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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEONA KALIMA, DIANE BONER,
RAYNETTE NALANI AH CHONG,
special administrator of the estate of JOSEPH
CHING, deceased,

Plaintiffs,

vs.

STATE OF HAWAI'I, STATE OF HAWAI'I
DEPARTMENT OF HAWAIIAN HOME
LANDS; et al.,

Defendants.

CIVIL NO. 99-4771-12 LWC
(Class Action)

ORDER ADOPTING FIRST AMENDED
FINDINGS AND RECOMMENDATIONS OF
THE SPECIAL MASTER TO APPROVE
PROPOSED SETTLEMENT DISTRIBUTION
PLAN AND REVISED CLASS NOTICES
(FILED DECEMBER 22, 2022); REVISED
EXHIBITS 1-6 [DKT. 1580]

POST-TRIAL PROCEEDINGS JUDGE:
HON. LISA W. CATALDO

SETTLEMENT JUDGE: HON. GARY
W.B. CHANG

**ORDER ADOPTING FIRST AMENDED FINDINGS AND RECOMMENDATIONS OF THE
SPECIAL MASTER TO APPROVE PROPOSED SETTLEMENT DISTRIBUTION PLAN
AND REVISED CLASS NOTICES (FILED DECEMBER 22, 2022); REVISED EXHIBITS 1-6
[DKT. 1580]**

The Court having reviewed the *First Amended Findings And Recommendations of the Special Master to Approve Proposed Settlement Distribution Plan and Class Notices; Revised Exhibits 1-6* [Filed December 22, 2022][Dkt. 1580], along with the records and files herein, having extensive discussions with counsel for the parties and reviewing their submissions, and the Court finding good cause therefor, the Special Master's First Amended Recommendations:

1. To approve and order adoption of the Proposed Settlement Distribution Plan set forth in Revised Exhibit 1, hereto;
2. To approve the Errata Publication Notice, Errata Claim Notice, Errata Construction Claim Notice, No Claim Notice, and Settled and Opt Notice attached hereto as Revised Exhibits 2 through 6, subject to modification by the Claims Administrator (Epiq) as to form to meet any requirements imposed by publishers or the process of mailing;
3. To direct the Claims Administrator (Epiq) to update the www.kalima-lawsuit.com website to include the Publication Notice and the Proposed Settlement Distribution Plan; and
4. To authorize the Special Master, as a function and cost of Claims Administration, to retain a Construction Expert to make payment recommendations based on claims data submitted by Class Members, similar cases, average repair/damages amounts, or other reasonable basis based on available facts, including his/her experience, knowledge, and training in the field of construction remediation, as more fully set out in the Proposed Settlement Distribution Plan,

are hereby adopted by the Court and,

APPROVED AND SO ORDERED.

/s/ Lisa W. Cataldo



JUDGE OF THE ABOVE-ENTITLED COURT

***Kalima, et al. v. State of Hawai'i, et al.*, Civil No. 99-4771-12 LWC ORDER ADOPTING FIRST AMENDED FINDINGS AND RECOMMENDATIONS OF THE SPECIAL MASTER TO APPROVE PROPOSED SETTLEMENT DISTRIBUTION PLAN AND REVISED CLASS NOTICES (FILED DECEMBER 22, 2022); REVISED EXHIBITS 1-6 [DKT. 1580]**

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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEONA KALIMA, DIANE BONER,
RAYNETTE NALANI AH CHONG,
special administrator of the estate of
JOSEPH CHING, deceased, CAROLINE
BRIGHT, DONNA KUEHU, and JAMES
AKIONA, et al.,

Plaintiffs,

vs.

STATE OF HAWAI'I, STATE OF
HAWAI'I DEPARTMENT OF
HAWAIIAN HOME LANDS; et al.,

Defendants.

CIVIL NO. 99-4771-12 LWC
(Class Action)

**PROPOSED SETTLEMENT
DISTRIBUTION PLAN; EXHIBIT 1;
CERTIFICATE OF SERVICE
POST-TRIAL PROCEEDINGS JUDGE:**

HON. LISA W. CATALDO

SETTLEMENT JUDGE:

HON. GARY W.B. CHANG

PROPOSED SETTLEMENT DISTRIBUTION PLAN

Pursuant the Court's June 9, 2022 *Order Granting Plaintiffs Motion For: (1) Preliminary Approval of Class Action Settlement; (2) Certification of Settlement Class; (3) Decertification of Subclasses 1-4 and 6; (4) Appointment of Class Representatives and Appointment of Class*

Counsel; (5) Appointment of Settlement Special Master; (6) Appointment of Claims Administrator; (7) Approval of Plan of Notice and Scheduling of Fairness Hearing (the “Preliminary Approval Order”) [Dkt. 1496], Plaintiffs, through their Counsel, Carl M. Varady and Thomas R. Grande, hereby submit the Proposed Settlement Distribution Plan (the “Plan”) for determining distribution of payments to the Settlement Class Members. This Plan describes the rules to validate claims and determine settlement payments, including the rationale for selecting the rules and for rejecting other possible rules.

