

STATE OF HAWAII
LAND USE COMMISSION

LUC Hearing Room
426 Queen Street, Honolulu, Hawaii

1:00 P.M.
January 18, 1964

STAFF REPORT

A(T)63-44
MABEL K. ENA BY HAWAIIAN
TRUST CO., LTD. - Guardian
of the Estate of Mabel K. Ena

Temporary District Classification: AGRICULTURAL

Background

The Land Use Commission has been petitioned by Hawaiian Trust Co., Ltd., Guardian of the Estate of Mabel K. Ena to amend the temporary district boundaries so that the property identified by Oahu tax map key 2-9-54: 5 would be redistricted from conservation to urban.

The property is located in Manoa Valley on Waaloa Road. It is bordered on the one hand by Haukulu Stream and on the other by Naniuapo Stream which merge to form Manoa Stream. The parcel is approximately 122,700 square feet in size.

There is a home situated on the highest part of the property; a variety of vegetation is found on one side, bananas are located on the other. Rainfall is approximately 150 inches a year.

Large parcels of land are located on the mauka side of the road, portions of which are farmed. An exception is a 3.44 acre parcel which together with other lands makai of the road are being developed for residential use. One particular portion of the development abuts Haukulu Stream just opposite the Mabel K. Ena property. Nearly all the land, except

the one parcel noted, mauka of Waaloa Road is in low density use; virtually all the land makai of the road from the Ena property west is urbanizing.

Analysis

By letter dated December 20, 1963 the City Planning Commission advised that following consideration of a recommendation by a representative of the Board of Water Supply, the Planning Commission "voted to recommend that the Temporary District Boundary not be changed and that the subject property be retained in the Conservation district in the interest of conservation of water and water resources."

The staff has examined the district boundary and finds that from Puu Pia west across the valley, the boundary is nearly a straight line except in the vicinity of the Ena property where the line follows the Naniuapo Stream down and then up the Haukulu Stream before continuing across the valley.

The boundary was established by the Land Use Commission in April 1962 based on a memorandum from the Department of Land and Natural Resources that the particular alignment had been deliberated and approved by various agencies for the purpose of defining the limits to preserve the Manoa water shed.

Except that in the vicinity of the Ena property the line follows a relatively straight course, the boundary line seems reasonable. Near the Ena property, however, there is some question as to the justification for the more devious route taken to include a small parcel for water shed

purposes. The staff has no knowledge of riparian rights that may be attached to the property or other reasons for including the property in the conservation district, except for water shed use. No other reason has been advanced other than that the parcel is important to the water shed, and the parcel's small size does not seem to warrant its inclusion. On the other hand there is every reason to believe that real pressures exist for urbanization in the vicinity of the Ena property.

Recommendation

Unless additional facts are known which would attach more importance to the water shed value of the Mabel K. Ena property, the staff recommends approval of the petition at hand. It appears unjustified in the instant case, for district lines to take such unusual directions without added reason.

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

ITEM ACT 63-44 Model 1c. Env.
DATE 3/6/64
PLACE LUC Hearing Room
TIME 12:24 pm

NAMES	YES	NO	ABSTAIN	ABSENT
WUNG, L.		✓		
INABA, G.				✓
OTA, C.	✓			
WENKAM, R.		✓		
BURNS, C.E.S.	✓			
NISHIMURA, S.	✓			
MARK, S.				✓
FERRY, J.	✓			
THOMPSON, M.	✓			

COMMENTS:

Burns - petition be granted
Nishimura - sec.

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

⑦
ITEM A(T) 63-44 Ena -
DATE 3/6/64
PLACE LUC Hearing Room
TIME 12:25

NAMES	YES	NO	ABSTAIN	ABSENT
WUNG, L.	✓			
INABA, G.				✓
OTA, C.	✓			
WENKAM, R.	✓			
BURNS, C.E.S.	✓			
NISHIMURA, S.	✓			
MARK, S.				✓
FERRY, J.	✓			
THOMPSON, M.	✓			

COMMENTS: Wung - Reopen decision for disc.
Ferry - Seconded -

STATE OF HAWAII
LAND USE COMMISSION

VOTE RECORD

(3)

ITEM A(T) 63-44 - Enn.
DATE 3/6/64
PLACE LUC Hearing Room
TIME 12:20

NAMES	YES	NO	ABSTAIN	ABSENT
WUNG, L.	✓			
INABA, G.				✓
OTA, C.	✓			
WENKAM, R.		✓		
BURNS, C.E.S.	✓			
NISHIMURA, S.	✓			
MARK, S.				✓
FERRY, J.	✓			
THOMPSON, M.	✓			

COMMENTS:

Motion by Burns.
Sec by Ferry.

Ref. No. LUC 171

March 10, 1964

Mr. Christopher Cobb
Anderson, Wrenn & Jenks
Attorneys at Law
Bank of Hawaii Building
Honolulu, Hawaii 96801

Dear Mr. Cobb:

By action taken on March 6, 1964, the Land Use Commission approved the Mabel K. Ene petition A(7)63-44 for an amendment of the temporary district boundaries from a conservation district classification to an urban district classification shown on Oahu tax map key 2-9-34-05.

