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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

TIMOTHY SHEA, MARY  
JACQUELINE LEE, DON E.  
MURDOCK, individually, and on  
behalf of all persons similarly situated,

Plaintiffs,

v.

KAHUKU HOUSING FOUNDATION,  
INC., and HAWAIIAN PROPERTIES,  
LTD.,

Defendants.

CIVIL NO. 09-00480 LEK  
(Contract)

NOTICE OF SETTLEMENT OF  
CLASS ACTION

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KAHUKU HOUSING FOUNDATION,  
INC.,

Cross-claimant,

v.

HAWAIIAN PROPERTIES, LTD.,

Cross-claim Defendants.

NOTICE OF SETTLEMENT OF CLASS ACTION

TO ALL PERSONS RECEIVING THIS NOTICE WHO ARE OR WERE TENANTS OF KAHUKU ELDERLY HOUSING PROJECT.

**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 TIMOTHY SHEA, MARY JACQUELINE LEE, DON E. MURDOCK, individually, and on behalf of all persons similarly situated v. KAHUKU HOUSING FOUNDATION, INC., and HAWAIIAN PROPERTIES, LTD., CIVIL No. CV09-00480 LEK (hereinafter referred to as “Lawsuit”), 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 Members are defined as:

All persons who are, were, or will be head of household tenants at Kahuku Elderly Housing Project, who were or are (a) entitled to receive utility allowances from the Kahuku Housing Foundation as part of their section 8 subsidy at any time during which Defendants Kahuku Housing Foundation and/or Hawaiian Properties, Ltd., failed or fails to provide properly-calculated utility allowances for the Kahuku Elderly Housing Project; and

(b) required, desired, sought, or expected, access to a bookmobile and community center simply because of their status as residents of the Kahuku Elderly Housing Project.

### **III. THE LITIGATION**

This Class Action involves: (1) claims for reimbursements of excess rents paid by tenants of the Kahuku Elderly Housing Project (“KEHP”) who receive utility allowances for utility consumption; and (2) claims for retaliation related to accessibility to a bookmobile and the community center on the property. Plaintiffs TIMOTHY SHEA, MARY JACQUELINE LEE, DON E. MURDOCK allege that Kahuku Housing Foundation and/or Hawaiian Properties, Ltd. (collectively “Defendants”) failed to adjust utility allowances as required by law and has therefore charged excessive rents to tenants of KEHP. The Plaintiffs seek recovery of the overpayments and additional relief as allowable by law. Plaintiffs also allege that Defendants have engaged in unlawful retaliatory conduct against the residents of KEHP and have wrongfully denied access to the bookmobile and the community center.

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

### **IV. THE PROPOSED SETTLEMENT**

The class representatives and Defendants 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:

- The class members shall have access to the bookmobile and the community center as provided under the terms of the attached Exhibit “A” and so long as the service is provided by the State of Hawai‘i Public Library System and/or the KEHP is operated as housing project.
- Each class member shall be entitled to a payment of up to \$547.20, depending on: (1) the number of months that the class member has resided at KEHP from January 1, 2005 through December 31, 2009; 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 December 2005	\$7.29 per month of Qualified Occupancy
January through December 2006	\$11.17 per month of Qualified Occupancy
January through December 2007	\$16.99 per month of Qualified Occupancy
January through December 2008	\$7.04 per month of Qualified Occupancy
January through December 2009	\$3.11 per month of Qualified Occupancy

- A class members who accrued the full 60 months of Qualified Occupancy shall be entitled to an amount not to exceed \$547.20.
- In addition to the payment they are entitled to receive as class members, the three class members shall receive as compensation for their services as class members the sum of \$1,000 in addition to the distribution they are entitled to receive as class members.
- The parties have agreed that the attorneys for the class, Alston Hunt Floyd & Ing and Lawyers for Equal Justice, shall receive an award of \$21,766.13 for their reasonable attorneys’ fees and costs incurred in this matter, and they hereby waive any and all claims to future attorneys’ fees and costs. This award has not and will not affect the amount due to the members of the class as set forth above. This award of attorneys’ fees and costs is subject to Court approval. The motion for attorneys’ fees and costs shall be available on [www.lejhawaii.org](http://www.lejhawaii.org) and [www.hawaiiclassaction.com](http://www.hawaiiclassaction.com) when it is filed.
- All Class Members shall release any and all claims relating to Defendants alleged failure to properly calculate utility allowances through the effective date of the settlement and alleged retaliatory conduct against the Class Members.

**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 Defendants and forever discharging and releasing Defendants from all claims relating to the alleged failure to properly calculate utility allowances through the effective date of the settlement and for the alleged retaliatory conduct against Class Members, 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 7, 2011, at 10:00 a.m.**, in the courtroom of the Honorable Leslie Kobayashi at 300 Ala Moana Blvd., Honolulu Hawaii ("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 Defendants 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 Hawaii 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, Stipulation 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, January 12, 2011.



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

*Shea v. Kahuku Housing Foundation, Inc., et al.*, Civil No. 09-00480 DAE/LEK  
(D. Hawaii); **NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION**