

# HiCom Suit Answer

# Plan Saipan Homestead Survey

By Diane Maddex  
Daily News Staff Writer

SAIPAN—The Trust Territory government disclosed yesterday that it plans to let a contract within two months to survey about 202 homestead sites on Saipan that are now tied up in a lawsuit against the High Commissioner.

The revelation was contained in an affidavit accompanying High Commissioner Edward E. Johnston's answer to the lawsuit, which was filed yesterday with the TT High Court on Saipan.

Attorneys for the HiCom asserted, however, that the court lacks jurisdiction to

*Some papers:*  
compel Johnston to immediately issue deeds to the homesteads as the plaintiffs in the suit demanded.

Saying that this is a "fundamental question of first impression in the Trust Territory," they contend that the HiCom now is accountable only to the United States and

the United Nations, not the TT courts.

The court was urged to "adopt the rule that mandamus, or a mandatory injunction in the nature thereof, will not be issued to the High Commissioner as the law of the Trust Territory, at least so long as the Trust Territory Government functions as the governing agency of the Trust Territory of the Pacific Islands."

The answer adds that, in any event, the manner and time in which the HiCom issues the

homestead permits is discretionary although his duty to issue them at some time "is mandatory."

The plaintiffs claimed in their suit, which was brought in early August, that the HiCom has delayed the issuance of their permits well beyond the two years provided by law. Because of inadequate surveys in the past, it has been TT policy to re-survey homesteads before deeds are issued.

"Delay in fact protects rather (Continued on page 43)

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han jeopardizes rights," answered the HiCom.

"Immediate issuance of deeds or the homesteads involved in his action...can only serve to generate boundary and title disputes and disrupt the equally desirable objectives of an orderly and systematic homestead program."

The affidavit signed by Kozo amada, chief of the TT's lands and Surveys Division, acknowledged that surveying the homestead tract before issuing deeds "has proved to be most difficult task."

A division spokesman added yesterday that they have been aware of the homestead problem "for quite some time. It has been working on it," he said that the special survey that was thought of before the lawsuit was brought. Money, he explained, had come from "state-

The four named plaintiffs are Manuel T. Cruz, Veronica S. Castro, Adolfo Taisakan and Consuelo T. Nakatsukasa. They are being represented by the Micronesian Legal Services Corp.

The land management officials would not release the projected cost of the survey.

They indicated that surveying the contested homesteads could help accelerate the overall land cadastral and registration program on Saipan.

A hearing in the suit has been set for Sept. 28. At that time the court will also consider whether the class action nature of the suit can be maintained.

The HiCom's attorneys contended their answer that the suit should not be continued as a class action. They suggest that if the court comes to a contrary conclusion, each of the 202 parties believed to be affected should be notified personally of the suit. They also proposed that the court postpone all further action in the case until these people have an

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