Republic of the Philippines
Department of Environment and Natural Resources
PENRO Marinduque

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#### **MEMORANDUM**

FOR

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THE REGIONAL EXECUTIVE DIRECTOR

**DENR MIMAROPA Region** 

**THRU** 

:

The Chief, Legal Division

**FROM** 

:

PENR Officer

**SUBJECT** 

COMPLETE STAFF WORK (CSW) IN THE ISSUANCE OF PATENT OVER CADASTRAL LOT NO. 2404, CAD. 692-D, ISSUED IN FAVOR OF ABNER MAUZAR, SITUATED IN

BRGY. SUMANGGA, MOGPOG, MARINDUQUE.

Respectfully forwarded herewith is the Complete Staff Work regarding the conduct of investigation relative to the issuance of patent of the above-noted lot over Cad. Lot 2404, Cad. 692-D, in response to the Memorandum of Land Management Bureau Director Emelyn Talabis.

#### **BACKGROUND:**

- 1. That on October 17, 2000, Mr. Abner Mauzar filed his application under F.P.A. No. 044004-1002 over Cad. Lot 2404, situated at Barangay Sumangga, Mogpog, Marinduque. Per hereto attached approved technical description Lot 2404, Cad. 692-D is containing an area of 104 square meters.
- 2. Upon evaluation of the application of Mr. Mauzar, it was ascertained that the applicant had complied with all the existing requirements of Free Patent Law.
- **3.** On June 17, 2002 a patent granted unto said applicant Abner Mauzar under Patent No. 044004-1002.

#### **FINDINGS:**

- 1. Upon actual ground verification in the vicinity of subject parcel of lands, it was noticed that the property of Police Capt. Abner Mauzar is the only remaining land that did not give way to the ongoing road widening activity of the Department of Public Works and High-Ways which impeded the full implementation of Republic Act No. 917, otherwise known as "An act to provide for an effective highway administration, modify apportionment of highway funds and give aid to the Provinces, chartered cities and Municipalities in the construction of roads and streets, and for other purposes, which approved on June 20. 1953.
- 2. When the Cadastral survey executed in the Municipality of Mogpog on December 5, 1980 to January 22, 1981 and was approved on May 25, 1982, Lot 2404 was surveyed as a whole including the road right of way (RR0W). Consequently, when the land title under Patent No. 044004-1002 was granted in favor of Police Capt. Abaner Mauzar, the said Road Right of Way was incorporated in the title.

1. That inside Cad. Lot 2404, erected the two (2) story building while the subject road right of way is also occupied by Capt. Mauzar for residential/commercial purposes wherein the Sari-Sari Store is located. The encroached road right of way measure as 7.25 meters length and 5.19 meters wide, equivalent to 38 square meters, more or less. Please find attached geo-tagged photos.

Based on our verification, Mr. Mauzar possessed the following documents:

- Photo copy of Original Certificate of Title No. 044004-1002 issued in favor of Abner Mauzar, marked as Annex "A"
- Photo copy of latest Tax Declaration No. 04-16144, S-2020 in the name of Abner Mauzar, marked as Annex "B".
- Photo copy of Official Receipt of Tax Payment for CY 2023,marked as Annex "C"
- Mayor's Permit of their Sari-Sari store in the name of his niece Cristel Fatima M. Bosita, marked as Annex "D".
- Certification from Office of the building Official that Bldg. Permit No. 9902-011 was issued in favor of Mr. & Mrs. Abner Mauzar on February 8, 1999, marked as Annex "E".
- 2. That as per verification by this Office, Lot 2404, situated in Brgy. Sumangga, Mogpog, Marinduque falls within Alienable and Disposable zone per BF LC Map No. 789, which was approved on November 28, 1922.
- 3. That prior to the issuance of patent, the possession and occupation of Police Captain Abner Mauzar and his predecessor-in-interest is in open, continuous, adverse and notorious since immemorial up to present.
- 4. That Mr. Mauzar, stressed out some provisions of the law particularly Section 2 of Republic Act No. 10752, approved on March 7, 2016, to quote as follows:

  SECTION 2. Declaration of Policy. Article 111, Section 9 of the Constitution states that private property shall not be taken for public use without just compensation. Towards this end, the State shall ensure that owners of the property acquired for national government infrastructure projects are promptly paid just compensation for the expeditious acquisition of the required right-of way for the projects. Document marked as Annex "F".
- 5. He further stated provisions under Section 4 of R.A. 10752, which states that: SECTION 4. Modes of acquiring property. – The government may acquire real property needed as right-of-way site or location for any national government infrastructure project through donation, negotiated sale expropriation, or any other mode of acquisition as provided by law. Document marked as Annex "F".

