother Ignacia St., Quezon City
ROR No. 47305 TIN No. 175600-377

FILE COPY
SEND TO M LBC.

June 15, 2020

Department of Environment & Natural Resources
MIMAROPA REGION
7th Floor, DENR by the Bay Bldg.,
1515 Roxas Blvd., Manila

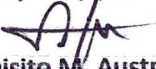
Thru: Atty. Gandhi G. Gagni-Flores, Chief Legal Division

Dear Sir:

With reference to a **NOTICE** from your office dated **October 31, 2019**, (copy attached) regarding our **Lot Nos. 2422 and 2424 Cad. 612-D, located in Tigwi, Torrijos, Marinduque**, an ocular inspection/validation was conducted by official representatives from your office last **November 12, 2019**, attended by the representatives of the **Heirs of Pacifico and Dativa M. Austria, Protestant and Heirs of Santiago Valencia, Protestee**, in view of the foregoing, may we be updated as to the status of your investigation.

Hoping for your kind and early action on the above matter. Thank you

Very truly yours,

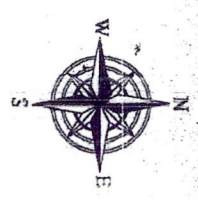

Luisito M. Austria

For: The Heirs of PACIFICO AND DATIVA AUSTRIA
Rm.905 Landsdale Tower Condominium
No. 86 Mo. Ignacia Ave., Quezon City
Email ad: austria.luisito@yahoo.com

TECHNICAL DESCRIPTION

LINES	BEARINGS	DISTANCES
LOT 2425		
1-2	N 01°31'E	17.67M
2-3	S 82°52'E	17.00M
3-4	S 22°33'W	70.60M
4-5	N 81°49'W	10.59M
5-6	N 09°32'E	47.72M
6-7	S 88°06'E	5.05M
7-1	N 89°22'E	3.50M
LOT 2424		
1-2	N 27°05'E	70.09M
2-3	S 81°33'E	17.34M
3-4	S 06°49'W	9.28M
4-5	S 09°00'W	9.68M
5-6	S 71°00'E	15.21M
6-7	S 08°32'W	47.72M
7-1	N 7°55'E	48.10M
LOT 2423		
1-2	S 78°08'E	13.71M
2-3	S 19°51'W	20.65M
3-4	N 72°00'W	10.09M
4-1	N 09°35'E	19.59M
LOT 2422		
1-2	S 08°35'W	19.59M
2-3	S 89°14'W	43.81M
3-4	N 17°45'E	26.41M
4-1	S 82°20'E	39.37M