With seven Commissioners present, the Commission voted unanimously to grant your client's request for an amendment of district boundaries to an urban district.

A copy of the staff report as presented to the Commission is enclosed for your information.

Very truly yours,

RAYMOND S. YAMASHITA

RSM/am

Encl.

cc: Mr. Frederick Lee
Mr. Myron Thompson
Mr. Roy Takayama
Dept. of Taxation

Ref. No. LUC 137

March 2, 1964

Mr. Christopher Cobb
Anderson, Wrenn & Jenks
Attorneys At Law
Bank of Hawaii Building
Honolulu, Hawaii

Dear Mr. Cobb:

This is to inform you that your petitions on behalf of Hawaiian Trust for the Roman Catholic Church and the Mabel K. Ena Estate for temporary district boundary changes will be considered by the State Land Use Commission on March 6, 1964 in the Land Use Commission hearing room, 426 Queen Street, from 9:00 a.m. to 12:00 noon instead of at 1:00 p.m.

Generally the meeting will be as follows:

A. Continued Public Hearing

1. Centex Trousdale Company

B. Meeting

1. Hawaiian Trust - Roman Catholic Church

2. Hawaiian Trust - Mabel K. Ena

3. Charles Yang

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Mr. Myron Thompson
Mr. Roy Takayama
Board of Water Supply
Mr. Frederick K. F. Lee

Ref. No. LUC 122

February 20, 1964

Mr. Christopher Cobb
Anderson, Wrenn & Jenks
Attorneys At Law
Bank of Hawaii Building
Honolulu, Hawaii 96801

Dear Mr. Cobb:

The Land Use Commission of the State of Hawaii will hold a meeting on the Island of Oahu on March 6, 1964 in the Land Use Commission hearing room, 426 Queen Street, Honolulu, at 1:00 p.m.

As the waiting period prescribed by SECTION 98H-4 of Act 205/63 will have expired, your petition for change of temporary district boundary has been placed on the Commission's agenda for consideration at this meeting. Final action may be taken on your petition at this time.

Very truly yours,

RAYMOND S. YAMASHITA
Executive Officer

cc: Mr. Myron Thompson
Mr. Roy Takeyama

Ref. No. LUC 792

December 27, 1963

Anderson, Wrenn & Jenks
Bank of Hawaii Building
Honolulu, Hawaii

Attention: Mr. Christopher Cobb

Gentlemen:

This is to inform you of the public hearing called by the Land Use Commission of the State of Hawaii on January 18, 1964, at 1:00 p.m., in the Land Use Commission hearing room, on the second floor of the Kapuniwa Building, 426 Queen Street, Honolulu, Hawaii. Your petitions on behalf of Hawaiian Trust Company, Ltd. and the Roman Catholic Church; and Mabel K. Ena by Hawaiian Trust Company, Ltd. (guardian of the estate of Mabel K. Ena) for Change of Temporary District Boundary from a Conservation district classification to an Urban district classification will be heard at that time.

Publication of Legal Notice will appear in the Honolulu Star-Bulletin on December 28, 1963.

Sincerely,

R. YAMASHITA
Executive Officer

7 -

NOTICE OF PUBLIC HEARING
TO CONSIDER PETITIONS FOR CHANGE OF TEMPORARY DISTRICT BOUNDARY WITHIN
THE CITY AND COUNTY OF HONOLULU, BEFORE THE LAND USE COMMISSION OF THE
STATE OF HAWAII

NOTICE IS HEREBY GIVEN of public hearings to be held in the City and
County of Honolulu by the Land Use Commission of the State of Hawaii
on January 18, 1964 to consider petitions for change of Temporary
District Boundary as provided for in Section 98H-4, Revised Laws of
Hawaii 1955, as amended.

1. In the hearing room of the Land Use Commission, on the second floor
of the Kapuaiwa Building, 426 Queen Street at 10:00 A.M. or as soon
thereafter as interested persons may be heard in considering:

<u>Docket Number and Petitioner</u>	<u>Tax Map Key</u>	<u>Change Requested</u>
A(T)63-45 Leatrice S. Yang, <u>et al.</u>	9-6-02	Change from an Agricultural district classification to an Urban district classifica- tion.

2. In the same hearing room above described at 1:00 P.M. or as soon
thereafter as interested persons may be heard in considering:

<u>Docket Number and Petitioner</u>	<u>Tax Map Key</u>	<u>Change Requested</u>
A(T)63-38 Oceanic Properties, Inc.	9-4 (portion) and 9-5 (portion)	Change from an Agricultural district classification to an Urban district classifica- tion.
A(T)63-40 Hawaiian Trust Co., Ltd. and the Roman Catholic Church in the State of Hawaii	2-9-54: 07 2-9-54: 13 2-9-54: 18 2-9-55: 05 and 2-9-55: 10	Change from a Conservation district classification to an Urban district classifica- tion.
A(T)63-44 Mabel K. Ena by Hawaiian Trust Co., Ltd.	2-9-54: 05	Change from a Conservation district classification to an Urban district classifica- tion.