#### COMMENTS/RECOMMENDATION:

Under Section 30 of R.A. 917, otherwise known as an Act to provide for an Effective Highway Administration, modify apportionment of Highway Funds and give aid to the provinces, chartered cities and municipalities in the construction of roads and streets, and for other purposes, to quote as follows:

"It shall be unlawful for any person to usurp any portion of a right of way, to convert any part of public highway, bridge, wharf or trail to his own private use or to obstruct the same in any manner, or to use any highway ditch for irrigation or other private purposes, and any person to offending shall be punished by a fine of not more than two hundred pesos or by imprisonment not exceeding three months."

However, per Section 2 of Republic Act No. 10752, approved on March 7, 2016 otherwise known as "An Act facilitating the acquisition of right-of-way site or location for National Government of Infrastructure Projects", to quote as follows:

"That <u>private property shall not be taken for public use without just compensation.</u> Towards this end, the State shall ensure that owners of real property acquired for national government infrastructure projects are promptly paid just compensation."

Considering that the subject parcel of land is a titled property, hence, Police Capt. Abner Mauzar is invoking his rights for just compensation over the 38.0 square meters of land which covered by Patent No. 044004-1002. The Government through the DPWH may opt to file expropriation proceedings for the acquisition of the said portion of property, pursuant to the implementing rules and regulations of Republic Act No. 10752.

For information and further instruction.

IMELDA M.DIAZ

:

February 2, 2023

#### **MEMORANDUM**

**FOR** 

The Provincial Environment

and Natural Resources

**THRU** 

The Chief, Technical Services Division

And Chief, RPS

**FROM** 

The Special Land Investigator-1

**SUBJECT** 

INVESTIGATION REPORT ON THE ISSUANCE OF PATENT OVER CADASTRAL LOT NO. 2404, CAD. 692-D,

ISSUED IN FAVOR OF ABNER MAUZAR, SITUATED IN

BRGY. SUMANGGA, MOGPOG, MARINDUQUE.

In compliance with Memorandum Land Management Bureau Director Emelyne V. Talabis, CESO IV, to conduct investigation relative to the issuance of patent of the above-noted lot. Upon actual ground verification, the undersigned found and ascertained the following findings:

#### **BACKGROUND:**

- 1. That on October 17, 2000, Mr. Abner Mauzar filed his application under F.P.A. No. 044004-1002 over Cad. Lot 2404, situated at Barangay Sumangga, Mogpog, Marinduque. Per hereto attached approved technical description Lot 2404, Cad. 692-D is containing an area of 104 square meters.
- 2. Upon evaluation of the application of Mr. Mauzar, it was ascertained that the applicant had complied with all the existing requirements of Free Patent Law.
- 3. On June 17, 2002 a patent granted unto said applicant Abner Mauzar under Patent No. 044004-1002.

#### **FINDINGS:**

- 1. Upon actual ground verification in the vicinity on the vicinity of subject parcel of lands, it was noticed that the property of Police Capt. Abner Mauzar is the only remaining land that did not give way to the ongoing road widening activity of the Department of Public Works and High-Ways which impeded the full implementation of Republic Act No. 917, otherwise known as "An act to provide for an effective highway administration, modify apportionment of highway funds and give aid to the Provinces, chartered cities and Municipalities in the construction of roads and streets, and for other purposes, which approved on June 20. 1953.
- 2. The reason behind, is when the Cadastral survey executed in the Municipality of Mogpog somewhere on December 5, 1980 to January 22, 1981 which approved on May 25, 1982, Lot 2404, was surveyed as a whole including the road right of way in favor of certain Francisco Luisaga. The approved technical description incorporated the intended road widening. On June 17, 2002, Patent No. 044004-1002 was granted in favor of Police Capt. Baner Mauzar.

