

**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***

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**YOU ARE RECEIVING THIS LETTER TO NOTIFY YOU THAT YOU MAY BE ELIGIBLE FOR  
PAYMENT IN THE *KALIMA V. STATE OF HAWAII* CLASS ACTION SETTLEMENT FOR A  
CONSTRUCTION OR INFRASTRUCTURE CLAIM.**

You are receiving this letter because you submitted a construction or infrastructure claim to the Hawaiian Claims Office between 1991 and 1995. Construction and infrastructure claims are for defective housing, utilities, or lots provided by the Department of Hawaiian Home Lands (“DHHL”). If you did not submit a construction or infrastructure claim to the Hawaiian Claims Office, **please disregard this letter.**

How Will Construction Claims Be Decided?

Construction claims will be decided by a Construction Expert appointed by the Court and supervised by the Settlement Special Master. Based upon the standards approved by the Court found on page 2 of this letter, the Construction Expert will decide: (1) if you have a valid claim for construction or infrastructure defect and (2) if you do have a valid claim, what the reasonable repair cost was for the defect at the time it was repaired or at the time the claim was submitted, whichever occurred first.

What Construction and Infrastructure Claims Will Receive a Settlement Payment?

Construction or infrastructure claims will only be considered for houses constructed or sold by DHHL within the class period from August 21, 1959, to June 30, 1988 (the “Class Period”). Construction or infrastructure damage for all other houses and damage that occurred outside of the Class Period will not be considered.

What Will the Construction Expert Consider?

The Construction Expert will review your submissions to the Hawaiian Claims Office, including any expert or investigative reports and/or factual findings or recommendations made by investigators or the Panel.

You do not have to submit any additional information for your construction or infrastructure claim to be considered. If you wish to submit additional information, please complete and return the attached form. **This form must be postmarked by April 3, 2023, to be accepted. You cannot submit new claims.**

**Please see the last page of this letter for the Court’s revised schedule.**

How Will Claims Be Decided?

The Construction Expert will make recommendations to the Special Master for the Settlement Payment based on the information Settlement Class Members have submitted. You will receive a third notice with the amount of your payment and may accept or object in writing. The Court will review any objections and approve the final Settlement Payment.

How Will Settlement Class Members Find Out if They Are Entitled to a Construction Claim Payment and the Amount?

Settlement Class Members will receive a notice after June 6, 2023, informing them of the amount of their Settlement Payment, if any, based on the information Settlement Class Members provided to the Hawaiian Claims Office. The Court has scheduled the Fairness Hearing for July 21, 2023.

Information for relatives of deceased Settlement Class Members who submitted construction claims is found on page 3.

If you wish to opt out of this Settlement or intervene in the case if you do not opt out, see page 4.

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 call 808-650-5551 OR 833-639-1308 or email info@kalima-lawsuit.com.

## **OUTLINE OF RULES FOR CONSTRUCTION AND INFRASTRUCTURE CLAIMS**

### General Rule

The purpose of the Construction Expert's work is to determine the reasonable cost of stated necessary repairs. Because of the age of proof, the fact that forty percent of the original Settlement Class Members are deceased, and this is a settlement, not litigation, typical evidentiary analysis based on a preponderance of evidence is not possible. The Construction Expert will make recommendations based on the "some evidence" standard analogous to the analysis that is applied under Haw. R. Civ. Pro. 59 when a new trial is requested after verdict.

### Summary of Specific Rules:

1. A Settlement Class Member who submitted a construction or infrastructure claim to the HCO Panel will have the construction or infrastructure claim decided by a Construction Expert supervised by the Special Master appointed by the Court.
2. Construction or infrastructure claims will only be considered by houses constructed or sold by DHHL within the Class Period (*i.e.*, August 21, 1959, to June 30, 1988).
3. Construction or infrastructure damage that occurred outside of the Class Period will not be considered.
4. A construction claim submitted by a Settlement Class Member who succeeded to a homestead after June 30, 1988, shall be considered to be a representative claim on behalf of the person who occupied the lot during the Class Period.
5. The Construction Expert may consider the following evidence to evaluate individual construction claims:
  - a. Submissions by Settlement Class Members
  - b. Expert reports
  - c. Investigative reports
  - d. Factual findings or recommendations made by the Panel or investigator
  - e. Any other relevant facts
6. If an amount of damage or expense is stated, the amount will serve as the basis of the claim unless the Construction Expert determines it to be unreasonable, in which case s/he will make a reasonable recommendation based on similar cases, average repair/damages amounts, or other basis. If no damage amount is stated, the expert will make a recommendation based on similar cases, average repair/damages amounts, or other reasonable basis.
7. The Construction Expert will make recommendations to the Special Master for the Settlement Payment based upon the information submitted. The Court will approve the final Settlement Payment.

# **Information for Relatives of Deceased Settlement Class Members**

## **To Receive a Settlement Payment, Family Members of Deceased 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/request](http://kalima-lawsuit.com/request). To request that the form be sent to you via mail or email, contact [info@kalima-lawsuit.com](mailto: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](mailto: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 <b>April 3, 2023</b> . 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](mailto: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.
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## 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.

- The 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**.