

8-2-84

The Honolulu Advertiser
8-2-84

Judge ponders leasehold conspiracy case

By Gerald Kato

Advertiser Government Bureau

Arguments were concluded in federal court this week on a five-year-old lawsuit that accuses two of Hawaii's biggest private landowners of conspiring to control the state's housing market.

Visiting federal Judge Russell Smith of Montana said he will rule later on issues that will determine whether the case is thrown out of court or allowed to proceed to a full-blown trial.

Four Halawa Valley Estate leaseholders filed the antitrust lawsuit in 1979 as a class action on behalf of themselves and other Oahu residents who have leases with the Kamehameha Schools/Bishop Estate, Estate of Harold K.L. Castle or Campbell Estate. Since the lawsuit was filed, two of the leaseholders have dropped out, the judge has barred a class action and Campbell Estate has been let out of the case.

According to attorney Tom Watts, the two remaining plaintiffs in the case are Valentine Merseberg and Ruth Chun. They seek damages of between \$10,000 and \$30,000.

The lawsuit stems from Hawaii's unusual system of extensive leasing of residential properties which are owned by

a few big private landowners. For years, the leasehold system has been under attack by the state and leaseholders who want to make residential land available for outright purchase.

The lawsuit contends that Bishop and Castle estates have tried to control the supply of private homes in the "urban corridor" of Honolulu by refusing to sell land to leaseholders. The plaintiffs have argued that because of high demand for housing and the widespread holdings of the estates, residents here have had no choice but to enter into lease arrangements.

Tom Watts, attorney for the lessees, has argued that there was a conspiracy by the landowners to compete only in leasehold and that if their property was developed, it would be leased rather than sold to residents.

Attorneys for the landowners deny that they have done anything wrong or that they have tried to monopolize or conspire with each other to control the leasehold land market.

The U.S. Supreme Court this year upheld Hawaii's Land Reform Act, which was designed to break up the concentration of land ownership by providing a means for residential lease-to-fee conversion. But the case

now before Smith and the Land Reform Act involve separate issues, according to Watts.

"What happens under the Land Reform Act is that people are permitted to buy the interest of Bishop Estate or Castle Estate," Watts said yesterday.

"But the way it's worked so far is that they have been re-

quired to pay market price. The heart of our lawsuit is that the market is inflated — artificially inflated over the past 30 years because of the lease-only practice of the large estates. What we're trying to do is provide damages to reflect the amount by which people have to over-pay."

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