

Kalima v. State of Hawai'i Settlement
P.O. Box 135035, Honolulu, HI 96801
Telephone: 808-650-5551 OR 833-639-1308
Email: info@kalima-lawsuit.com

NOTICE OF CLAIM FROM CLASS ACTION SETTLEMENT
Kalima v. State of Hawai'i, CIVIL NO. 99-4771-12 LWC

YOU ARE RECEIVING THIS LETTER TO NOTIFY YOU THAT YOU ARE A CLASS MEMBER IN THE *KALIMA V. STATE OF HAWAI'I* CLASS ACTION SETTLEMENT.

Based on currently available records from the State of Hawai'i Department of Hawaiian Home Lands ("DHHL"), the starting date and ending dates we have been able to identify for your claims are:

<u>Type of Homestead</u>	<u>Start Date</u>	<u>End Date</u>
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THESE DATES ARE BASED ON CURRENT DATA. THEY ARE SUBJECT TO CHANGE BEFORE THE FINAL CALCULATIONS IF MORE ACCURATE DATA BECOMES KNOWN. YOU WILL RECEIVE YOUR FINAL DATES AND ESTIMATED SETTLEMENT PAYMENT IN A NOTICE SENT AFTER JUNE 6, 2023. **PLEASE SEE THE LAST PAGE OF THIS LETTER FOR THE COURT'S REVISED CASE SCHEDULE.**

Important Definitions

- "Type of Homestead" is the type you applied for or attempted to apply for, were awarded or assigned, or sought or received as a successor to an application or a homestead lease.
- "Start date" is the date you applied or attempted to apply for a homestead or succeeded or attempted to succeed to a homestead application.
- "End date" is the date of your lease award, if any, or the date of a Settlement Class Member's death or April 14, 2022, whichever is earliest. The award date for accelerated and undivided awards is the date of subdivision approval or occupancy.

These definitions also apply to claims brought on behalf of others who applied, attempted to apply, succeeded to, or attempted to succeed to an application or a homestead lease.

The Hawai'i Supreme Court has ruled that the State of Hawai'i Department of Hawaiian Homelands breached its trust obligations to beneficiaries by failing to keep accurate records. The amount of payment you receive will be based upon accurate start and end dates for your claim(s). Because of DHHL's failure to keep accurate records, the above information we have may not be correct.

Please carefully review these dates and, if necessary, correct this information using the enclosed form and return it to Kalima Claims Administrator, P.O. Box 135035, Honolulu, HI 96801. Your corrections must be postmarked by **April 3, 2023**, to be accepted.

IF YOU AGREE WITH THE INFORMATION LISTED ABOVE AND WISH TO PARTICIPATE IN THE SETTLEMENT, YOU DO NOT NEED TO TAKE FURTHER ACTION OR RESPOND TO THIS LETTER.

You will receive a notice after June 6, 2023, informing you of the amount of your Settlement Payment based upon the above information or your verified corrected information. The Court has scheduled the Fairness Hearing for July 21, 2023. Settlement Payments will be distributed starting thirty days after the Fairness Hearing, unless any Settlement Class Member appeals or the Court orders other delays.

Information about how start and end dates are determined, information for relatives of deceased Settlement Class Members, and how to opt out or intervene can be found below and on the following pages.

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this letter. They will not be able to give you advice about this case. If you have questions, please contact the Claims Administrator at 808-650-5551 OR 833-639-1308 or via email at info@kalima-lawsuit.com.

Outline of Rules of Payment Eligibility and that Determine Start and End Dates of Claims

The First Circuit Court has approved and adopted the following rules to determine who is eligible to receive a Settlement Payment and to determine the start and end dates of claims.

Rules for Determining Settlement Class Members Who are Not Entitled to a Settlement Payment

Under the Settlement Agreement approved by the Court, the following Settlement Class Members will not receive Settlement Payments:

1. Individuals who did not file a claim with the Hawaiian Claims Office Panel ("Panel") on or before August 31, 1995.
2. Individuals who filed a timely claim with the Panel but the claim did not assert an individual breach of trust that occurred between August 21, 1959, and June 30, 1988.
3. Individuals who filed a timely claim with the Panel but the claim asserted an individual breach of trust that occurred after June 30, 1988.
4. Individuals who filed a timely claim with the Panel but the claim was not a valid HRS Chapter 674 claim.
5. Individuals who filed a timely claim with the Panel but settled their claim.
6. Individuals who opted out of the lawsuit in response to the 2007 Class Notice.
7. Individuals who opted out of the lawsuit in response to the 2012 Class Notice.
8. Individuals who opt out of the Settlement Class and this Settlement by sending a valid and timely Opt-Out Letter to the Claims Administrator.