I. BACKGROUND.

The Hawaiian Claims Office Individual Review Panel (the “Panel”) received 4,327 claims filed by approximately 2,750 individuals by the August 31, 1995, claims filing deadline. The vast majority of these claims were filed by *pro se* claimants. All of the claims are unique and arise from highly individualized fact patterns, regardless of similarity of type. In its final report to the legislature, the Panel recounted that approximately 40% of the original claims were dismissed or planned for dismissal on various grounds, jurisdictional, substantive, and procedural. *See*, Exhibit 1 (excerpted from Hawaiian Claims Office Final Report 1997). Many of the latter dismissals were for failing to respond to mailings or attempted telephone contacts or deciding that the process was too intimidating or overwhelming. Substantive dismissals were founded on legal interpretations that were not expressly stated in HRS Chapter 674—*e.g.*, children or other estate representatives could not file on behalf of deceased Hawaiian beneficiaries.

As explained more fully below, the rules for exclusion from settlement are being construed more narrowly in this process and a majority of dismissed claims are being included in the settlement. This inclusiveness is more consistent with the remedial nature of HRS Chapter

674. As the Hawai‘i Supreme Court explained, the statute “should be ‘liberally construed to suppress the perceived evil and advance the enacted remedy’ and should not be narrowly interpreted to ‘impede rather than advance the remedies’ provided by the statute.” *Kalima v. State*, 148 Haw. 129, 142, 468 P.3d 143, 156 (2020)(*Kalima II*).

Inclusion is also based on the fact that the Waiting List and other subclasses have been decertified. The class now is the Settlement Class. The Plan is consistent with the inclusive class definition: *All persons who filed claims with the Hawaiian Home Lands Trust, Individual Claims Review Panel on or before August 31, 1995*. Settlement is not limited to waiting list claims and the settlement payments will compensate Settlement Class members for all claims.

A corollary of this approach is that extending the settlement relief to the greatest number of claimants within the limits of the settlement will reduce the amount of relief to each individual claimant.

The alternative, to employ the exclusions of the Panel not found in the statute would exclude more class members from participating in the settlement. This seems to be inconsistent with the statute’s purpose of resolving these long-standing breach of trust claims through a process that was intended to be efficient and user-friendly.

The other alternative of demanding additional proof from as long as 60 or more years ago, from a class in which 1,140 members who now are deceased, is untenable. Years would pass, more class members would die, and very little new proof would be likely. While the result might be more detailed or “accurate,” the process would be wholly unreasonable, resulting in delays and more deaths in a rapidly aging class.

Thus, Class Counsel propose a middle-way approach that accepts the proof as it is and includes claims that might have been excluded by the Panel based on non-participation or legal

interpretations that could be debated. This middle-way approach spreads the relief among the most families seeking, finally, to receive the economic benefits of “rehabilitation” promised under the Hawaiian Homes Commission Act, which Chapter 674 was supposed to remedy, but which has been denied to date. This process is proposed as the most reasonable and least unsatisfactory approach available to resolve the claims as promptly as possible

II. GENERAL PRINCIPLES.

The following general principles will be used to validate claims and measure settlement payments.

A. Participation in the Settlement Will be Inclusive.

Participation in the settlement in this case will be inclusive. The class definition of the Settlement Agreement requires that settlement payments be made to all claims that were filed with the Panel that fall within the jurisdiction of HRS Chapter 674. The Settlement Agreement requires that the 4,327 claims of approximately 2,750 Class Members be paid unless they fall within one of eight (8) specific categories of exclusion.

This approach is consistent with the intent and terms of the Settlement Agreement, which recognizes that claims were made in a *pro se* process that began 30 years ago. As the Class Members’ claims have been included within this action since December 29, 1999, except for the few who have opted out of the action, it is imperative that wherever possible, their claims be recognized and appropriately compensated.

B. Exclusions from Settlement.

There are eight exclusions in the Settlement Agreement. They exclude the following categories of Class Members from receiving compensation:

1. Individuals who did not file a claim with the 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 which 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, as described above.

These are the only *per se* exclusions applied to the settlement distribution. These are the categories that will be designated as “no claim” and receive the “no claim” notice.