Maps showing the area under consideration for change of Temporary District
Boundary and copies of the Rules and Regulations governing the petitions
above are on file in the offices of the Land Use Commission and are open
to the public during office hours.

All written protests and comments regarding the above petitions may be filed
with the Land Use Commission, 426 Queen Street, Honolulu, Hawaii before the
date of public hearing, or submitted in person at the time of the public
hearing, or filed up to fifteen (15) days following the hearing.

LAND USE COMMISSION

M. B. THOMPSON, Chairman

R. YAMASHITA, Executive Officer

(Legal ad - 2 cols. w/border to appear:)
(THE HONOLULU STAR-BULLETIN - December 28, 1963)

January 27, 1964

RECEIVED

JAN 30 1964

State of Hawaii
LAND USE COMMISSION

TO: State Land-Use Commission
FROM: Conservation Council for Hawaii
SUBJECT: Conservation Lands in Upper Manoa Valley

Reference is made to a recent request for change in zoning from Conservation to Urban classification of certain lands in upper Manoa Valley. These are lands that have been included under water reserves classification prior to and under Conservation Classification since July 11, 1961, covered by provision of Chapter 98H Revised Laws of Hawaii 1955 (1961 supplement).

The Conservation Council for Hawaii respectfully urges that the above lands which should also include those known as the Mabel K. Ena estate TMK 2-9-54:5 remain under Conservation classification in perpetuity under the State of Hawaii for the following reasons:

1. Based on data developed by the Board of Water Supply of the City and County of Honolulu, there is urgent need for all of the area in question to be retained for use as water reserve to supply the rapidly growing demands of this city for water.
2. Preservation of the above area with regard to a number of endemic and exotic plants, which comprise part of the natural ground cover, is highly important. A large portion of this land is situated adjacent to the Arboretum of the University of Hawaii. Destruction of existing ground cover will lead to severe erosion, spread of introduced species of plants, as well as the encroachment of insects and, very likely, infestation by African Snails. These areas, as well as the Arboretum, are frequently used by teachers of Biology in the University of Hawaii, and by schools and outdoor-oriented organizations of Honolulu for educational purposes.
3. Preservation of the forest mantle as a background for the residential areas of Manoa Valley. Also for recreational use, particularly hiking trails, as may be permitted in a water-reserve area.

THE OUTDOOR CIRCLE
1839 ANAPUNI STREET
HONOLULU 14, HAWAII

not marked

December 26, 1963

RECEIVED

DEC 26 1963

State of Hawaii
LAND USE COMMISSION

Mr. Robert Wenkam, Member
State Land Use Commission
426 Queen Street
Honolulu, Hawaii

Dear Mr. Wenkam:

Thank you for your letter of December 12. The Outdoor Circle very much appreciates your keeping us informed on the progress of the new State Land Use Commission, and particularly for alerting us to forthcoming public hearings.

Concerning the proposed General Plan for Oahu, The Outdoor Circle will continue to speak out concerning these proposals in the Plan which we believe do not provide adequate protection for our scenic areas.

Specifically, we believe the entire area of Kawainui Swamp to and including the Pali foothills should be put in the Conservation Classification, as designated by the previous State Land Use Commission in March, 1963.

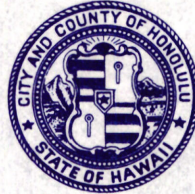
Concerning the request for a land use change in upper Manoa Valley, please be assured, when this is considered by the Commission, The Outdoor Circle will strongly support the Board of Water Supply in their stand that this water reserve area be retained in the Conservation Classification.

With our Best Wishes for the coming year.

Sincerely,

Cynthia Marnie
Mrs. Jack Marnie
President

NEAL S. BLAISDELL
MAYOR



CITY AND COUNTY OF HONOLULU

PLANNING DEPARTMENT
HONOLULU HALE ANNEX
HONOLULU 13, HAWAII

December 20, 1963

PLANNING COMMISSION

THOMAS N. YAMABE, II, CHAIRMAN
GEORGE F. GENTEIO
FRANK W. HUSTACE, JR.
KINJI KANAZAWA
CYRIL W. LEMMON
STANLEY T. HIMENO
ALFRED A. YEE

BUDGET DIRECTOR, EX-OFFICIO
MANAGING DIRECTOR, EX-OFFICIO
ZONING BOARD OF APPEALS

HENRY C. H. CHUN-HOON, CHAIRMAN
HAROLD K. KOMETANI, VICE-CHAIRMAN
R. GIBSON RIETOW

PLANNING DIRECTOR
FREDERICK K. F. LEE

Land Use Commission
State of Hawaii
426 Queen Street
Honolulu 13, Hawaii

RECEIVED

DEC 23 1963

State of Hawaii
LAND USE COMMISSION

Gentlemen:

SUBJECT: Manoa - Change of Temporary District Boundary
Tax Map Key: 2-9-54: 05
Petitioner: Hawaiian Trust Co., Ltd.,
Guardian of the Estate of Mabel K. Ena

Reference is made to a request by the Hawaiian Trust Company, Ltd., Guardian of the Estate of Mabel K. Ena, for change of Temporary District Boundary from Conservation District to Urban District for parcel of land containing 122,700 square feet, situated at the upper Manoa Valley.

