

ENFORCEMENT ACTION AGAINST
SOUTHMORE PARK APARTMENTS,
LTD. WITH RESPECT TO
SOUTHMORE PARK
(HTC # 94004 / CMTS # 1204 / LDLD 141/
SOAH DOCKET 332-17-5544.HCA)

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BEFORE THE
GOVERNING BOARD OF
THE TEXAS DEPARTMENT
OF HOUSING AND
COMMUNITY AFFAIRS

FINAL ORDER

General Remarks and official action taken:

On this 28th day of June, 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 **SOUTHMORE PARK APARTMENTS, LTD.**, a (“Respondent”). The Department alleges that Respondent engaged in acts and practices that violated rules promulgated pursuant to Tex. Gov't Code § 2306.053. The Department alleges that such conduct constitutes grounds for: (a) the imposition of an administrative penalty in the amount of \$73,890 pursuant to the administrative penalty matrix at 10 TAC §2.302(j) and considering the factors listed in Tex. Gov't Code §2306.042, and (b) an order demanding that outstanding violations be corrected within 60 days of this Final Order.

The Governing Board of TDHCA has jurisdiction over this matter pursuant to Tex. Gov't Code §2306.041-.0503 and 10 TAC Chapter 2.

A contested case hearing was properly provided pursuant to Tex. Gov't Code §2306.045 on January 9, 2018. A Proposal for Decision was served on all parties, who were given the opportunity to file exceptions and replies as part of the administrative record. Exceptions were filed and an Exceptions letter was issued by Administrative Law Judge Elizabeth Drews on May 10, 2018, amending portions of the Proposal for Decision in describing the relationship between Charles V. Miller and Respondent, rejecting all other exceptions raised by Respondent, and clarifying rule citations as follows:

1. Finding of Fact No. 4 stated, “The LURA was signed by a TDHCA representative and by Respondent's President and General Partner, Charles V. Miller.” Based on the exceptions provided by Respondent and analysis of pertinent evidence, the Finding of Fact No. 4 was revised to state: “The LURA was signed by a TDHCA representative and on behalf of Respondent by Charles V. Miller, President of CVM Interests, Inc., which is Respondent's General Partner.”
2. Conclusion of Law No. 5 stated: “Mr. Miller is an Owner and a Development Owner as those terms are defined in 10 TAC§ 10.3(39).” Based on the exceptions provided by Respondent and analysis of pertinent evidence, the Finding of Fact No. 4 was revised to

state: "Mr. Miller is the President of CVM Interests, Inc., which is the General Partner of Respondent. LURA; 10 TAC§ 10.3(a)(39) and (71)."

3. Conclusion of Law No. 4 was revised to add subsection (a) to citation: "The Property is a Development as that term is defined in 10 TAC§ 10.3(a)(37)."
4. Conclusion of Law No. 6 was revised to add subsection (a) to citation: "A LURA is an agreement between TDHCA and a Development Owner which is a binding covenant upon the Development Owner and successors in interest, that, when recorded, encumbers the Development with respect to the requirements of the programs for which it receives funds. 10 TAC § 10.3(a)(71).

The Governing Board of TDHCA, after review and consideration of the Proposal for Decision, with the amendments listed above, adopts all findings of fact and conclusions of law as follows and enters this Final Order:

FINDINGS OF FACT

1. The Texas Department of Housing and Community Affairs (TDHCA) administers a low income housing tax credit program (Program).
2. Southmore Park Apartments Ltd. (Respondent) owns and operates a property located at 2401 Southmore Avenue, Pasadena, Texas (the Property)
3. In 1996, Respondent entered into a land use restriction agreement (LURA) with TDHCA. The LURA awards Respondent an allocation of low income housing tax credits in the amount of \$237,523 per year for ten years for the purpose of constructing and operating the Property.
4. The LURA was signed by a TDHCA representative and on behalf of Respondent by Charles V. Miller, President of CVM Interests, Inc., which is Respondent's General Partner.
5. The LURA had an effective date of November 20, 1996, and was filed of record as Document Number S250798 of the Official Public Records of Real Property of Harris County, Texas. The term of the LURA is 30 years.
6. The tax credits awarded to Respondent under the Program were based on its commitments in the LURA to maintain 100% of the Property's 93 units as rent-restricted units suitable for occupancy and rented to low-income tenants for 30 years.
7. A regularly scheduled Uniform Physical Condition Standards (UPCS) inspection (2015 UPCS Inspection) was conducted at the Property on March 26, 2015. Inspection reports showed numerous serious property condition deficiencies. Notifications of noncompliance were sent and a July 2, 2015 corrective action deadline was set.
8. Partial corrective action was received before the corrective action deadline, but TDHCA staff (Staff) concluded that a total of 15 deficiencies found during the 2015 UPCS Inspection remained outstanding.

9. For UPCS violations, Level 3 (L3) is considered the most serious, Level 2 (L2) is less serious, and Level 1 (L1) is the least serious.
10. Staff rejected corrections for two deficiencies that were submitted by the corrective action deadline on the basis that the work orders submitted were ambiguous as to which of two units of the Property they concerned. The work orders should not have been rejected on that basis, because they reasonably used the same references to unit numbers as the UPCS Inspection report to which the work orders were responding.
11. Of the 13 UPCS violations not corrected by the corrective action deadline, 11 were L3, one was L2, and one was L1.
12. One of the 13 UPCS violations was a tripping hazard. It was difficult to find from the description in the UPCS Inspection report, but Respondent did not contact TDHCA to obtain clarification as to its location. As a result, the hazard remained uncorrected until approximately November 2017.
13. The other 12 UPCS violations involved one unit that was being used for storage and was not habitable. The unit was therefore not available to any potential low-income tenants.
14. Respondent made repairs to address one of the 12 UPCS violations involving the unit, an L3 violation, before the corrective action deadline. The violation remained outstanding because Respondent never submitted documentation of the correction through TDHCA's Compliance Monitoring and Tracking System (CMTS).
15. An on-site monitoring review (2016 Monitoring Review) was conducted on January 27, 2016, to determine whether Respondent was in compliance with LURA requirements to lease units to low-income households and to maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules.
16. Notifications of noncompliance were sent and a September 8, 2016 corrective action deadline was set for the deficiencies identified during the 2016 Monitoring Review. No reply was received by the deadline.
17. The following violations of TDHCA requirements identified during the 2016 Monitoring Review were not corrected before the corrective action deadline:
 - a. Respondent failed to maintain complete written tenant selection criteria meeting TDHCA requirements.
 - b. A laminated copy of the Tenant Rights and Resources Guide was not posted in a common area of the leasing office.
 - c. Upon review of new units, it was found that Respondent failed to collect complete tenant files to prove that units were leased to qualified low-income households at initial occupancy for Units 106, 110, 112, 305, 401, 402, 403, 404, 419, 420, 506, 508, 513, 514, 515, 601, 804, 807, 806, and 811. Acceptable corrections were received for Units 402, 419, and 514 on December 22, 2016, 105 days past the deadline, after an administrative penalty informal conference notice was sent. The findings remain unresolved for the other 17 units.