C. Claim Evaluation Based on Reasonableness

As long as a claim can be fairly understood, is not unreasonable, and it is not excluded under one of the eight categories of exclusion, the claim will be included within the claims eligible to receive compensation.

The primary objective is to distribute the settlement proceeds as broadly as possible, to the most class members, rather than to establish elaborate burdens of proof or analyses that do not serve the intent of the settlement to resolve all non-excluded claims by providing compensation to the Class Members.

This approach avoids further delay that would result from requiring Class Members or

their heirs to submit additional proof decades after the original claims were submitted or create a large pool of Class Members who might seek to object to the distribution or take actions that would be detrimental to the Class as a whole. It also has the beneficial effect of reducing the number of opt outs by reducing the number of Class Members who might otherwise receive nothing in an evidentiary proceeding. Consequently, this approach preserves the intent of the parties to resolve all claims brought in this action through the Settlement. It also results in finality for the greatest number of claims, another objective of the Settlement.

D. Documents Used to Evaluate Claims.

Each claim will be evaluated based on the claims stated in the Hawaiian Claims Office claim forms, supplemented by individual documentation, the investigators' notes, reports, hearings officers' and/or Panel fact findings as well as Department of Hawaiian Homelands files and data compilations. These historical documents are accepted in support of whatever claims are being presented.

E. Claims Eligible for Payment.

There are two categories of claims that will be compensated by different methods. First, waiting list and all other claims that result in delays of homestead awards will be measured by Fair Market Rental Value ("FMRV") as adopted by the Hawai'i Supreme Court Hawai'i Supreme Court in *Kalima II*. Construction and infrastructure claims, which cannot be expressed as delay-in-award claims, will be measured by the cost of repair or cost of remediation as recommended by a Construction Expert to be appointed by the Special Master.

III. SPECIFIC PRINCIPLES.

The Specific Principles to determine settlement payment are based upon HRS Chapter 674, *Kalima II*, prior court rulings, the Hawaiian Homes Commission Act and its regulations,

and the Settlement Agreement.

A. Hawai'i Supreme Court Rulings on Value of Delay.

As explained below, the Hawai'i Supreme Court adopted Fair Market Rental Value as the appropriate measure of payment for delay in receiving a homestead.

B. Rulings of the Hawaiian Claims Office Individual Claims Review Panel Do Not Control.

The Settlement Agreement does not exclude numerous claims that were rejected by the Panel. These include the Panel's rulings on the standing of family members claims by or on behalf of others, age at time of application, and Native Hawaiian Qualification are rejected as inconsistent with the definition of the Settlement Class and the terms of the Settlement Agreement. While the Panel's fact findings and investigations are an important source of information to assess the factual bases for these now-30-year-old claims, the Panel's legal rulings and damages methodology are neither binding nor relevant for purposes of settlement.

1. Disqualification of Representative Claims.

The Panel ruled that relatives could not bring claims on behalf of elderly or deceased persons. A substantial number of such claims were made and summarily dismissed based on a legal conclusion that the Class Members lacked "standing" to bring a claim on someone else's behalf. The Panel process was intended to remedy long-standing breaches of trust going back to the date of statehood. It created what was supposed to be a simple *pro se* process to assess alleged breaches of trust by DHHL and make recommendations for economic resolution of these claims, which at the time of passage, could be as much as three-decades old at the time the HRS Chapter 674 administrative process began. Class Members' representative claims will be recognized in the settlement process, as barring such claims would be inconsistent with the

remedial purpose of the statute and the waiver of sovereign immunity to allow relief for decades-old claims.

Relief will be calculated based on the perceived losses of the person for whom the claims are made, not the Class Member who brought the claim. If both the represented person and the Class Member have claims, both will be recognized and compensated. This approach best serves the remedial purpose of the statute recognized in *Kalima I* and reaffirmed in *Kalima II*. It also preserves the intent to resolve all claims made and results in finality for the greatest number of claims. Excluding representative claims would result in a substantial number of rejected claims that could result in collateral litigation inconsistent with the intent of the Settlement.

2. Disqualification of Underage Applicants.

The Panel disqualified applicants who were not of age (21 before July 1, 1985; 18 afterward) at the time of application. Thus, the Panel rejected a number of otherwise qualified Native Hawaiians claims. For settlement purposes, applications from under-age applicants are treated as provisional deemed submitted on the date of the applicants' birthdays. The concept of provisional application is consistent, by analogy, with DHHL's position is that it can evaluate Native Hawaiian Blood Quantum. There are a small number of class members who applied, often at the direction of their close relatives, before they were of age, believing their applications were effective, only to find out later they were not. Treating their claims as if they applied on the birthdate when they became qualified by age, rather than dismissing them as "no claim" is consistent with the intent of the Settlement. The alternative would be to deem them all "no claim" and risk collateral litigation inconsistent with the Settlement.

