

VICTOR GEMINIANI 4354  
WILLIAM H. DURHAM 8145  
GAVIN K. THORNTON 7922  
LAWYERS FOR EQUAL JUSTICE  
P.O. Box 37952  
Honolulu, Hawaii 96837  
Telephone: (808) 779-1744  
Email: [victor@lejhawaii.org](mailto:victor@lejhawaii.org)  
[william@lejhawaii.org](mailto:william@lejhawaii.org)  
[gavin@lejhawaii.org](mailto:gavin@lejhawaii.org)

PAUL ALSTON 1126  
JASON H. KIM 7128  
ALSTON HUNT FLOYD & ING  
American Savings Bank Tower  
1001 Bishop Street, 18th Floor  
Honolulu, Hawaii 96813  
Telephone: (808) 524-1800  
Fax: (808) 524-4591  
Email: [palston@ahfi.com](mailto:palston@ahfi.com)  
[jkim@ahfi.com](mailto:jkim@ahfi.com)

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

BEVERLY BLAKE, STEPHANIE	)	CIVIL NO. CV08 00281 SPK
CAMILLERI, ARLENE SUPAPO,	)	LEK
individually, and on behalf of all	)	
persons similarly situated,	)	(Contract) (Declaratory
	)	Judgment) (Other Civil Action)
Plaintiffs,	)	Class Action
	)	
vs.	)	<b>STIPULATED ORDER RE:</b>
	)	<b>CLASS NOTICE</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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**STIPULATED ORDER REGARDING CLASS NOTICE**

IT IS HEREBY STIPULATED by and between Plaintiffs BEVERLY BLAKE, STEPHANIE CAMILLERI, ARLENE SUPAPO and on behalf of all persons similarly situated (“Plaintiffs”) and Defendants CRAIG NISHIMURA, in his official capacity as Acting Director of the Department of Facility Maintenance, City and County of Honolulu and CITY AND COUNTY OF HONOLULU (“Defendants”) (collectively “Parties”) that the following procedures

shall be used to provide notice pursuant to Fed. R. Civ. Proc. Rule 23(c)(2)(B) to the members of the class certified in this action.

WHEREAS, this Court by Order dated October 30, 2008 certified a class pursuant to Fed. R. Civ. Proc. Rules 23(b)(2) and 23(b)(3) defined as the following:

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.

WHEREAS, to the extent the class certification relied in part on Fed. R. Civ. Proc. Rule 23(b)(3), Rule 23(c)(2)(B) requires that class members receive “the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.”

WHEREAS, the Parties have met and conferred regarding how to provide the best notice practicable under the circumstances.

NOW THEREFORE, the Parties stipulate as follows:

1. By February 6, 2009, Defendants shall allow representatives of Plaintiffs’ counsel reasonable access to the

common areas of Westlake Apartments at a mutually-agreed date and time for the purpose of delivering a copy of the Class Notice attached as Exhibit "A" to class members who are current tenants of Westlake Apartments by placing a copy under the front door of each apartment.

2. By February 6, 2009, Defendants shall cause three (3) copies of the Class Notice to be prominently posted in elevators or other common areas typically used by Defendants or their management company for posting notices for tenants of Westlake Apartments and shall leave the Class Notice posted until the expiration of the opt-out period specified in the Class Notice.

3. By February 13, 2009, Defendants shall, using data from the accounting system maintained by the manager of Westlake Apartments, provide to counsel for Plaintiffs a list of the names of all head-of-household tenants at Westlake Apartments who terminated their residency from January 1, 2000 through January 31, 2009.

4. Plaintiffs' counsel will attempt to ascertain from publicly-available sources the last known mailing address of each head-of-household tenant who terminated their residency at

Westlake Apartments from January 1, 2000 through January 31, 2009 as identified by Defendants and, by February 27, 2009, mail the Class Notice via first class mail to those individuals at their last known mailing address (if any).

5. By February 27, 2009, Plaintiffs' counsel will cause the Class Notice to be published in the legal notices section of the Honolulu Advertiser on three (3) consecutive days, including a Sunday.

6. Plaintiffs will advance all costs of copying, distributing, and publishing the Class Notice. Such costs will be reimbursable to Plaintiffs pursuant to applicable law and court rules regarding recovery of attorneys' fees and costs.

DATED: Honolulu, Hawai`i, January 23, 2009.