Email: penromarinduque@denr.gov.ph

3. When the patent was issued, the road right of way is included on the perimeter of said patent. That in Lot 2404, Cad. 692-D, erected the two (2) story building, while, the road right of way is also occupied by Mr. Mauzar for residential/commercial purposes being used as Sari-Sari Store. The encroached road right of way measuring to 7.25 meters length and 5.19 meters wide, equivalent to 38 square meters, more or less. Please find hereto attached geo-tagged photos.

Based on the actual ground verification, Mr. Mauzar presented the following documents:

- Photo copy of Original Certificate of Title No. 044004-1002 issued in favor of Abner Mauzar, marked as Annex "A"
- Photo copy of latest Tax Declaration No. 04-16144, S-2020 in the name of Abner Mauzar, marked as Annex "B".
- Photo copy of Official Receipt of Tax Payment for CY 2023,marked as Annex "C"
- Mayor's Permit of their Sari-Sari store in the name of his niece Cristel Fatima M. Bosita, marked as Annex "D".
- Certification from Office of the building Official that Bldg. Permit No. 9902-011 was issued in favor of Mr. & Mrs. Abner Mauzar on February 8, 1999, marked as Annex "E".
- 4. That as per verification by this Office, Lot 2404, Cad. 692-D, situated at Barangay Sumangga, Mogpog, Marinduque, it falls within Alienable and Disposable land per BF LC Map No. 789, which approved on November 28, 1922.
- 5. That prior to issuance of patent, the possession and occupation of Police Captain Abner Mauzar and his predecessor-in-interest is in open, continuous, adverse and notorious since immemorial up to present.
- 6. That Police Capt. Abner Mauzar, manifested that per Section 2 of Republic Act No. 10752, approved on March 7, 2016 to quote as follows:

SECTION 2. Declaration of Policy. – Article 111, Section 9 of the Constitution states that private property shall not be taken for public use without just compensation. Towards this end, the State shall ensure that owners of the property acquired for national government infrastructure projects are promptly paid just compensation for the expeditious acquisition of the required right-of way for the projects. Document marked as Annex "F".

Manifested further that per Section 4 of R.A. 10752, states that:

SECTION 4. Modes of acquiring property. – The government may acquire real property needed as right-of-way site or location for any national government infrastructure project through donation, negotiated sale expropriation, or any other mode of acquisition as provided by law. Document marked as Annex "F".

Email: penromarinduque@denr.gov.ph



#### **COMMENTS/RECOMMENDATION:**

Per implementing policy, rules and regulations of DENR in issuance of patent, Mr. Mauzar meet the requirements in the issuance of patent per Section 44 of Commonwealth Act 141, otherwise known as Public Land Law.

Under Section 30 of R.A.917, otherwise known as an Act to provide for an Effective Highway Administration, modify apportionment of Highway funds and give aid to the provinces, chartered cities and municipalities in the construction of roads and streets, and for other purposes, to quote as follows:

"It shall be unlawful for any person to usurp any portion of a right of way, to convert any part of public highway, bridge, wharf or trail to his own private use or to obstruct the same in any manner, or to use any highway ditch for irrigation or other private purposes, and any person so offending shall be punished by a fine of not more than two hundred pesos or by imprisonment not exceeding three months".

However, per Section 2 of Republic Act No. 10752, approved on March 7, 2016 otherwise known as "An act facilitating the acquisition of right-of-way site or location for National Government Infrastructure Projects", to quote as follows:

SECTION 2. Declaration of Policy. – Article 111, Section 9 of the Constitution states that private property shall not be taken for public use without just compensation. Towards this end, the State shall ensure that owners of the property acquired for national government infrastructure projects are promptly paid just compensation for the expeditious acquisition of the required right-of way for the projects.

Considering that the subject parcel of land is a titled property, hence, Police Capt. Abner Mauzar is invoking his rights for just compensation over the 38 square meters of land which covered by Patent No. 044004-1002. The Government through the DPWH may opt to file expropriation proceedings to negotiate acquisition of the property, through the implementing policy rules and regulations of Republic Act No. 10752.

For information, record and appropriate action.