Rules for Determining Persons Who May be Entitled to a Settlement Payment

1. Individuals who filed a claim with the Panel on or before August 31, 1995, and whose claims are not within the eight categories in the Settlement Agreement described above.
2. Individuals who filed a claim with the Panel on or before August 31, 1995, on behalf of another person such as a father, mother, or other relative, irrespective of whether that person is deceased, who are identified in the HCO Claim Form, and whose claims are not within the eight categories in the Settlement Agreement described above.

General Rules for Measuring Claims

1. Any claim that involves a delay between an application or attempted application and award will be treated as a Waiting List claim.
2. Applications refused for improper reasons do not affect the claim.

Rules for Determining Starting Date (Date of Loss) for Claims

1. The starting date for claims shall be the earliest of (1) attempted application or (2) actual application by a qualified beneficiary.
2. "Attempted application" means a qualified beneficiary attempted to apply for a homestead in person or by mail and the application was refused for some improper reason, such as gender, marital status, income, assets, property ownership, last name, appearance, or any other improper reason.

3. “Application date” is the earliest application date. Later transfers to other areas or islands do not affect the application date.
4. An application submitted prior to August 21, 1959, shall be considered to be filed as of August 21, 1959.
5. If an estimate of the application date was given by the Settlement Class Member, the date shall be the midpoint of the estimated time period (e.g., “July” = 7/15; “1970” = 6/30/70; “early 1960s” = 6/30/62).
6. An application date that is unknown and cannot be obtained from any current source shall be considered the 21st birthday (before July 1, 1985) or 18th birthday (between July 1, 1985, and June 30, 1988, the end of the Class Period). For Settlement Class Members who applied or attempted to apply before they were of age, their claims will begin the date of their 21st birthday, for applications before July 1, 1985, and their 18th birthday, for applications after July 1, 1985.

Rule for Successors to Applications

The application date for a successor to an application is the date of succession to the application.

Rules for Type of Applications

1. A Settlement Class Member shall be awarded payment for a maximum of two claims for each type of application submitted (e.g., residential and agricultural or residential and pastoral). Where a Settlement Class Member applies for both agricultural and pastoral, the earliest application will serve as a single claim because a beneficiary cannot hold both agricultural and pastoral leases. If both agricultural and pastoral applications are filed on the same date, the claim will be calculated as an agricultural claim.
2. A Settlement Class Member’s claim shall be measured by the type of application submitted, not the type of application awarded.

Rules for Determining Ending Date for Claims

1. The ending date for claims shall be the date of lease award, or, if there is no award, the date of death or April 14, 2022 (the date of Settlement), whichever is earliest.
2. A Settlement Class Member’s date of lease award shall be considered the date the lease was effective, or the date of subdivision approval for accelerated or undivided interest awards.
3. A Settlement Class Member’s date of award for an accelerated or undivided interest award that is transferred by the Settlement Class Member before the date of occupancy or subdivision approval is the date of that transfer.

Information for Relatives of Deceased Settlement Class Members

To Receive a Settlement Payment, Family Members of Deceased Settlement Class Members Must Submit an Information Request Form and Be Confirmed as Heirs.

If you have not already done so, please complete an Information Request Form, which can be downloaded from or submitted at kalima-lawsuit.com. To request that the form be sent to you via mail or email, contact info@kalima-lawsuit.com or call 808-650-5551 OR 833-639-1308.

How will the Settlement Payment to Deceased Class Members Be Made?

If the Settlement Class Member did not identify family members as heirs, family members who seek to qualify to receive a Settlement Payment must be confirmed as heirs. They must do so through a special court proceeding called probate.

Probate court proceedings will divide the Settlement Payment according to the terms of the deceased Settlement Class Member’s will or trust. If the deceased Settlement Class Member did not have a will or trust (called “intestate probate”), Hawai’i probate law will determine how the payment is divided among the confirmed heirs.

