

ENFORCEMENT ACTION AGAINST
THE DAVID YILMAZ LIVING TRUST
AND DAVID YILMAZ, ITS TRUSTEE

§
§
§
§
§

BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

FINAL ORDER

General Remarks and official action taken:

On this 6th day of December, 2018, 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 **THE DAVID YILMAZ LIVING TRUST**, and **DAVID YILMAZ**, its Trustee (collectively, “Respondent”), for refusing to allow onsite monitoring on November 7, 2017.

This Final Order is executed pursuant to the authority granted in the Tex. Gov’t Code, Chapter 2306.0504, which requires the Board to adopt a policy providing for the debarment of a person from participation in Department programs because 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 TAC §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. During 1991, Dominion Equity Corporation (“Prior Owner”) was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of \$71,185 to rehabilitate and operate Oak Park Apartments (“Property”) (HTC file No. 91056 / CMTS No. 965 / LDLD No. 139).
2. Prior Owner signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective November 7, 1991, and filed of record at Volume 91227, Page 5261 of the Official Public Records of Real Property of Dallas County, Texas. In accordance with Section 2 of the LURA, the LURA is a restrictive covenant/deed restriction encumbering the Property and binding on all successors and assigns for the full term of the LURA.
3. Respondent took ownership of the Property on December 30, 2005 and, although an Agreement to Comply was not signed, Respondent is bound to the terms of the LURA in accordance with Section 2 thereof.
4. Respondent is subject to the regulatory authority of TDHCA.

Material Violations Subject To Debarment:

1. TDHCA attempted to perform a scheduled onsite monitoring review on November 7, 2017. Despite reminders by the Compliance Division and Legal Division, Respondent failed to appear for the review, thus refusing TDHCA access the premises to conduct its review. The Compliance Division issued a monitoring report on December 22, 2017, identifying multiple findings, including refusal to allow onsite monitoring, a violation of 10 TAC §10.618, which requires Respondent to permit the Department access to the premises and records in order to review all documents supporting compliance with the Housing Tax Credit program. A ninety day corrective deadline of March 22, 2018, was established to submit corrective documentation, but no response was received. Ultimately, an onsite review was successfully conducted on October 17, 2018, 344 days past the originally scheduled date, after intervention by the Enforcement Committee.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §2306.0504 and 10 TAC §2.401.
2. Respondent is a "Responsible Party" as that term is defined in 10 TAC §2.102(5).
3. Pursuant to 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.
4. Respondent violated 10 TAC §10.618 in 2017 by refusing to allow onsite monitoring.
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 department program.
6. Pursuant to 10 TAC §2.401(d), refusing to allow onsite monitoring is considered a material violation that justifies debarment.

Based upon the foregoing findings of fact and conclusions of law, and an assessment of material factors including those 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 **fifteen** 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.