The Planning Commission at its meeting on Thursday, December 19, 1963, called upon the Board of Water Supply for its comments and recommendations. The representative of the Board of Water Supply, in his presentation, recommended that the property be retained for Conservation because of its importance to the Honolulu watershed. The Commission, after due consideration, voted to recommend that the Temporary District Boundary not be changed and the subject property be retained in the Conservation District in the interest of conservation of water and water resources.

Very truly yours,

PLANNING COMMISSION

CONCUR:

Robert F. Ellis
Managing Director

Neals Blaisdell
Mayor

By Frederick K. F. Lee
Frederick K. F. Lee
Planning Director

cc: City Council

Ref. No. LUC 784

December 18, 1963

City Planning Commission
City and County of Honolulu
Honolulu Hale Annex
Honolulu, Hawaii

Attention: Mr. Frederick K. F. Lee, Planning Director

Gentlemen:

This is to remind you of our letter dated August 15, 1963 (Ref. No. LUC 640) requesting comments and recommendations on the petition from Christopher Cobb in behalf of Hawaiian Trust Company, Limited, Guardian of the Estate of Mabel K. Ena for change of temporary district boundary, a copy of which was forwarded with our letter of August 15.

Act 205, SLH 1963, requires that within "90 days after receipt of the petition the county planning commission shall forward the petition, together with its comments and recommendations, to the commission" (i.e., Land Use Commission).

Sincerely,

R. YAMASHITA
Executive Officer

Enclosure

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 S. BERETANIA STREET
P. O. BOX 3410
HONOLULU 1, HAWAII

October 24, 1963

EDWARD J. MORGAN
MANAGER AND CHIEF ENGINEER

MEMBERS

RALPH E. CLARK, CHAIRMAN
LEROY C. BUSH, VICE-CHAIRMAN
JAMES B. WILSON, SECRETARY
HARRY G. ALBRIGHT
YOSHIO KUNIMOTO
FUJIO MATSUDA
ROBERT Y. SATO

RECEIVED

OCT 26 1963

State of Hawaii
LAND USE COMMISSION

Land Use Commission
Department of Planning and
Economic Development
State of Hawaii
Honolulu, Hawaii

Attention: Mr. Raymond Yamashita
Executive Secretary

Gentlemen:

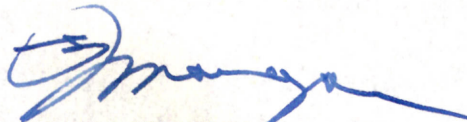
Subject: Petition of Mabel K. Ena by Hawaiian
Trust Co., Ltd., Guardian, for Amend-
ment of Temporary District Boundary
Involving Parcel 2-9-54-05, Manoa Valley

As a result of our consideration of the subject
petition which was received by your Commission August 15, 1963,
we urge that the petition be denied.

The action of your Commission and your predecessors
in including the subject property in a "Conservation" district
was consistent with the most important use to which the area
could possibly be placed--that is to say, as an area of vital
importance having a direct function in connection with the
Board of Water Supply's well-known project for the conservation
of the important perennial flow of Manoa Stream.

We ask for the opportunity to be heard in all hearings
held in this matter.

Very truly yours,



E. J. Morgan
Manager and Chief Engineer

Ref. No. LUC 640

August 15, 1963

Mr. George P. Siu, Director
Department of Land & Natural Resources
State of Hawaii
State Office Building
Honolulu, Hawaii

Dear Mr. Siu:

Enclosed is a petition for change of temporary district boundary covering lands in upper Manoa Valley, Oahu.

Your department's comments and recommendations on this matter would be appreciated.

Very truly yours,

W. M. MULLAHEY
ACTING EXECUTIVE OFFICER

Enclosure

Ref. No. LUC 640

August 15, 1963

City Planning Commission
City and County of Honolulu
Honolulu Hale Annex
Honolulu, Hawaii

Attention: Mr. Frederick K. F. Lee, Planning Director

Gentlemen:

Enclosed is a copy of a petition from Christopher Cobb in behalf of Hawaiian Trust Company, Limited, Guardian of the Estate of Mabel K. Ena for Change of Temporary District Boundary which I am forwarding for your comments and recommendations pursuant to Act 187/61, as amended.

Very truly yours,

W. M. MULLAHEY
ACTING EXECUTIVE OFFICER

Enclosure

mailed copy of petition
to petitioner

ANDERSON, WRENN & JENKS

HEATON L. WRENN
LIVINGSTON JENKS
JOHN P. RUSSELL
H. BAIRD KIDWELL
JAMES M. RICHMOND
MARSHALL M. GOODSILL
WALTER E. BLISS
RICHARD E. STIFEL
PAGE M. ANDERSON
MARTIN ANDERSON
HUGH SHEARER

TOBIAS C. TOLZMANN
GEORGE L. DYER, JR.
CHRISTOPHER COBB

ATTORNEYS AT LAW

BANK OF HAWAII BUILDING
HONOLULU I, HAWAII

ROBBINS B. ANDERSON
COUNSEL

CABLE & WIRELESS ADDRESS
"DELTA"
P.O. BOX 3196

August 15, 1963

State of Hawaii
Land Use Commission
426 Queen Street
Honolulu, Hawaii

RECEIVED
AUG 15 1963
State of Hawaii
LAND USE COMMISSION

Attention: Mr. W. M. Mullahey

Re: Petition of Mabel K. Ena

Gentlemen:

You will find herewith the Petition of Mabel K. Ena for an amendment of the temporary district boundaries for the Island of Oahu. We have enclosed herewith the original and nine copies of the Petition. We have also enclosed herewith our check to cover the cost of a public hearing.