What fruits
LUCIANA M. RICAFRENTE



#### Republic of the Philippines

Department of Environment and Natural Resources

#### LAND MANAGEMENT BUREAU

880 Estuar Building, Quezon Avenue, Brgy. Paligsahan, Quezon City Direct Line: (02) 255-4362 Records and Knowledge Management Division Email: denrImb@yahoo.com Website: Imb.gov.ph



#### **MEMORANDUM**

FOR

REGIONAL EXECUTIVE DIRECTOR

**DENR- MIMAROPA Region** 

1515 L & S Building, Roxas Blvd., Manila

FROM

: THE DIRECTOR

SUBJECT

REQUEST FOR INVESTIGATION OF FREE/

HOMESTEAD PATENT NO. 04424-02-6633 ISSUED IN THE NAME OF ABNER M. MAUZAR MARRIED TO

JO-ANN A. MADRIGAL

DATE

1 1 JUL 2027

This refers to the letter dated 08 June 2022 of Assistant Solicitor General Arleen T. Reyes, requesting that an investigation be conducted on Free/Homestead Patent No. 04424-02-6633, issued in the name of Abner M. Mauzar covering a parcel of land located in Brgy. Sumangga, Mogpog, Marinduque.

In this regard, and considering that the matter treated herein is within that Office's administrative jurisdiction, we are referring the said letter to your end for the conduct of the desired investigation.

Kindly inform the Office of the Solicitor General immediately of your findings thereon, furnishing this Office a copy thereof, for record and monitoring purposes.

ATTY. EMELYNE V. TALLBIS, CESO IV

Copy Furnished:

Office of the Solicitor General 134 Amorsolo St., Legaspi Village Makati City

/20220600502

jrc

#### Republic of the Philippines

### Office of the Solicitor General

June 8, 2022

Atty. Emelyne V. Talabis
Acting Director
Land Management Bureau
Estuar Bldg., 808 Quezon Ave.
Diliman, Quezon City



RE: REQUEST FOR INVESTIGATION OF FREE/HOMESTEAD PATENT No. 04424-02-6633 ISSUED IN THE NAME OF ABNER M. MAUZAR MARRIED TO JO-ANN A. MADRIGAL

Dear Director Talabis:

The undersigned counsel respectfully request your good office for the investigation of Free/Homestead Patent No. 04424-02-6633 issued in the name of Abner M. Mauzar of Brgy. Sumangga, Mogpog, Marinduque, which appears to have been fraudulently and improperly issued.

The Office of the Solicitor General (OSG) came across the said Free Patent when the Department of Public Works and Highways Regional Office IV-B (DPWH RO IV-B) indorsed to the OSG a road right of way problem in one of their projects located in Brgy. Sumangga, Mogpog, Marinduque. The DPWH RO IV-B had difficulty in finishing one of its road widening and drainage projects because of the encroachment of Mr. Mauzar's store within the road right of way limit. The other residents in the said Barangay had also been complaining of the unfinished drainage system along the widened road, which allegedly caused a dengue outbreak in the area due to the impeded water passage along the road drainage system.

Attached to DPWH's indorsement letter, among other documents, are the following:

- Certified true copy of OCT NO. 22258 issued in the name of Abner M. Mauzar, married to Jo-Ann A. Madrigal;
- Certified true copy of Tax declaration receipt issued in the name of Abner M. Mauzar;
- Certified true copy of the approved cadastral map of Cad 692-D, Mogpog Cadastre Case 13;
- Certified true copy of the zoomed in portion of the aforementioned cadastral map showing the area where the parcel of land awarded to Abner M. Mauzar by way of free/homestead patent is supposed to be located; and `
- 5. Certified true copy of the list of technical description of lands included in the aforementioned cadastral map.

Copies of the aforementioned documents are hereto attached for your reference.

A perusal thereof would show that the existence of the National Highway was legally recognized as **Lot 2404** since **December 8, 1992**, per Cadastral Survey of Barangay Sumangga, Mogpog, Marinduque (Cad 692-D, Mogpog Cadastre, Case 12, Barangay Candahon). On the other hand, a perusal of OCT No. 22258 issued in the name of Abner M. Mauzar, particularly the technical description of the said title also referred to the parcel of land therein described as **Lot 2404 of Cad. 692-D, C-12**.