3. Native Hawaiian Qualifications.

Under the Hawaiian Homes Commission Act, a qualified applicant must have 50% Hawaiian blood quantum (“NHQ”). While DHHL’s policies state that an applicant’s blood quantum is presumed established if not challenged within 30 days of application, DHHL takes the position that NHQ can be challenged at any time, even after a lease is awarded. DHHL’s process for accepting and processing applications to determine blood quantum has been inconsistent over time and from island to island, leading to ad hoc determinations of when NHQ documentation is required and when NHQ is determined. The Panel required Class Members to prove their NHQ and that they were wrongly denied application.

Class Members report having been denied application in the first instance or having their application provisionally accepted while their NHQ is challenged for a period of years.

However, DHHL permits NHQ to be confirmed any time before a lease is signed. Three basic scenarios are reported:

- a. A Class Member reports learning about NHQ from DHHL, is frustrated or discouraged or disagrees and does not attempt to apply physically or by mail.
- b. A Class Member reports making a physical attempt to apply in person or through mail and the application is rejected because the person does not look Hawaiian, does not have a Hawaiian name, is given inaccurate information about NHQ requirements, or is unable to prove NHQ at that time. The application is rejected or refused.
- c. A Class Member makes a physical attempt to apply in person. The HCO claim form says s/he was told s/he does not look Hawaiian, does not have a Hawaiian name, is given inaccurate information about NHQ requirements, or is unable to

prove NHQ at that time. But the HCO claim form and file say nothing about attempt to submit or apply.

The narrative descriptions in the HCO claim forms and investigator's notes and reports are widely varied. Some describe time, place, persons, and manner involved in applications. Others written by less articulate Class Members are lacking in such detail. There is a need for a clear standard to evaluate whether these claims will be compensable. Because the circumstances are extremely varied and span a 30-year period, during which original records were lost in a fire at DHHL, there are limited meaningful options.

Any person who contacted DHHL by mail, or physically went to one of its offices, and who was not already an applicant, is reasonably presumed to have done so for the purpose of applying. If their application was denied because they could not prove their blood quantum at the time of application, they are presumed to have applied as of that date. This approach is consistent with DHHL's position that it can confirm NHQ at any time and that an applicant's NHQ only be established by the time a lease is offered.

Other approaches were considered: (1) assigning "no claim" to anyone who could not prove NHQ at the time of application; (2) requiring proof of NHQ by the Panel; or (3) granting a claim only if DHHL confirmed NHQ after application. All of them fail to include scenarios in which poor beneficiaries, without access to family records or genealogists, were turned away and discouraged from applying further. Nor do they account for the fact that DHHL provided no assistance with genealogy, even though it employed genealogists to verify NHQ when documents were submitted.

Because this is a settlement, not an evidentiary proceeding, the two-criteria physical attempt to apply plus denial of application are a reasonable method of resolving these claims in a

manner consistent with the intent of the Settlement and purpose of HRS Chapter 674.

C. Rules for Claims.

The rules for those Class Members who have claims for delay in homestead awards are determined by the time interval of delay in award and by the type of application, as follows:

Starting Date (Date of Loss)

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 class member, in the case of a lost or denied application, 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, etc.
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 claims period.) For Class Members who apply or attempt to apply before they are of age, their claims will

begin the date 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 another person's application is the date of succession to the application. In the event that the predecessor had a claim, such as a waiting list claim, the died and her/his application was succeeded to by the successor, the first interval of waiting belongs to the estate of the deceased class member; the second interval belongs to the successor.

Rules for Type of Applications

Each type of claim will be calculated according to the matrix of Fair Market Rental Values for that type of leasehold applied for—*i.e.*, residential, agricultural, or pastoral.

1. A 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. DHHL regulations prohibit holding both an agricultural and pastoral lease. In the case of an applicant with both agricultural and pastoral applications, the earliest of the applications will be used as the measure of damages and the later excluded from receiving compensation. As a beneficiary can only hold either an agricultural or pastoral lease, not both, only one claim will be compensated. If agricultural and pastoral applications are made on the same date, the claim will be treated as one for agricultural land. Agricultural land was much more available and an award more probable. Once awarded, the agricultural lease would result in the cancellation of the pastoral application.

2. A Class Member's claim shall be measured by the type of application submitted, not the type of application awarded.

Rules for Determining Ending Dates for Claims

The end dates for claims shall be determined as follows:

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 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 Class Member's date of award for an accelerated or undivided interest award that is transferred by the Class Member before the date of occupancy or subdivision approval is the date of that transfer.