We would appreciate it if you would return a file stamped copy for our files.

Very truly yours,

Christopher Cobb

Christopher Cobb

ANDERSON, WRENN & JENKS

cc/ma
Enclosures

STATE OF HAWAII
LAND USE COMMISSION

426 Queen Street
Honolulu, Hawaii

RECEIVED

This space for LUC use

AUG 15 1963

Date Petition and Fee received

by LUC

State of Hawaii

LAND USE COMMISSION

Date forwarded to County

for recommendation

8/15/63

Date Petition, and County

recommendation received

by LUC

PETITION FOR AMENDMENT OF TEMPORARY DISTRICT BOUNDARY

(I) (We) hereby request an amendment of Land Use Commission Temporary District Boundary respecting the County of Honolulu, Island of Oahu, map number and/or name Honolulu (0-13) to change the district designation of the following described property from its present classification in a(n) Conservation district into a(n) Urban district.

Description of property: Tax Map Key Number 2-9-54-05. See Attachment 1.

Petitioner's interest in subject property: Petitioner owns the property in fee simple. See Attachment 2.

Petitioner's reason(s) for requesting boundary change: See Attachment 3.

(1) The petitioner will attach evidence in support of the following statement:

The subject property is needed for a use other than that for which the district in which it is located is classified. See Attachment 3.

(2) The petitioner will attach evidence in support of either of the following statements (cross out one):

(a) The land is usable and adaptable for the use it is proposed to be classified. See Attachment 3.

(b) Conditions and trends of development have so changed since adoption of the present classification, that the proposed classification is reasonable. See Attachment 3.

DATED: Honolulu, Hawaii, August 15, 1963.

MABEL K. ENA by HAWAIIAN TRUST
COMPANY, LIMITED, Guardian of the
Estate of Mabel K. Ena, Petitioner.

By /s/ Christopher Cobb

CHRISTOPHER COBB

Bank of Hawaii Building
Honolulu, Hawaii

Phone Number: 502-924

Attorney for Guardian

OF COUNSEL:

ANDERSON, WRENN & JENKS

ATTACHMENT 1

Description of Property

The land which is the subject of this petition is located in Upper Manoa Valley, Honolulu, Hawaii. It has an area of approximately 122,700 square feet.

ATTACHMENT 2

Petitioner's Interest in Subject Property

The land which is the subject of this petition is owned in fee simple by petitioner Mabel K. Ena. Hawaiian Trust Company, Limited is the guardian of the Estate of the said Mabel K. Ena, pursuant to Letters of Guardianship dated October 24, 1950 and issued by the Circuit Court of the First Circuit of the State of Hawaii, in the Matter of the Guardianship of Mabel K. Ena, an incompetent person, Probate No. 16,365.

ATTACHMENT 3

Petitioner's Reasons for Requesting Boundary Change

This petition is filed pursuant to Section 98H-4 Revised Laws of Hawaii 1955, as amended by Act 205, Session Laws of Hawaii 1963 and is based upon the following:

(a) The subject land is needed for a use other than that for which the district in which it is situated is classified. The subject land was included in a "conservation" district in the Temporary District Boundaries adopted by the Commission in April of 1962. The subject land is

directly in the path of urban development in Manoa Valley and is adaptable to and needed for immediate urban development. Urban uses are prohibited in the district in which the subject land is now classified.

(b) The subject land is useable and adaptable for the use to which it is proposed to be classified. The subject land is of such nature and is so situated as to permit urban development thereof in compliance with all of the requirements of the subdivision ordinances and regulations of the City and County of Honolulu. All of the subject land is below the 600 foot contour in Manoa Valley, and according to regulations of the Board of Water Supply of the City and County of Honolulu, land so situated is eligible for water service. In addition, all of this land is below the 20% slope.

(c) Conditions and trends of development have so changed since the adoption of the present classification that the proposed classification is reasonable. The present classification of the subject land was adopted in April of 1962. Since that time the need for additional land in Manoa Valley for urban purposes has substantially increased.

(d) In addition, it appears from the files of the Land Use Commission that the inclusion of the subject land in a conservation district in the Temporary District Boundaries adopted by the Commission on April 11, 1962 was based upon the erroneous impression that the subject land was part of a Forest and Water Reserve Zone as established by § 19-70 of the Revised Laws of Hawaii 1955,

as amended. The subject land was never a part of the said zone.

(e) Additional evidence in support of the foregoing will be presented at the request of the Land Use Commission and, in any event, at the public hearing to be held on this petition, which hearing is hereby requested.