- d. Upon review of previous units inspected it was observed that new households had occupied these units and Respondent again failed to collect complete tenant files to prove that units were leased to qualified low-income households at initial occupancy for Units 107, 112, 120, 201, 203, 409, 418, 503, 702, 703, 801, 805, and 813. Acceptable corrections were received for Units 107, 702, 703, and 801 on December 22, 2016, 105 days past the deadline, after an administrative penalty informal conference notice was sent. The findings for the other nine units remain unresolved.
- e. Respondent failed to provide Annual Eligibility Certifications for Units 106, 107, 110, 112, 118, 201, 203, 204, 305, 401, 402, 403, 404, 409, 418, 506, 508, 601, 603, 702, 703, 801, 805, and 807. Acceptable corrections were received for Units 201, 203, 402, and 409 on December 22, 2016, 105 days past the deadline, after an administrative penalty informal conference notice was sent. The findings remain unresolved for the other 20 units
- f. Respondent failed to execute required lease provisions or to exclude prohibited lease language for Units 106, 107, 110, 118, 120, 203, 204, 301, 303, 305, 401, 402, 403, 404, 409, 418, 419, 420, 508, 513, 514, 603, 702, 703, 801, 804, 805, 806, 807, and 813. Acceptable corrections were received for Units 107, 204, 402, 404, 409, 419, 514, 702, 703 on December 22, 2016, 105 days past the deadline, after an administrative penalty informal conference notice was sent. The findings remain unresolved for the other 21 units.
- g. Respondent failed to properly calculate and implement a utility allowance for the property. Respondent used a utility allowance for the City of Pasadena Housing Authority dated November 1, 2014. The City of Pasadena Housing Authority had implemented a new utility allowance schedule on November 1, 2015, but Respondent did not update its utility allowance within 90 days after the City of Pasadena Housing Authority released the updated schedule. On December 22, 2016, Respondent submitted the utility allowance used by Harris County Housing Authority, which is the wrong housing authority because the Property is located in Pasadena, Texas. This violation remains unresolved.
- h. Respondent failed to submit requested pre-on-site documentation by the deadline requested in preparation for an upcoming monitoring review. Required documentation includes an Entrance Interview Questionnaire to be completed in TDHCA's CMTS, unit status report, and written leasing criteria. This violation remains unresolved.
- i. Respondent failed to pay annual compliance fees for the years 2014 through 2016, totaling \$4,185. A fee of \$1,395 is due from Respondent every year on November 1. This violation remains unresolved.
- j. Respondent failed to provide a compliant affirmative marketing plan. The plan in place at the time of the 2016 Monitoring Review did not meet minimum requirements. This violation remains unresolved.
- k. Respondent failed to submit Parts A and B of the 2015 Annual Owner's Compliance Report (AOCR). The AOCR includes Owner Certification of Continued Compliance-Part A, Unit Status Report-Part B, Housing for Persons with Disabilities Report-Part C, and the Annual Owner Financial Certification. The AOCR is due on

April 30 of each year, reporting data for the prior year, and a new violation was identified when the complete 2015 AOCR had not been submitted by April 30, 2016. The missing parts for the 2015 AOCR were submitted on December 22, 2016, 236 days past the deadline.

18. In written correspondence, Staff repeatedly reminded Respondent of the TDHCA requirements about what constituted acceptable documentation of correction of UPCS violations and about submitting corrections through CMTS.
19. In written correspondence, Staff repeatedly provided contact information and instructions on how to submit documentation through CMTS and offered to answer questions and to provide training. Respondent did not take advantage of those offers. Respondent submitted documentation of some corrections through CMTS but often failed to do so.
20. The Property's 2015 UPCS Inspection score was 42, the second time it scored 50 or less on a UPCS inspection. The maximum UPCS inspection score was 100. Most Developments score 80 or above.
21. TDHCA had previously issued an Agreed Final Order (Agreed Final Order) against Respondent on February 2, 2015. The Agreed Final Order required Respondent to pay a \$5,000 administrative penalty, to pay \$11,160 in delinquent compliance fees for the years 2006 through 2013, and to submit documentation to correct the violations found.
22. Respondent paid the administrative penalty and the delinquent compliance fees required by the Agreed Final Order but has not submitted through CMTS corrections for the other violations found in the Agreed Final Order, as the Agreed Final Order required.
23. The Agreed Final Order found that Respondent had committed the following violations:
 - a. Failure to comply with the UPCS;
 - b. Failure to submit AOCRs;
 - c. Failure to properly calculate and implement a utility allowance;
 - d. Failure to provide complete tenant files demonstrating units were leased to low income households;
 - e. Failure to submit requested pre-onsite documentation, including an entrance interview questionnaire and a unit status report;
 - f. Failure to pay the required annual compliance fees; and
 - g. Failure to provide a complete affirmative marketing plan.
24. On October 8, 2015, TDHCA's Enforcement Committee met to determine the administrative penalties to recommend for the UPCS violations. They recommended a penalty of \$13,250 for the UPCS violations.
25. On December 30, 2015, Staff issued a Notice of Violation (NOV), which informed Respondent of the violations found during the UPCS Inspection for which an administrative penalty was sought.