D. Construction Claims.

There are approximately 104 claims for construction or infrastructure defects in homes built or developed by DHHL. These claims are unique, though sometimes related, and cannot be evaluated using the Fair Market Rental Value damages for delay model.

Numerous methods have been considered for evaluating them, including: (1) average stated losses for all, including those who did not provide any cost/estimate for repair; (2) denying as "no claim" those who did not state a value for cost/estimate for repair; (3) calculating a ratio of value between Fair Market Rental Value for a developed lot and the improvements, using current sales data and applying that to the time period of ownership prior to repair. None of these are satisfactory because all of them are more arbitrary than using the model proposed.

To resolve these claims fairly without further delay that would result from an evidentiary proceeding of some kind—a task likely to be very difficult given that age of the living Class Members and the number who are deceased—the following strategy will be used.

The Special Master will retain a Construction Expert to review and decide construction defect cases. The Construction Expert will review the HCO claim files, DHHL files and any findings to determine the bases of the claims. If DHHL’s actions regarding construction or infrastructure during the class period was a substantial factor in some loss, cost or repair or remediation, compensation will be awarded.

Construction Claim Rules

These are the rules to be employed by the Construction Expert:

1. 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 and the fact that forty percent of the original class members are deceased, typical evidentiary analysis based on a preponderance of evidence is not possible. The Construction Expert will make recommendations based on the description of the claim on a “some evidence” basis analogous to the analysis that applied under Haw. R. Civ. Pro. 59.

2. Specific Rules:

- a. If an amount of damage or expense is requested in an HCO Claim form or a Fact Finding made by the Panel or Hearings Officer, that amount will serve as the basis of the claim unless the Expert determines it to be unreasonable.
- b. If the Claims Expert concludes that an amount stated in an HCO Claim form or a Fact Finding made by the Panel or Hearings Office is unreasonable based on similar cases, average repair/damages amounts, or other available facts, including

his/her experience, knowledge, and training in the field of construction remediation, the Claims Expert will make a reasonable recommendation.

- c. If no damage or expense amount is stated or requested or if there is no factual finding, the expert will make a reasonable recommendation based on similar cases, average repair/damages amounts, or other reasonable basis based on available facts, including his/her experience, knowledge, and training in the field of construction remediation.
- d. The Expert will make a payment recommendation based upon the cost of repair presented or determined at the time the claim was submitted. Costs of remediation will be based on the cost of repair presented or determined at the time the claim was submitted, not current dollars.
- e. The Construction Expert will not make factual findings, but will include a summary description of the claim and an explanation of the basis for his payment decision.
- f. These recommendations are subject to review by the Special Master and the Court's final approval.
- g. Because class members will have the right to submit additional factual support for their claim, there is no appeal right of the amount of the payment. This is consistent with the process used to decide Waiting List claims. Class members dissatisfied with their award may file objections with the Court, prior to the final approval hearing.

IV. CONCLUSION.

This Plan for distributing settlement payments to Settlement Class Members is consistent with the Settlement Class Definition: *All persons who filed claims with the Hawaiian Home Lands Trust, Individual Claims Review Panel on or before August 31, 1995.* It is as inclusive as possible, while maintaining the exclusions of the Settlement Agreement. Class Counsel respectfully request the Court to approve this Proposed Settlement Distribution Plan.

DATED: Honolulu, Hawai'i, December 1, 2022.

/s/ Carl M. Varady

CARL M. VARADY
THOMAS R. GRANDE

CLASS COUNSEL

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing documents were served through the Court's JEFS system on the date indicated below on all parties who have consented to receive service by electronic means.

DATED: Honolulu, Hawai'i, December 1, 2022.

/s/ Carl M. Varady

CARL M. VARADY
THOMAS R. GRANDE

CLASS COUNSEL

KALIMA CLASS ACTION SETTLEMENT – SECOND NOTICE

IF YOU FILED A CLAIM WITH THE HAWAIIAN HOME LANDS TRUST INDIVIDUAL CLAIMS REVIEW PANEL ON OR BEFORE AUGUST 31, 1995, YOU MAY BE ENTITLED TO A SETTLEMENT PAYMENT AS A CLASS MEMBER IN *KALIMA v. STATE OF HAWAI'I, DEPARTMENT OF HAWAIIAN HOMELANDS, et al.* Civil No. 99-4771-12-LWC

On June 6, 2022, First Circuit Court Judge Lisa W. Cataldo preliminarily approved a settlement of this case. The class members for this settlement are:

“All persons who filed claims with the Hawaiian Home Lands Trust Individual Claims Review Panel on or before August 31, 1995.”