(f) Failure to grant petitioner's request will deprive petitioner of her rights under the Constitution of the United States of America and under the constitution and statutes of the State of Hawaii.

Hawaiian Trust Sues Land Unit

The Hawaiian Trust Co. has sued the State Land Use Commission, charging it took away several square miles of privately owned land in Upper Maunaloa Valley "without due process of law."

The trust company filed the suit in Circuit Court on behalf of the estate of the late John Ena, who owned

the property. The company also represents Mr. Ena's widow, Mabel K. Ena, who has been declared an incompetent person.

The suit is against both the Land Use Commission and Shelley M. Mark, a member of the commission.

ACCORDING TO the suit, the commission, on April 4, 1962, adopted temporary district boundaries for conservation, agriculture, and urban districts for the City and County of Honolulu. Included within the boundaries is the property owned by the Ena Estate.

The suit contends the boundaries were adopted in violation of State law inasmuch as a change in the Ena land to urban use was already in progress.

The suit says that the setting of the boundaries violates both the Hawaii and U.S. Constitutions because the inclusion of the Ena land in the conservation district "constitutes taking the property without just compensation."

Advertiser

11/7/63

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

CIVIL NO. 12981

MABEL K. ENA, by Hawaiian
Trust Company, Limited,
her guardian,

Plaintiff,

vs.

STATE LAND USE COMMISSION
OF THE STATE OF HAWAII and
SHELLEY M. MARK,

Defendants.

1ST CIRCUIT COURT
STATE OF HAWAII
1963 OCT 1 PM 3 33
FILED
P. J. O'Sullivan, Jr.
CLERK

I do hereby certify that the attached file is
COMPLAINT
FOR DECLARATORY JUDGMENT

and

SUMMONS

Are true and correct copies of the originals on
file in this office.

P. J. O'Sullivan, Jr.
Clerk, Circuit Court, First Circuit,
State of Hawaii

Of Counsel:

ANDERSON, WRENN & JENKS

MARTIN ANDERSON
CHRISTOPHER COBB
Bank of Hawaii Building
Honolulu, Hawaii

Attorneys for Hawaiian
Trust Company, Limited

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII
CIVIL NO. _____

MABEL K. ENA, by Hawaiian
Trust Company, Limited,
her guardian,

Plaintiff,

vs.

STATE LAND USE COMMISSION
OF THE STATE OF HAWAII and
SHELLEY M. MARK,

Defendants.

COMPLAINT
FOR DECLARATORY JUDGMENT

COUNT I

1. Plaintiff MABEL K. ENA is a resident of the City and County of Honolulu, and is an incompetent person. Hawaiian Trust Company, Limited is a Hawaii corporation, is the guardian of Plaintiff's estate pursuant to Letters of Guardianship dated October 24, 1950 and issued by this court in proceedings entitled "In the Matter of the Guardianship of MABEL K. ENA, an Incompetent Person" and bearing Probate No. 16365 in the files of this court, and brings this action on behalf of Plaintiff as such guardian. Defendant STATE LAND USE COMMISSION OF THE STATE OF HAWAII is an agency of the State of Hawaii created by § 98H-1 of the Revised Laws of Hawaii, 1955, and will be referred to

hereinafter as the "Agency". Defendant SHELLEY M. MARK is the only member of the Agency. This is an action for a declaratory judgment brought pursuant to § 6C-7, R.L.H. 1955.

2. On April 4, 1962 the Agency adopted temporary district boundaries for the conservation, agriculture and urban districts for the City and County of Honolulu, as provided by § 98H-5, R.L.H. 1955, prior to the amendment of Chapter 98H, R.L.H. 1955, by Act 205 of the Second State Legislature, 1963 Regular Session. The said temporary district boundaries were filed with the Lieutenant Governor of the State of Hawaii on April 11, 1962, and will be referred to hereinafter as the "boundaries".

3. The boundaries were adopted by the Agency as a rule, as defined by § 6C-1(d), R.L.H. 1955.

4. Plaintiff is the owner of certain real property located in the City and County of Honolulu and bearing Tax Map Key No. 2-9-54-05. Said real property, referred to hereinafter as the "subject land", is located within a conservation district of the boundaries.

5. The boundaries were adopted in violation of § 98H-5, R.L.H. 1955, prior to the amendment of said section by said Act 205, in that the inclusion of the subject land in a conservation district was unreasonable, impracticable and due to the mistaken belief of the Agency that the subject land was in a "forest and water reserve zone" provided in § 19-70, R.L.H. 1955, and in that a change in the use of the subject land to urban use was already in progress when the boundaries were adopted.

EAGLE-A

6. The boundaries violate the Constitutions of Hawaii and the United States in that the inclusion of the subject land in a conservation district constitutes a taking of Plaintiff's property for a public use without just compensation and deprives Plaintiff of her property without due process of law.

7. The boundaries were adopted without compliance with the requirement of § 6C-3(a) R.L.H. 1955, for notice for a public hearing prior to the adoption of any rule.