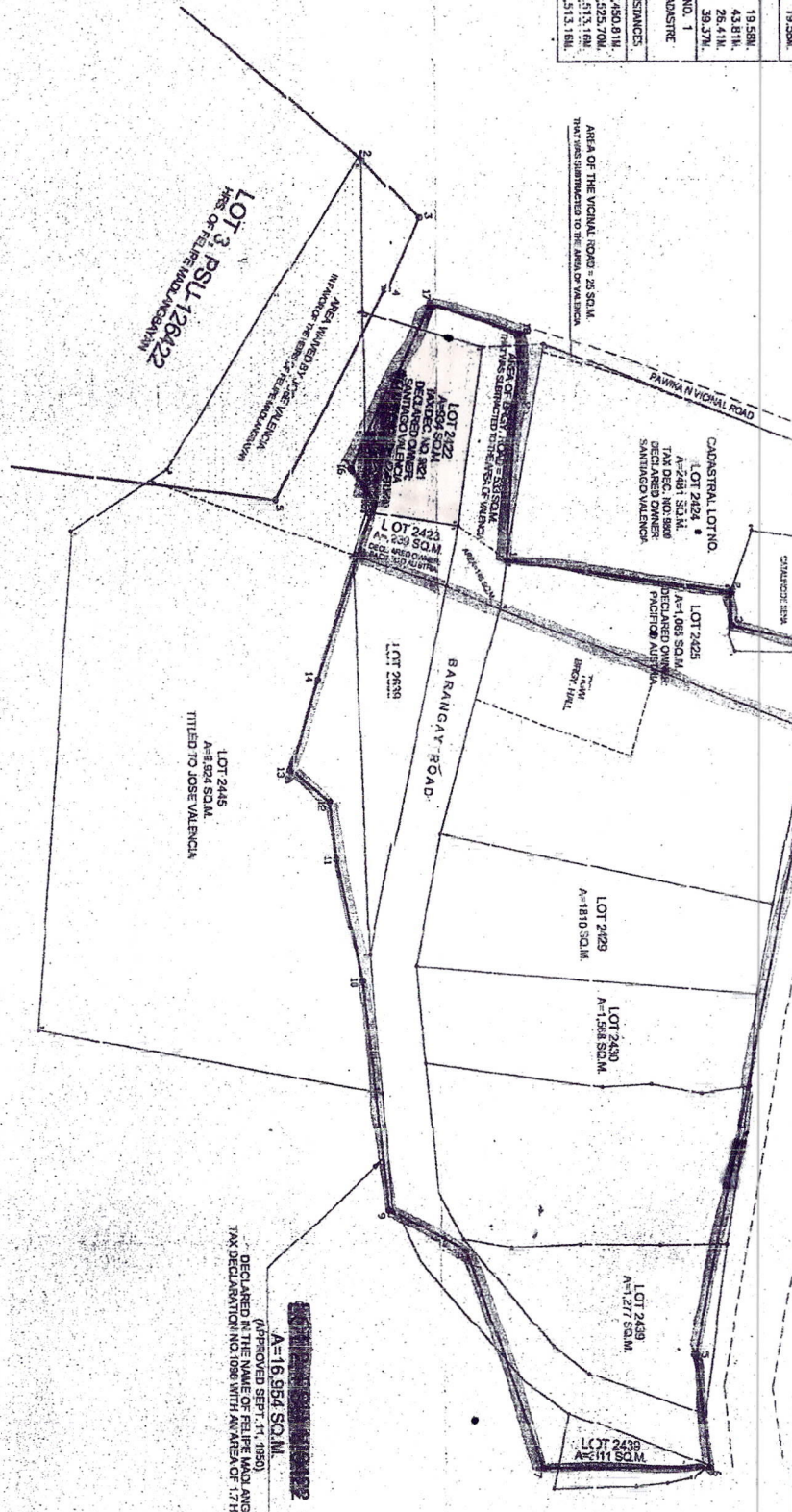
The lines from BLM NO. 1
CSD 612-D, TORRILLOS CADASTRE
to corner "1".



TECHNICAL DESCRIPTION

LINES	BEARINGS	DISTANCES
LOT 2, PSU-126422		
1-2	N 08°41'E	47.71M
2-3	N 89°10'E	7.49M
3-4	N 13°41'E	22.35M
4-5	S 78°49'E	198.95M
5-6	N 33°06'E	25.07M
6-7	N 33°06'E	35.01M
7-8	S 71°00'W	58.83M
8-9	S 23°44'W	19.81M
9-10	S 21°14'W	22.35M
10-11	S 78°40'W	17.65M
11-12	S 63°29'W	12.67M
12-13	S 40°35'W	20.77M
13-14	N 73°23'W	9.10M
14-15	S 53°23'W	9.10M
15-16	N 63°05'W	40.02M
16-17	N 19°00'E	20.00M
17-18	S 38°10'E	50.05M

THE LINE: S 42°45'W,
7.409 72M; from BLM NO. 1
MUN. OF TORRILLOS to corner "1".



NOTES:
PSU-126422 WAS SURVEYED ON APRIL 12-19, 1950 AND WAS APPROVED SEPTEMBER 11, 1950, AS SURVEYED FOR THE HEIRS OF FELIPE MADANGBAYAN.
MUN. OF TORRILLOS, CSD 612-D CADASTRAL SURVEY WAS SURVEYED JUNE 1979 AND WAS APPROVED ON DECEMBER 18, 1980.
CADASTRAL LOT NO. 2422 THAT WAS DECLARED UNDER SURVIVED VALENCIA OVERLAPS LOT 2, PSU-126422.