

ENFORCEMENT ACTION AGAINST
CHARLES MILLER

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BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

FINAL ORDER

General Remarks and official action taken:

On this 25th day of February, 2016, the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA” or “Department”) considered the matter of whether enforcement action should be taken against **CHARLES MILLER**, president and director of CVM Interests, Inc., the general partner of Southmore Park Apartments, Ltd., for activity at Southmore Park Apartments (HTC 94004 / CMTS 1204).

This Final Order is executed pursuant to the authority granted in the Texas Government Code, Chapter 2306.0504, which requires the Board to adopt a policy providing for the debarment of a person from participation in Department programs on the basis of a person’s past failure to comply with conditions imposed by the Department in the administration of its programs. The policy was adopted by the Board and is set forth in 10 TEX. ADMIN. CODE §2.401.

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

FINDINGS OF FACT

Jurisdiction:

1. On November 20, 1996, Southmore Park Apartments, Ltd., owner of the Property, was awarded an allocation of Low Income Housing Tax Credits by the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”), in the amount of \$237,523.00 to build and operate Southmore Park Apartments (“Property”) (HTC File No. 94004 / CMTS No. 1204 / LDLD No. 141).
2. Southmore Park Apartments, Ltd. signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective November 20, 1996, and filed of record at Document Number S250798 of the Official Public Records of Real Property of Harris County, Texas (“Records”), as amended by a First Amendment executed on April 5, 2004.

3. Southmore Park Apartments, Ltd. is a Texas limited partnership that is qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development that is subject to the regulatory authority of TDHCA.
4. Charles Miller is the President and Director of CVM Interests, Inc., the general partner of Southmore Park Apartments, Ltd. Mr. Miller has also been designated by Southmore Park Apartments Ltd. as the primary contact for TDHCA.

Material Violations Subject To Debarment:

1. Property scored 46 during the UPCS inspection conducted on April 14, 2009.
2. Property scored 42.23 during the UPCS inspection conducted on May 26, 2015. Multiple violations remain unresolved, and an administrative penalty is being pursued.

CONCLUSIONS OF LAW

1. Pursuant to TEX GOV'T CODE Chapter 2306, Subchapter DD and TEX GOV'T CODE §2306.185, TDHCA is authorized to make Housing Tax Credit Allocations for the State of Texas and is required to monitor to ensure compliance;
2. Pursuant to Internal Revenue Code ("IRC") §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance;
3. Southmore Park Apartments violated 10 TEX. ADMIN. CODE §60.116¹ in 2009, by failing to comply with HUD's Uniform Physical Condition Standards ("UPCS")² when major violations were discovered and not timely corrected.
4. Southmore Park Apartments violated 10 TEX. ADMIN. CODE §10.621 in 2015, by failing to comply with UPCS when major violations were discovered and not timely corrected.
5. Pursuant to Tex. Gov't. Code §2306.0504(c), the Department shall debar a person from participation in a Department program if the person materially or repeatedly violates any condition imposed by the department in connection with the administration of a debarment program, including a material or repeated violation of a LURA regarding a development supported with a housing tax credit allocation;
6. Pursuant to 10 Tex. Admin. Code §2.401(c), a person is considered to have materially violated a LURA if they control a development that has, on more than one occasion scored 50 or less on a UPCS inspection.

¹References 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.

² TDHCA adopted HUD's Uniform Physical Condition Standards ("UPCS") pursuant to 10 Tex. Admin. Code 10.621(a) to determine compliance with property condition standards. HUD's Uniform Physical Condition Standards are the standards adopted by TDHCA pursuant to 10 TEX. ADMIN. CODE 10.621(a)

Based upon the foregoing findings of fact and conclusions of law, and an assessment of the material factors set forth in 10 Tex. Admin. Code §2.401(j) to be considered for a recommended period of debarment, 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 debarred from future participation in all programs administered by the Department for a period of **Twenty** years, to commence upon the date this Order is approved by the Board.

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

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