In July 2022, class members were mailed information about their legal rights and options. You will be receiving a second notice after January 15, 2023 to give you important information about your claim and whether it is part of the settlement.

If your claim is part of the settlement, your second notice will include Start and End dates for your settlement payment. These dates are based on currently known data. They are subject to change before the final calculations are made if more accurate data becomes known. You will receive your final dates and estimated settlement payment in a third notice, which is expected to be sent after June 1, 2023. **Please review this mailing carefully. Requested corrections must be submitted by March 17, 2023, using the Claim Correction form included with the second notice or found at www.Kalima-Lawsuit.com.**

If you are a class member who did not receive a mailed notice in July 2022, please provide current contact information by the methods described below. If you are a relative of a deceased class member, please designate a person to receive information for your family by the methods described below.

Court's Revised Case 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 16, 2023**.
- The deadline to opt out of the lawsuit is **March 17, 2023**.
- The third notice containing your estimated settlement payment will be mailed on **June 1, 2023**.
- The deadline for final approval of the Settlement is **July 21, 2023**

You may update your contact information or designate a representative for a deceased class member in any of the following three ways:

- Update your information at www.Kalima-Lawsuit.com/request; or
- Download and return the Information Request Form from www.Kalima-Lawsuit.com/important-documents; or
- Request and return an Information Request Form by calling 808-650-5551 or 1-833-639-1308 or e-mailing info@kalima-lawsuit.com

QUESTIONS? Please call **808-650-5551** or **1-833-639-1308**, or visit **www.Kalima-Lawsuit.com** for more information or to update your contact information.

Inā makemake 'oe i kēia 'ōlelo hō'ike ma ka 'ōlelo Hawai'i, e kelepona mai, 808-650-5551 ai'ole 1-833-639-1308.

THIS IS AN OFFICIAL NOTIFICATION OF THE FIRST CIRCUIT COURT – PLEASE DO NOT CONTACT THE COURT

REVISED EXHIBIT 2 to Speical Master's First Amened Findings and Recommendations

Kalima v. State of Hawai'i Settlement
PO 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 HAWAII 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>
Residential	XX/XX/XXXX	XX/XX/XXXX
Agricultural / Pastoral	XX/XX/XXXX	XX/XX/XXXX

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 1, 2023. **PLEASE SEE THE LAST PAGE OF THIS NOTICE FOR THE COURT'S REVISED CASE SCHEDULE**

Important Definitions

- "Type of Homestead" is the type you applied for or attempted to apply for, or 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 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 PO Box 135035, Honolulu, HI 96801. Your corrections must be postmarked by **March 17, 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 NOTICE.

You will receive a notice after June 1, 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 Final Approval Hearing for July 21, 2023. Settlement payments will be distributed starting thirty days after the Final Approval Hearing, unless any class member appeals or the Court orders other delays.

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

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this notice. 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 1-833-639-1308 or via e-mail: info@kalima-lawsuit.com.

REVISED EXHIBIT 3 to Speical Master's First Amened Findings and Recommendations

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 Class Members Who are Not Entitled to a Settlement Payment

Under the Settlement Agreement approved by the Court the following 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 which 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)

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 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, etc.
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 claims period). For Class Members who apply or attempt to apply before they are 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 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 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 Class Member's claim shall be measured by the type of application submitted, not the type of application awarded.

Rules for Determining Ending Dates 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 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 Class Member's date of award for an accelerated or undivided interest award that is transferred by the Class Member before the date of occupancy or subdivision approval is the date of that transfer.

Information for Relatives of Deceased 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 that can be downloaded or filled in by visiting <https://www.kalima-lawsuit.com>. To request that the form be sent to you via mail or e-mail contact info@kalima-lawsuit.com or call 1-808-650-5551 OR 1-833-639-1308.

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

If the 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 class member's will or trust. If the deceased 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 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 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.

Requirements for 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 among confirmed heirs. The attorneys' fees and costs of this work would be deducted from your settlement. Because there are more than 1,100 deceased 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 March 17, 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 to P.O. Box 135035, Honolulu, Hawai'i 96801, postmarked on or before **March 17, 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, a statement that you wish to be excluded, and your signature. So-called "mass" or "class" exclusion requests are not permitted.

If you wish to exclude the claims of a deceased 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 notice. 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 1-833-639-1308 or e-mail 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 16, 2023**.
- The deadline to opt out of the lawsuit is **March 17, 2023**.
- The third notice containing your estimated settlement payment will be mailed on **June 1, 2023**.
- The deadline for final approval of the Settlement is **July 21, 2023**

CLAIM CORRECTION FORM

SUBMIT THIS FORM ONLY IF YOU DISAGREE WITH DATES ON THE FIRST PAGE OF THIS NOTICE.