In view of this overlap between the National Highway recognized in 1992 and the lot covered by OCT No. 22258 issued

LETTER REQUEST FOR INVESTIGATION Free/Homestead Patent No. 04424-02-6633 Abner M. Mauzar

to Abner M. Mauzar in **2002** by virtue of free/homestead patent No. 04424-02-6633, the OSG respectfully requests for the investigation of the said patent and that it be furnished with a copy of the investigation report from your good office.

We hope that you would give this matter your usual prompt attention.

Very truly yours,

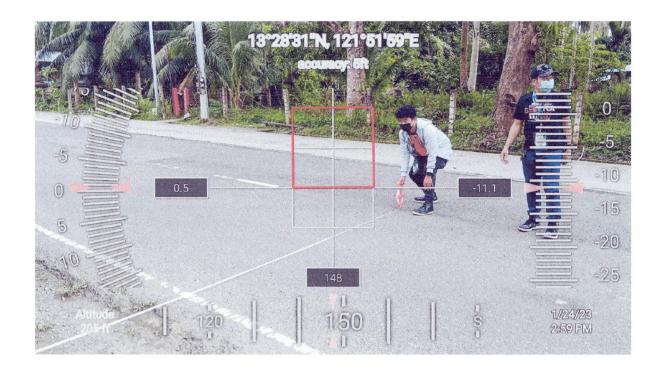
ARLÉEN T. REYES Assistant Solicitor General