/s/ Jason H. Kim  
PAUL ALSTON  
JASON H. KIM  
VICTOR GEMINIANI  
WILLIAM H. DURHAM  
GAVIN K. THORNTON  
Attorneys for Plaintiffs

/s/ D. Scott Dodd  
D. SCOTT DODD  
Attorney for Defendants

APPROVED AND SO ORDERED:



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

*Beverly Blake, et al. v. Craig Nishimura, et al.*, Civil No. CV08 00281 SPK LEK;  
**Stipulated Order re: Class Notice**



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

Your rights and the rights of others may be affected by the class action lawsuit known as BLAKE, CAMILLERI, and SUPAPO, individually and on behalf of all persons similarly situated v. NISHIMURA, in his official capacity as Acting Director of the Department of Facility Maintenance, and the CITY AND COUNTY OF HONOLULU, a municipal corporation, Civil Number 08-00281 SPK LEK in the United States District Court for the District of Hawai'i (referred to in this notice as the "Class Action"). Notice of this Class Action is being provided by personal delivery or mail to all known Class members whose last known mailing addresses have been ascertained through reasonable efforts.

## **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.

Because you are receiving this notice, you may be a member of the Class.

## **III. THE LITIGATION**



This Class Action involves claims for reimbursements of excess rents paid by public housing tenants who receive utility allowances for utility consumption.

Plaintiffs BEVERLY BLAKE, STEPHANIE CAMILLERI, and ARLENE SUPAPO, allege that the City and County of Honolulu has failed to adjust utility allowances as required by law and therefore charged excessive rents to tenants of Westlake Apartments. The Plaintiffs further allege that the City and County of Honolulu's certification that rents were properly calculated constituted an unfair and deceptive practice. Plaintiffs seek recovery of the overpayments, interest, trebled and statutory damages, injunctive relief, and additional relief as allowable by law.

The Defendants deny these allegations and the Court has not ruled on the merits of Plaintiffs' claims.

#### **IV. REMAINING IN OR EXCLUDING YOURSELF FROM THE CLASS:**

##### **A. Staying in the Class:**

You do not need to do anything to remain in the Class. If you remain in the Class, you will be automatically and legally bound by all proceedings, orders, and judgments entered in connection with the Class Action, whether favorable or unfavorable. This means that if you remain in the Class and the judgment is favorable, you may receive a proportionate share of the judgment. If you remain in the Class and the judgment is not favorable, you will be bound by the adverse decision and will have no right to relitigate

any of the claims asserted on behalf of the Class. You will be represented by Plaintiffs and their attorneys for the purposes of this Class Action.

**B. Excluding Yourself from the Class / “Opting Out”:**

You may choose to “opt out” and not be a Class member. You may then retain your own attorney and take legal action on your own. If you exclude yourself from the Class, you may not be bound by certain court orders or judgments entered in connection with this Class Action. You must “opt out” to exclude yourself from this Class Action litigation. Regardless of whether you “opt out,” however, you may be bound by certain court orders or judgments, including but not limited to, court orders or judgments that relate to final injunctive and declaratory relief.

**If you wish to opt out and not participate in this Class Action,** please send written notice of that intent to Plaintiffs’ counsel, whose address is ALSTON HUNT FLOYD & ING, ASB Tower, Suite 1800, 1001 Bishop Street, Honolulu, HI 96813, Attn: Westlake Class Action. A request to opt out and be excluded from the class must contain your: (1) legal name, (2) address, (3) telephone number, (4) a clear written request to be excluded from the class, (5) the case reference number, Civil No. 08-00281 and (6) your signature. Any request to opt out must be received by Plaintiffs’ counsel by March 27, 2009 in order to be effective.

**V. PLAINTIFFS AND THEIR COUNSEL**

The Court has appointed Plaintiffs BEVERLY BLAKE, STEPHANIE CAMILLERI, and ARLENE SUPAPO, and their counsel to act on behalf of the

Class for the purposes of the Class Action. Counsel for Plaintiffs may be reached at the following address:

**ALSTON HUNT FLOYD & ING**

American Savings Bank Tower  
1001 Bishop St., 18<sup>th</sup> Floor  
Honolulu, HI 96813  
ATTN: Westlake Class Action

**Lawyers for Equal Justice**

P.O. Box 37952  
Honolulu, HI 96837-0952

**PLEASE DO NOT TELEPHONE OR SEND CORRESPONDENCE TO THE  
COURT REGARDING THIS NOTICE**

DATED: Honolulu, Hawai'i,

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