CLASS MEMBER INFORMATION:

First Name: _____ MI: __ Last Name: _____

Date of Birth _____ Last 4 of Social Security Number _____

DECEASED CLASS MEMBER'S FAMILY REPRESENTATIVE INFORMATION (If applicable):

Name: _____

Address: _____

City: _____ State _____ Zip Code _____

Telephone: _____ Email: _____

Relationship to Class Member _____

PLEASE SUBMIT CORRECTED INFORMATION ONLY:

<u>Type of Homestead Application</u>	<u>Start Date</u>	<u>End Date</u>
Residential	_____	_____
Agricultural / Pastoral	_____	_____

Additional Claimant Listed on Claim Form:

PLEASE SUBMIT ANY DOCUMENTS YOU HAVE TO SUPPORT YOUR POSITION BY MAIL. DO NOT SEND DOCUMENTS YOU ALREADY HAVE SUBMITTED TO THE HAWAIIAN CLAIMS OFFICE OR TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.

By my signature below, I affirm on penalty of law that the foregoing statements are true based on my own personal knowledge:

Dated: _____, 2023.

Signature: _____

Print name: _____

To request corrections, you must submit this form by mail to Kalima Claims Administrator, PO Box 135035, Honolulu, HI 96801 OR via e-mail to info@kalima-lawsuit.com. You may download a copy of the correction form by going to kalima-lawsuit.com. **Your corrections must be postmarked by March 17, 2023 to be accepted. YOU ARE NOT PERMITTED TO SUBMIT NEW CLAIMS. THE CLAIMS DEADLINE CLOSED AUGUST 30, 1995. YOU MAY ONLY MAKE CORRECTIONS TO THE CLAIM TYPE, CLAIM START DATE, AND CLAIM END DATES.**

Kalima v. State of Hawai'i Settlement
PO 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 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 notice 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 notice.**

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 3 of this Notice, 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, i.e., 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 form found on page 2. **This form must be postmarked by March 17, 2023 to be accepted. You cannot submit new claims.**

Please see the last page of this notice 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 upon the information 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 Class Members Find Out if They Are Entitled to a Construction Claim Payment and the Amount?

Class members will receive a notice after June 1, 2023 informing them of the amount of their settlement payment, if any, based upon the information Class Members provided to the Hawaiian Claims Office. The Court has scheduled the Final Approval Hearing for July 21, 2023.

Information for relatives of deceased Class Members who submitted construction claims is found on page 4.

If you wish to opt out of this settlement or intervene in the case if you do not opt out, see page 5.

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this notice. They will not be able to give you advice about this case. If you have questions, please call (808) 650-5551 OR 1-833-639-1308 or email info@kalima-lawsuit.com.

REVISED EXHIBIT 4 to Speical Master's First Amened Findings and Recommendations

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 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 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 (the "Class Period").
3. Construction or infrastructure damage that occurred outside of the Class Period will not be considered.
4. A construction claim submitted by a 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 claims period.
5. The Construction Expert may consider the following evidence to evaluate individual construction claims:
 - a. Submissions by 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 you submitted. The Court will approve the final settlement payment.

Information for Relatives of Deceased 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 that can be downloaded or filled in by visiting <https://www.kalima-lawsuit.com>. To request that the form be sent to you via mail or e-mail contact info@kalima-lawsuit.com or call 1-808-650-5551 OR 1-833-639-1308.

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

If the 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 class member's will or trust. If the deceased 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 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 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.

Requirements for 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 among confirmed heirs. The attorneys' fees and costs of this work would be deducted from your settlement. Because there are more than 1,100 deceased 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 March 17, 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 to P.O. Box 135035, Honolulu, Hawai'i 96801, postmarked on or before **March 17, 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, a statement that you wish to be excluded, and your signature. So-called "mass" or "class" exclusion requests are not permitted.

If you wish to exclude the claims of a deceased 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 notice. 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 1-833-639-1308 or e-mail 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 16, 2023**.
- The deadline to opt out of the lawsuit is **March 17, 2023**.
- The third notice containing your estimated settlement payment will be mailed on **June 1, 2023**.
- The deadline for final approval of the Settlement is **July 21, 2023**

CONSTRUCTION CLAIM ADDITIONAL INFORMATION FORM

CLASS MEMBER INFORMATION:

First Name: _____ MI: __ Last Name: _____

Date of Birth _____ Last 4 of Social Security Number _____

DECEASED CLASS MEMBER'S FAMILY REPRESENTATIVE INFORMATION (if applicable):

Name: _____

Address: _____

City: _____ State _____ Zip Code _____

Telephone: _____ Email: _____

Relationship to Class Member _____

YOUR CONSTRUCTION CLAIM WILL BE BASED UPON YOUR SUBMISSION TO THE HAWAIIAN CLAIMS OFFICE AND THE HAWAIIAN CLAIMS OFFICE INVESTIGATIVE FILE.

