

## **Court rules state failed on trust lands**

By: Honolulu Star Bulletin by Craig Gima  
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After a 10-year court battle and decades of waiting in vain for homesteads, plaintiffs in a class-action lawsuit won a judgment against the state for failing to promptly award home lots to native Hawaiians under the Hawaiian Home Lands Trust.

Circuit Judge Eden Elizabeth Hifo ruled Tuesday that the state failed in its trust responsibilities and the plaintiffs should receive monetary damages.

Carl Varady, one of the plaintiff attorneys, said it is "purely speculative" to say how much money is involved because the amount is yet to be determined in a separate trial.

He said the damages could include mortgage and rent payments made by the plaintiffs when they should have been on homesteads and other out-of-pocket losses suffered by the plaintiffs.

The decision Tuesday came in the lawsuit filed in 1999 on behalf of about 2,700 native Hawaiians who claimed they were not promptly awarded homesteads between 1959 and 1988.

The beneficiaries filed claims under a 1991 law passed to compensate them for their losses resulting from the delays. But the Legislature acted on only two claims before shutting down the administrative process in 1999, prompting the lawsuit.

The case went up to the state Supreme Court when the state questioned the right of the plaintiffs to sue before being sent back to Circuit Court for a five-week trial in August.

"After waiting and waiting and being brokenhearted several times, it (the court decision) has brought relief," said Wehilani Ching, who said she first applied with her husband for a homestead in 1962.

Leona Kalima, one of the original plaintiffs, said a homestead could have led to a better life for herself and her children.

"We could have been paying a mortgage instead of rent," she said.

Kalima said instead of renting a two-bedroom apartment, she could have been building equity in a home and saving money to send her children to college.

"Some of our clients waited more than 30 years or longer for a homestead award and some still are waiting," said attorney Tom Grande.

The attorneys noted that in recent years, the Department of Hawaiian Home Lands has made progress in generating income from the trust lands and getting claimants on the land.

Varady and Grande said they expect the state to appeal the decision.

The state is "reviewing the decision to determine the appropriate next steps," according to a news release from the Attorney General's Office.

In her 18-page written decision, Hifo suggested that a special master should be appointed to help determine how damage claims will be resolved.

Varady noted that more than 300 of the plaintiffs have died in the last 10 years and many of the remaining plaintiffs are elderly.

He urged the state and the Legislature to consider funding a settlement that would fairly compensate the plaintiffs while they are still alive.