COUNT II

8. Paragraphs 1, 2, 3 and 4 are repeated.

9. The boundaries were adopted pursuant to the rule making procedure provided by §§ 6C-3 and 6C-4, R.L.H. 1955.

10. Chapters 98H and 6C R.L.H. 1955 prohibited and prohibit the adoption of the boundaries pursuant to the aforesaid rule making procedure, and the Constitutions of the United States and Hawaii, as well as the said Chapters, required and require notice and a hearing pursuant to §§ 6C-9 through 6C-13, R.L.H. 1955, prior to the inclusion of the subject land in a conservation district boundary.

11. Plaintiff was not given notice or a hearing pursuant to said §§ 6C-9 through 6C-13 prior to the inclusion of the subject land in a conservation district boundary.

WHEREFORE, Plaintiff demands that the boundaries be declared invalid.

DATED: October 1, 1963

Of Counsel:

ANDERSON, WRENN & JENKS
Bank of Hawaii Building
Honolulu, Hawaii

/s/ Martin Anderson
MARTIN ANDERSON

/s/ Christopher Cobb
CHRISTOPHER COBB
Attorneys for Hawaiian Trust
Company, Limited

In the Circuit Court of the First Circuit

STATE OF HAWAII

CIVIL NO.....

MABEL K. ENA, by Hawaiian
Trust Company, Limited,
her guardian,

Plaintiff

v.

STATE LAND USE COMMISSION
OF THE STATE OF HAWAII and
SHELLEY M. MARK,

Defendant S

SUMMONS

State of Hawaii

To the above-named Defendant:

You are hereby summoned and required to serve upon

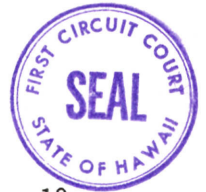
MARTIN ANDERSON of Anderson, Wrenn & Jenks, plaintiff's attorney,

whose address is Bank of Hawaii Building, Honolulu, Hawaii
an answer to the complaint which is herewith served upon you, within 20 days after service
of this summons upon you, exclusive of the day of service. If you fail to do so, judgment
by default will be taken against you for the relief demanded in the complaint.

P. J. O'Sullivan, Jr.
Clerk of Court

OCT - 1 1963

Dated



RETURN ON SERVICE OF SUMMONS

I HEREBY CERTIFY and return that on the day of, 19.....,

I served the within summons on

at, by delivering to a certified copy
hereof and of the complaint hereto annexed.

Dated

- ☐ Police Officer
☐ Person specially appointed by the Court

SUBSCRIBED and sworn to before me

this day of, 19.....

NOTE: This summons is issued pursuant to Rule 4 of the Hawaii Rules of Civil Procedure. AFFIDAVIT
required only if service is made by a person specially appointed by the court.

RECEIVED

OCT 1 1963

State of Hawaii
LAND USE COMMISSION

State of Hawaii
LAND USE COMMISSION
426 Queen Street
Honolulu 13, Hawaii

October 22, 1963

MEMORANDUM TO ALL PETITIONERS CONCERNED

The Land Use Commission at its meeting on October 18, 1963 has asked me to assure you of its awareness of your petition before the Commission.

As of October 11, 1963 the Commission was fully constituted, and it is now in the process of scheduling hearings for petitions not heard by the previous Commission and of scheduling new hearings for petitions heard prior to May 3, 1963 on which the previous Commission took no action. Upon completion of these schedules, notification concerning when your petition will be heard will be forwarded to you.

Mr. Raymond Yamashita is the Commission's new executive officer, and he will begin his duties on November 1, 1963.

Sincerely,

Myron B. Thompson
MYRON B. THOMPSON
Chairman, Pro Tempore

State Form B14

STATE OF HAWAII

LAND USE Commission
426 Puuoa St. Honolulu, Hawaii
Department, Bureau or Commission

OFFICIAL
RECEIPT No 60

August 15, 1963

RECEIVED from J. P. Russell of Anderson, Wrenna Tunks Fore Mabel K. Engley, Davis Trust Co, Ltd.
Life a note _____ DOLLARS

for public hearing by the Land Use Comm. for Temporary Boundary Change
from C to U for lands in Maunaloa Valley, Oahu

\$ 50.00

James L. Kiri

Public Accountant

CR# 7988 Bunker

April 10, 1962

Mr. Roland J. Darnells
Executive Officer
Land Use Commission
State of Hawaii
426 Queen Street
Honolulu, Hawaii

Re: Account #44900-John Ena Trust
Estate, Mabel Ena, Guardianship,
#44930 Manoa Lands

Dear Mr. Darnells:

The Hawaiian Trust Company, Limited, as designated agent for John and Mabel Ena, hereby protests the classification by the Land Use Commission of the following described property as "Conservation". The Hawaiian Trust Company, Limited, requests that the following described ~~be~~ designated urban:

A. John Ena Trust Estate (Lessee from Roman Catholic Church)

1. T.M.K. 2-9-54-7 containing 35.164 acres
2. T.M.K. 2-9-54-13 containing 27.100 acres
3. T.M.K. 2-9-54-18 containing 12.300 acres
4. T.M.K. 2-9-55-05 containing 33.000 acres
5. T.M.K. 2-9-55-10 containing 48.000 acres

