

ENFORCEMENT ACTION AGAINST
JOURDANTON HOUSING
AUTHORITY WITH RESPECT TO
JOURDANTON ELDERLY HOUSING
(HOME FILE # 535004 / CMTS # 2685)

§
§
§
§
§
§

BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 30th day of June, 2016, the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA”) considered the matter of whether enforcement action should be taken against **JOURDANTON HOUSING AUTHORITY**, a public housing authority (“Respondent”).

This Agreed Order is executed pursuant to the authority of the Administrative Procedure Act (“APA”), TEX. GOV’T CODE §2001.056, which authorizes the informal disposition of contested cases. In a desire to conclude this matter without further delay and expense, the Board and Respondent agree to resolve this matter by this Agreed Final Order. The Respondent agrees to this Order for the purpose of resolving this proceeding only and without admitting or denying the findings of fact and conclusions of law set out in this Order.

Upon recommendation of the Enforcement Committee, the Board makes the following findings of fact and conclusions of law and enters this Order:

WAIVER

Respondent acknowledges the existence of their right to request a hearing as provided by TEX. GOV’T CODE § 2306.044, and to seek judicial review, in the District Court of Travis County, Texas, of any order as provided by TEX. GOV’T CODE §2306.047. Pursuant to this compromise and settlement, the Respondent waives those rights and acknowledges the jurisdiction of the Board over Respondent.

FINDINGS OF FACT

Jurisdiction:

1. During 1996, Respondent was awarded an allocation of HOME funds totaling \$1,850,000 to build and operate Jourdanton Elderly Housing (“Property”) (HOME file No. 535004 / CMTS No. 2685 / LDLD No. 536).
2. Respondent signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective March 10, 1997, and filed of record at Document Number 17293 of the Official Public Records of Real Property of Atascosa County, Texas.

3. Respondent is a public housing authority that is qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development that is subject to the regulatory authority of TDHCA.

Compliance Violations¹:

4. On May 11, 2015 and July 1, 2015, TDHCA sent notice that Respondent had failed to timely submit Part A of their 2014 Annual Owner's Compliance Report that came due on April 30, 2015, a violation of 10 TEX. ADMIN. CODE §10.607 (Reporting Requirements), which requires each development to submit an Annual Owner's Compliance Report. The final part was submitted on April 27, 2016, after intervention by the Enforcement Committee and 363 days past the deadline.
5. An on-site monitoring review was conducted on May 13, 2015, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a November 8, 2015, corrective action deadline was set, however, the following violations were not corrected before the corrective action deadline:
 - a. Respondent failed to properly calculate the utility allowance for the property, a violation of 10 TEX. ADMIN. CODE §10.614 (Utility Allowances), which requires all developments to establish and implement a utility allowance. Acceptable corrective documentation was submitted on April 22, 2016, after intervention by the Enforcement Committee and 166 days past the deadline. The utility allowance violation did not cause a gross rent violation.
 - b. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TEX. ADMIN. CODE §10.617 (Affirmative Marketing Requirements), which requires developments to maintain an affirmative marketing plan that meets minimum requirements and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to the disabled. Acceptable corrective documentation was submitted on April 22, 2016, after intervention by the Enforcement Committee and 166 days past the deadline.
6. No violations remain outstanding at the time of this Order.

[Remainder of page intentionally blank]

¹ Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TEX. ADMIN. CODE, CHAPTERS 10 AND 60 refer to the versions of the code in effect at the time of the compliance monitoring reviews and/or inspections that resulted in recording each violation. All past violations remain violations under the current code and all interim amendments.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Respondent violated 10 TEX. ADMIN. CODE §10.607 in 2015 by failing to submit the Annual Owner's Compliance Report for the year ending December 31, 2014;
4. Respondent violated 10 TEX. ADMIN. CODE §10.614 in 2015 by failing to properly calculate and implement a utility allowance;
5. Respondent violated 10 TEX. ADMIN. CODE §10.617 in 2015, by failing to provide a complete affirmative marketing plan and supporting marketing materials;
6. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to TEX. GOV'T CODE §2306.041 and §2306.267.
7. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to TEX. GOV'T CODE §2306.267.
8. Because Respondent has violated rules promulgated pursuant to TEX. GOV'T CODE Chapter 2306 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to TEX. GOV'T CODE §2306.041.
9. An administrative penalty of \$0 is an appropriate penalty in accordance with 10 TEX. ADMIN. CODE §2.302.

Based upon the foregoing findings of fact and conclusions of law, and an assessment of the factors set forth in TEX. GOV'T CODE §2306.042 to be considered in assessing such penalties as applied specifically to the facts and circumstances present in this case, the Board of the Texas Department of Housing and Community Affairs orders the following:

IT IS HEREBY ORDERED that Respondent is assessed an administrative penalty in the amount of \$0.

IT IS FURTHER ORDERED that the terms of this Agreed Final Order shall be published on the TDHCA website.

Approved by the Governing Board of TDHCA on June 30, 2016.

By: /s/ J Paul Oxe

Name: J. Paul Oxe

Title: Chair of the Board of TDHCA

By: /s/ James Beau Eccles

Name: James "Beau" Eccles

Title: Secretary of the Board of TDHCA

THE STATE OF TEXAS §

§

COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 1st day of July, 2016, personally appeared J. Paul Oxe, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

/s/ Melissa M. Whitehead

Notary Public, State of Texas

THE STATE OF TEXAS §

§

COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 1st day of July, 2016, personally appeared James "Beau" Eccles, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

/s/ Melissa M. Whitehead

Notary Public, State of Texas