Who Will Represent Deceased Settlement Class Members in Probate Court? Should We Hire Our Own Attorney?

You may hire your own attorney for probate proceedings. Reasons to hire a probate attorney include: (1) if you want to confirm your status as an heir and personal representative, which may allow you to receive payment sooner; or (2) if there is a potential for disputes among family members.

How do We Find an Attorney?

If the deceased Settlement Class Member had a will or trust, you should contact the attorney who prepared the will or trust to discuss this question. Otherwise, you may contact the Hawai'i State Bar Association Lawyer Information and Referral Service at 808-537-9140 or email LRIS@hsba.org and ask for a referral to lawyers who specialize in probate matters.

What Are the Requirements for Settlement Class Members Who Died outside of Hawai'i?

Please consult with a probate attorney in your state if your family member died outside of Hawai'i and send a certified copy of the family member's death certificate to the Claims Administrator. If you seek to be confirmed as an heir or personal representative of your family member's estate, you should retain an attorney for that purpose.

What if We Can't Afford an Attorney?

The Court will be asked to approve a Probate Plan that provides for a Special Administrator who will be paid out of settlement funds. If the Court approves this plan, the Special Administrator may be able to: (1) determine if there are existing wills or trusts; (2) file a motion to confirm known heirs; and (3) obtain probate court approval to divide the Settlement Payment among confirmed heirs. The attorneys' fees and costs of this work would be deducted from your Settlement Payment. Because there are more than 1,100 deceased Settlement Class Members and thousands of potential heirs, that process is expected to take until December 31, 2023, and possibly longer.

Your Legal Right to Opt Out of This Settlement

If You Wish to Exclude Yourself from Participating in the Settlement	You may exclude yourself from participating in this Settlement. If you do so, you will not receive a payment from the Settlement Fund. The deadline to request exclusion from the Settlement is April 3, 2023 . To exclude yourself from the Settlement, please follow the instructions below.
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You may exclude yourself from participating in the Settlement. If you do so, you will not receive any compensation from the Settlement Fund. You will retain any claims you may have against the State of Hawai'i and the Released Parties (as that term is defined in the Settlement Agreement) and are free to pursue whatever legal rights you may have at your own risk and your own expense.

To exclude yourself from the Settlement, you must mail a signed letter to the Kalima Lawsuit Claims Administrator at P.O. Box 135035, Honolulu, Hawai'i 96801, postmarked on or before **April 3, 2023**. The exclusion letter must state that you exclude yourself from this Settlement and must include the name and case number of this litigation (*Kalima et al. v State of Hawai'i et al.*, Civil No. 99-4771-12 LWC), as well as your full name, address, telephone number, statement that you wish to be excluded, and signature. So-called "mass" or "class" exclusion requests are not permitted.

If you wish to exclude the claims of a deceased Settlement Class Member, you must obtain probate court approval appointing you as the personal representative of the estate before doing so.

If you intend to file a separate lawsuit, limitations periods may bar your claim if it is not timely filed. **Any separate lawsuit should be filed before July 21, 2023**, to ensure it falls within the potential statutory limitations period. Please consult with an attorney about filing such a claim.

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this letter. They will not be able to give you advice about this case. If you have questions, please contact the Claims Administrator at 808-650-5551 OR 833-639-1308 or email info@kalima-lawsuit.com.

Your Legal Right to Intervene in This Case

If You Wish to Intervene in This Case

If you wish to intervene in this case, you may hire an attorney at your own expense to do so. You no longer will be represented by Class Counsel, and you will have to consult with your retained attorney to obtain further information about the intervention process.

Revised Schedule

The Court has approved a new schedule for Final Approval of the Settlement, which is necessary to complete the complex file review and claims evaluation process necessary before payments can be distributed.

The proposed schedule will extend the current schedule only so far as reasonably necessary to complete the work required. The extended deadlines have been set by the Court to assure that Settlement distribution is as accurate and fair as possible.

- This second notice containing your start and end dates will be mailed on **January 31, 2023**.
- The deadline to opt out of the lawsuit is **April 3, 2023**.
- The third notice containing your estimated Settlement Payment will be mailed on **June 6, 2023**.
- The deadline for Final Approval of the Settlement is **July 21, 2023**.