

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI‘I

|                                    |   |                               |
|------------------------------------|---|-------------------------------|
| BEVERLY BLAKE, STEPHANIE           | ) | CIVIL NO. 08-00281 LEK        |
| CAMILLERI, ARLENE SUPAPO,          | ) |                               |
| individually, and on behalf of all | ) | (Contract)(Declaratory        |
| persons similarly situated,        | ) | Judgment)(Other Civil Action) |
|                                    | ) | Class Action                  |
| Plaintiffs,                        | ) |                               |

vs.

|   |                                |
|---|--------------------------------|
| ) | <b>NOTICE OF SETTLEMENT OF</b> |
| ) | <b>CLASS ACTION</b>            |

|                                |   |
|--------------------------------|---|
| CRAIG NISHIMURA, in his        | ) |
| official capacity as Acting    | ) |
| Director of the Department of  | ) |
| Facility Maintenance, City and | ) |
| County of Honolulu; CITY AND   | ) |
| COUNTY OF HONOLULU, a          | ) |
| municipal corporation,         | ) |
|                                | ) |
| Defendants.                    | ) |

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**NOTICE OF SETTLEMENT OF CLASS ACTION**

**TO ALL PERSONS RECEIVING THIS NOTICE WHO ARE OR WERE TENANTS OF WESTLAKE APARTMENTS.**

## **I. WHY YOU SHOULD READ THIS NOTICE**

Your rights and the rights of others may be affected by the proposed settlement of the class action lawsuit known as *Blake v. Nishimura*, Civil Number 08-00281 LEK in the United States District Court for the District of Hawai'i (referred to in this notice as the "Class Action"). This Notice is being provided by mail, hand delivery, and/or publication to all known Class members.

## **II. THE CLASS**

The Court has certified a group, or "class," of plaintiffs in this Class Action. The Class is defined as:

All persons who are, were, or will be head of household tenants at Westlake Apartments entitled to receive utility allowances from the City and County of Honolulu as part of their section 8 subsidy at any time during which Defendants failed or fails to provide properly-calculated utility allowances for Westlake Apartments.

## **III. THE LITIGATION**

This Class Action involves claims for reimbursements of excess rents paid by tenants of Westlake Apartments who receive utility allowances for utility consumption. Plaintiffs Beverly Blake, Stephanie Camilleri, and Arlene Supapo allege that the City and County of Honolulu ("City and County") has failed to adjust utility allowances as required by law and has therefore charged excessive rents to tenants of Westlake Apartments. The Plaintiffs seek recovery of the overpayments and additional relief as allowable by law. The City and County denies these allegations and the Court has not ruled on the merits of the Plaintiffs' claims.

#### IV. THE PROPOSED SETTLEMENT

The class representatives, the City and County, and Third-Party Defendant Hawaiian Management, Inc. have agreed to a proposed settlement of this Class Action. The settlement has been preliminarily approved by the Court but final approval is still pending, as set forth below.

The terms of the settlement are as follows:

- Each class member shall be entitled to a payment of up to \$500, depending on: (1) the number of months that the class member has resided at Westlake Apartments from January 1, 2004 through September 2008; and (2) of those months, the number of months in which the class member was entitled to receive a utility allowance (“Qualified Occupancy”) as follows:

|                                |  |
|--------------------------------|--|
| January through September 2008 | \$ 15.555 per month of Qualified Occupancy |
| January through December 2007  | \$ 15.00 per month of Qualified Occupancy  |
| January through December 2006  | \$ 10.00 per month of Qualified Occupancy  |
| January through December 2005  | \$ 5.00 per month of Qualified Occupancy   |

- In addition to the payment they are entitled to receive as class members, the three class representatives shall receive compensation for their service as class representatives in addition to the

payment they are entitled to receive as class members an amount to be approved by the Court.

- The attorneys for the class, Alston Hunt Floyd & Ing and Lawyers for Equal Justice, shall receive an award of their reasonable attorneys' fees and costs in an amount to be determined by the Court. The award of attorneys' fees and costs shall be in addition to, and shall not reduce, the amount due to the members of the class as set forth above.
- All class members shall release any and all claims relating to the City and County's (and third-party Defendant Hawaiian Properties, Inc.) alleged failure to properly calculate utility allowances through the effective date of the settlement.

#### **V. COURT APPROVAL OF THE SETTLEMENT**

If the Court gives final approval of the settlement, the Court will enter a judgment dismissing with prejudice the claims asserted by the Class against the City and County and forever discharging and releasing the City and County (and third-party Defendant Hawaiian Properties, Inc.) from all claims relating to City and County's alleged failure to properly calculate utility allowances through the effective date of the settlement, except the claims of those class members who have opted out of this class action.

The Court will conduct a hearing on this settlement on March 19, 2010 at 9:30 am, in the courtroom of the Honorable Leslie Kobayashi at 300 Ala Moana Blvd., Honolulu Hawai'i ("Fairness Hearing"). The purpose of the Fairness Hearing is for the Court to determine whether this settlement is fair, reasonable, and adequate.

## **VI. YOUR RIGHTS AS A CLASS MEMBER**

If you do nothing and have not opted out of this Class Action, you will remain a member of the Class and will be bound by the settlement and judgment in this Class Action. If you are a member of the Class and have not opted out of this Class Action, you will receive a payment from the City and County or someone acting on its behalf if you are qualified for such payment as set forth above in Part IV.

You may, but are not required to, enter an appearance in this Class Action and/or at the Fairness Hearing through counsel of your choice and at your own expense. If you do not have an attorney appear for you, your interests will be represented by the counsel appointed by the Court to represent the class: Alston Hunt Floyd & Ing and Lawyers for Equal Justice. You may also appear personally without counsel at the Fairness Hearing to state your position as to whether the settlement should or should not be approved. Finally, you or your counsel may file a written objection with the Court pursuant to the rules and procedures of the United States District Court for the District of Hawai`i prior to the Fairness Hearing. If you do not object to the settlement at or before the Fairness Hearing, you shall be deemed to have waived any and all objections to the settlement.

## **VII. ADDITIONAL INFORMATION**

This notice provides only a summary of the Class Action and settlement. The Complaint, Settlement and Release Agreement, Motion for Preliminary Approval of Settlement of Class Action, and other relevant documents are available at [www.hawaiiclassaction.com](http://www.hawaiiclassaction.com) and [www.lejhawaii.org](http://www.lejhawaii.org).

You may also contact class counsel at the following address and phone number:

Jason H. Kim, Alston Hunt Floyd & Ing  
1001 Bishop Street  
Honolulu, HI 96813  
(808)441-6119

**Please do not call the Court or any court personnel  
with any questions or concerns.**

DATED: Honolulu, Hawai'i, February 4,  
2010.



/S/ Leslie E. Kobayashi  
Leslie E. Kobayashi  
United States Magistrate Judge

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*Blake v. Nishimura*, Civil No. 08 00281 LEK (D. Hawai'i); **NOTICE  
OF PROPOSED SETTLEMENT OF CLASS ACTION**