B. Mabel Ena, Guardianship

T.M.K. 2-9-54-05 containing 122,900 square feet

The aforementioned Trust has expended substantial funds in the preparation and submission of subdivision plans for 35 acres, more or less, located and described as a portion of 2-9-54-7. This subdivision was submitted for approval before the City Planning Commission of Honolulu, and it was subsequently granted

Mr. Roland J. Darnells
Page 2

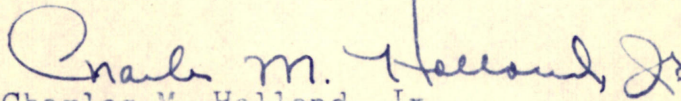
April 10, 1962

tentative approval; however, the Board of Water Supply and Board of Agriculture have withheld their approval because they wish to extend the Honolulu Watershed Forest Reserve Boundary and include the subject lands. Official designation has not been made declaring the subject lands to be conservation.

Enclosed please find a map setting out the area herein under consideration. Thank you very much for your consideration of this matter.

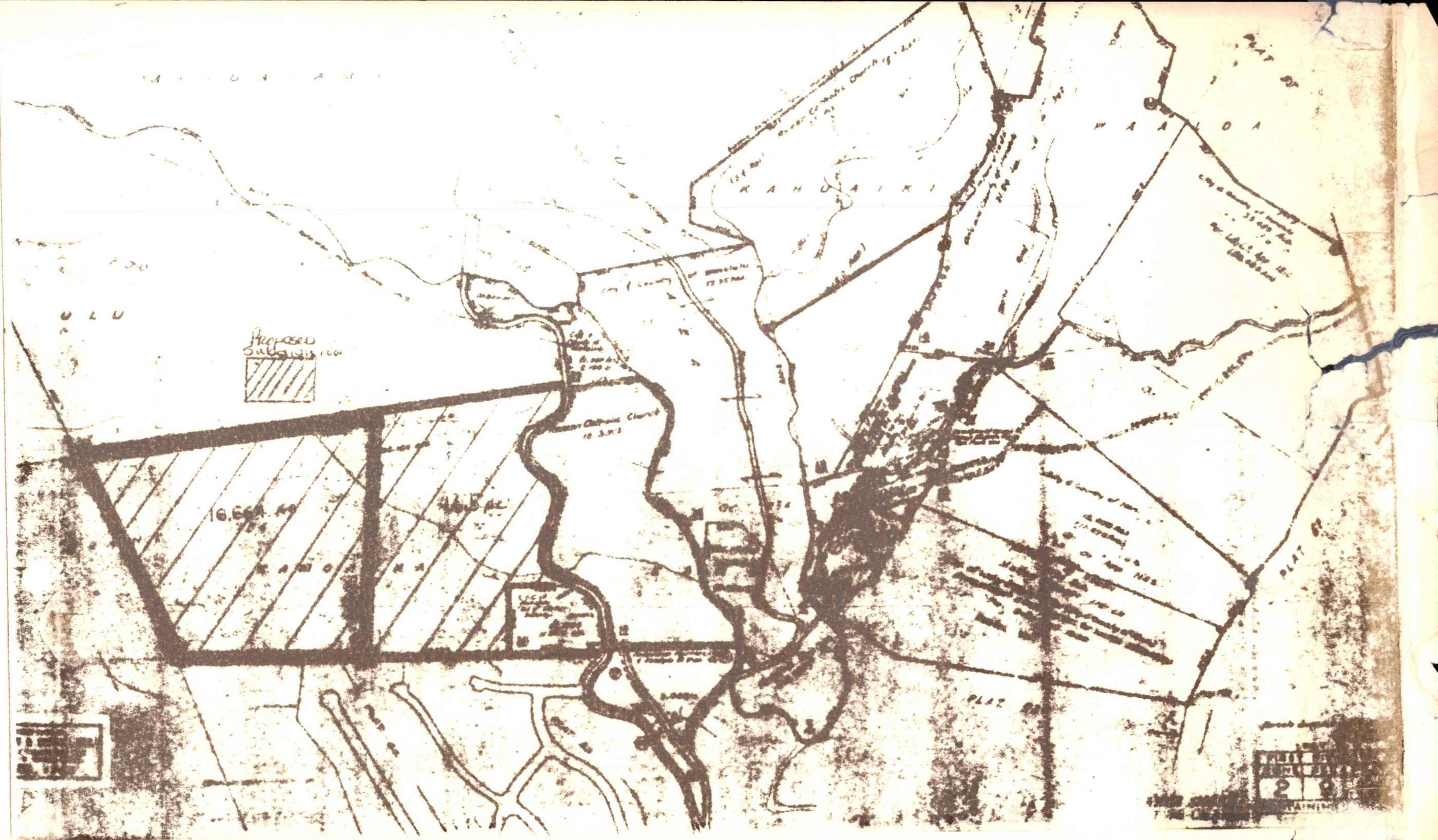
Very truly yours,

HAWAIIAN TRUST COMPANY, LTD.


Charles M. Holland, Jr.
Property Management Dept.

CMH:eh

Encl.



Proposed
Subdivision

Catholic Church
10.3.12

10.6.64

PLAT 10
PLAT 11
PLAT 12