Brief Description of Problem _____

Dates of Damage _____

Was it repaired ? Yes _____ No _____

Cost of Repair/Estimated Repair Cost at time the Repair was First Needed \$ _____

PLEASE SUBMIT ANY DOCUMENTS YOU HAVE TO SUPPORT YOUR POSITION BY MAIL. DO NOT SEND DOCUMENTS YOU ALREADY HAVE SUBMITTED TO THE HAWAIIAN CLAIMS OFFICE OR TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.

By my signature below, I affirm on penalty of law that the foregoing statements are true based on my own personal knowledge:

Dated: _____, 2023.

Signature: _____

Print name: _____

To submit additional information about a construction or infrastructure claim, you must submit this form to Kalima Claims Administrator, PO Box 135035, Honolulu, HI 96801 OR via e-mail to info@kalima-lawsuit.com. You may download a copy of the correction form by going to kalima-lawsuit.com. **You must submit this information by March 17, 2023. CONSTRUCTION DEFECTS OR INFRASTRUCTURE DEFECTS MUST HAVE OCCURRED PRIOR TO JUNE 30, 1988. YOU MAY NOT ASSERT A NEW CLAIM FOR CONSTRUCTION.**

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

NOTICE OF NO ENTITLEMENT TO PAYMENT 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 NOT ENTITLED TO A
PAYMENT FROM THE KALIMA v. STATE OF HAWAI'I CLASS ACTION SETTLEMENT
FOR THE FOLLOWING REASON:**

___ You did not file a claim with the Panel on or before August 31, 1995.

___ You filed a timely claim with the Panel but the claim did not assert an individual breach of trust which occurred between August 21, 1959, and June 30, 1988.

___ You filed a timely claim with the Panel but the claim asserted an individual breach of trust that occurred after June 30, 1988.

___ You filed a timely claim with the Panel but the claim was not a valid HRS Chapter 674 claim.

You have a right to object to the determination that you are not entitled to a payment by submitting your objection in writing with any supporting documentation **postmarked by March 17, 2023** to:

Claims Administrator
Kalima v. State of Hawai'i Settlement
PO Box 135035
Honolulu, HI 96801

Please provide copies of any documents or other evidence that you believe should be considered in support of your position.

If you wish to opt out of this settlement, please follow the instructions on the reverse side of this notice.

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this notice. They will not be able to give you advice about this case. If you have questions, please call (808) 650-5551 OR 1-833-639-1308 or email info@kalima-lawsuit.com.

REVISED EXHIBIT 5 to Speical Master's First Amened Findings and Recommendations

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 March 17, 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 Claims Administrator at P.O. Box 135035, Honolulu, Hawai'i 96801, postmarked by **March 17, 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, a statement that you wish to be excluded, and your signature. So-called "mass" or "class" exclusion requests are not permitted.

If you wish to exclude the claims of a deceased class member, you must obtain probate court approval appointing you as the personal representative of the estate.

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 a lawyer about filing your claim.

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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Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this notice. They will not be able to give you advice about this case. If you have questions, please call (808) 650-5551 OR 1-833-639-1308 or email info@kalima-lawsuit.com.

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

NOTICE OF NO ENTITLEMENT TO PAYMENT 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 NOT ENTITLED TO A PAYMENT FROM THE KALIMA v. STATE OF HAWAI'I CLASS ACTION SETTLEMENT FOR THE FOLLOWING REASON:

___ You filed a timely claim(s) with the Panel but settled your claim(s).

___ You opted out of the lawsuit in response to the 2007 or 2012 class notice. A copy of your settlement agreement or notice that you chose to opt out is enclosed.

You have a right to object to the determination that you are not entitled to a payment by submitting your objection in writing postmarked **by March 17, 2023** to:

Claims Administrator
Kalima v. State of
Hawai'i Settlement
PO Box 135035
Honolulu, HI 96801

Please provide copies of any documents or other evidence that you believe should be considered in support of your position.

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this notice. They will not be able to give you advice about this case. If you have questions, please call (808) 650-5551 OR 1-833-639- 1308 or email info@kalima-lawsuit.com.