ERIKA FRANCES S. BULURAN

TR/EFSB/mep/ Referral Letter to LMB DPWH 4-B Mauzar

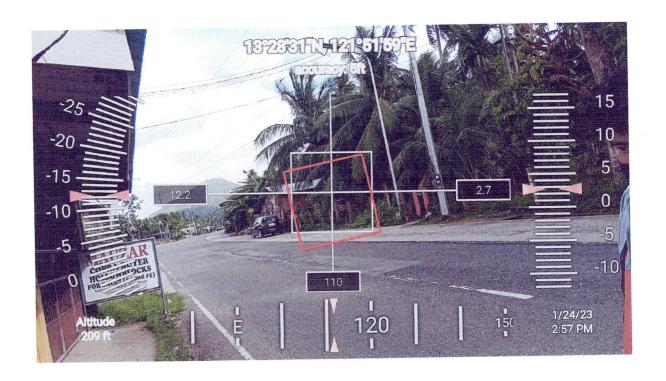






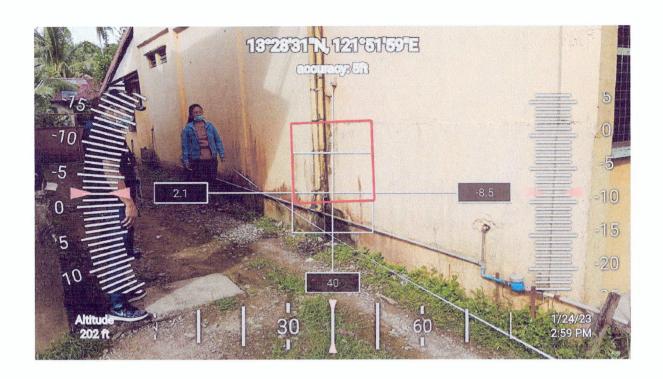




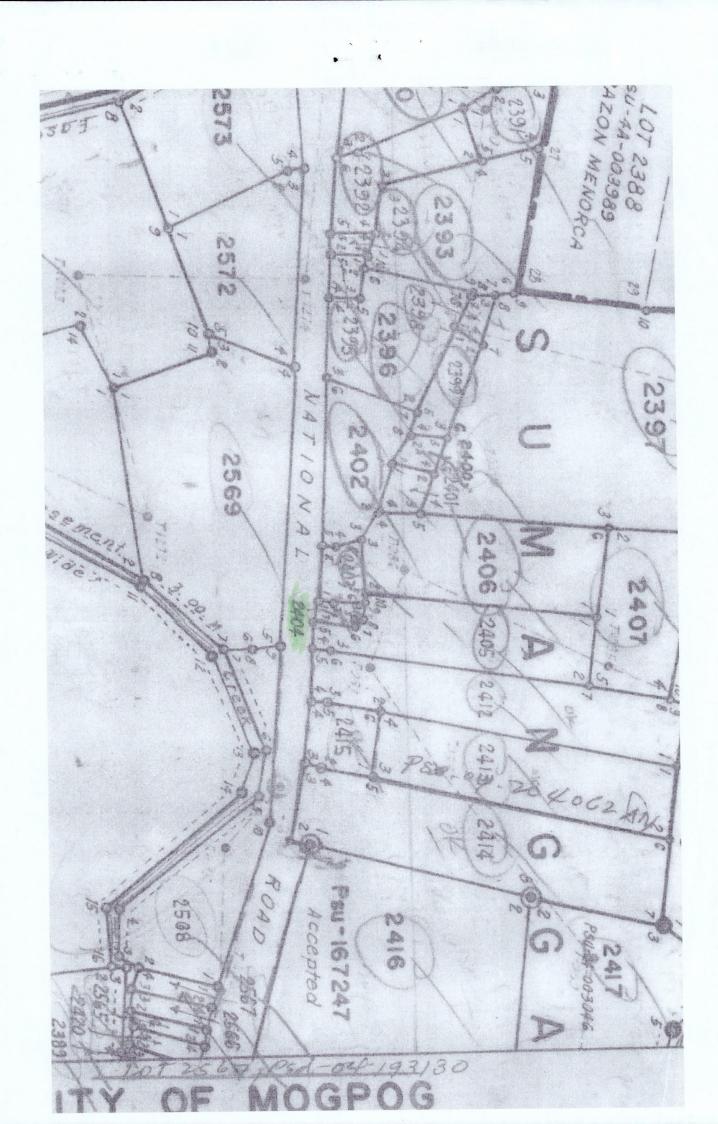












(Tirahan ng May-ari)

SN Blg. 625743

#### REPUBLIKA NG PILIPINAS KAGAWARAN NG KATARUNGAN PANGASIWAAN SA PATALAAN NG LUPAIN PATALAAN NG MGA KASULATAN AT ARI-ARIAN SA LUNGSOD/LALAWIGAN NG .Mazinduque

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Tagatala ng mga Kasulatan at Ari-arian

# Republic of the Philippines Department of Environment and Natural Resources PROVINCIAL ENVIRONMENT AND NATURAL RESOURCES OFFICE Boac, Marinduque

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amended for registration.			
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Tagatala ng mga Kasulatan at Ari-arian

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(Tirahan ng May-ari)

#### Republic of the Philippines Department of Environment and Natural Resources REGION IV

TECHNICAL SERVICES, ISLAND PROVINCES

1515 Roxas Blvd., Ermita, Manila

F.P.A. No. 044004-1002

LOUNO. : 2404, Cad. 692-D Barangay : Survey

ABNER MAUZAR

Applicant

Municipality : Mogpog

Province : Marinduque

Area

: 104 square meters

ORIGINAL SIGNED KUEL R. PEÑAFIEL, CESO III Regional Executive Director

ORDER

APPROVAL OF APPLICATION AND ISSUANCE OF PATENT

From the records of this case, it appears:

- That the applicant is a natural born citizen of the Philippines and is therefore qualified to acquire public lands through free patent;
- That the land applied for has been classified as alienable and disposable and is subject to disposition under the Public Land Law
- That upon investigation conducted by Deputy Public Land Inspector Norberto Mingi, whose report was duly examined by Land Management Officer I Mila T. Tejada, it was found that the land applied for has been occupied and cultivated by the applicant himself and/or through his predecessors-in-interest since April 16, 1960 or prior thereto;
- That the notice for the acquisition of the land by the applicant under this application has been published in accordance with law, and that no other person has proved a better right to the land applied for;
- That there is no adverse claim involving the land still pending determination in this office; and
- That the claim of the applicant is, in all other respect, complete and there is no record in this office of any obstacle to the issuance of the patent.

WHEREFORE, the occupation and cultivation of the land applied for as described in the caption hereof are hereby confirmed, and this application is hereby entered in the records of this office as Free Patent Entry No.

As the applicant has already complied with all the requirements of the law for the issuance of the corresponding patent to the land, it is also hereby ordered that the necessary patent be issued to the applicant.

SO ORDERED

17 JUN 2002

Copy Furnished:

Mr. Abner Mauzar Sumangga, Mogpog, Marinduque

The Director of Lands, Manila

The Provincial Assessor

File jge/MTT order appyl of app (FPA) iss of pat