26. On January 22, 2016, Respondent timely filed a request for administrative hearing on the UPCS violations and administrative penalties recommended for those violations. TDHCA postponed the hearing to allow those violations, and additional violations resulting from the 2016 Monitoring Review, to be considered in a single hearing.
27. On January 31, 2017, TDHCA's Enforcement Committee met to recommend the administrative penalties to consider for violations found during the 2016 Monitoring Review. They recommended penalties totaling \$62,340 for those violations.
28. On March 3, 2017, Staff issued a second NOV, which informed Respondent of the pending violations found during the 2016 Monitoring Review and the administrative penalties sought for those violations.
29. The 2016 Monitoring Review violations were individually less serious than the 2015 UPCS violations, but some were significant and some affected multiple tenants or potential tenants. The violations were extensive, not isolated. For many of the violations, the evidence either indicates they lasted for months or years after the corrective action deadline, or does not show whether or when they were corrected.
30. Many of the violations identified during the 2015 UPCS Inspection and the 2016 Monitoring Review are repeat violations found in the Agreed Final Order.
31. Respondent's conduct indicates the \$5,000 administrative penalty imposed in the Agreed Final Order was considerably too small to deter future violations.
32. For years, Respondent has shown a clear pattern of not taking seriously the need to comply with TDHCA requirements, to correct violations promptly and completely, to document the corrections, and to submit the documentation to CMTS so it can be promptly and efficiently reviewed by TDHCA.
33. To the extent Respondent delegated compliance-related tasks to an employee or a third party, Respondent failed to provide direction and supervision necessary to meet its compliance obligations.
34. Respondent's conduct unreasonably delayed and hampered TDHCA efforts to monitor the Property for compliance, to investigate and to achieve correction of non-compliance, and to enforce Program requirements. One consequence was to increase the magnitude and duration of harm the violations caused to low-income tenants and low-income potential tenants of the Property.
35. For many of the violations, it is unclear whether repairs or other efforts necessary to correct them were made and when that occurred.
36. Hurricane Ike occurred in 2008, years before the 2015 UPCS Inspection and the 2016 Monitoring Review. Respondent committed violations as early as 2006.
37. On August 8, 2017, TDHCA referred this matter to the State Office of Administrative Hearings (SOAH).

38. On August 22, 2017, Staff issued its Notice of Hearing to Respondent.
39. SOAH Order No. 1, issued October 4, 2017, granted an agreed motion for continuance, based on the effect of Hurricane Harvey on Respondent and its attorney.
40. SOAH Order No. 2, issued November 8, 2017, granted Respondent's opposed motion for continuance, on bases that included the effect of Hurricane Harvey on Respondent and its attorney.
41. Staff's Notice of Hearing and SOAH Order No. 2 informed the parties of the date, time, place, and nature of the hearing; the legal authority and jurisdiction under which the hearing would be held; the particular sections of the statutes and rules involved; and a short, plain statement of the factual matters asserted.
42. The hearing on the merits was held on January 9, 2018, before SOAH Administrative Law Judge Elizabeth Drews at the SOAH hearings facility in Austin, Texas. Attorney Amy Morehouse represented Staff, and attorney Robert Bone represented Respondent. The hearing concluded that same day.
43. The record closed on February 6, 2018, when the parties filed reply briefs and proposed findings of fact and conclusions of law.

CONCLUSIONS OF LAW

Based upon the foregoing findings of fact, the Governing Board of TDHCA makes the following conclusions of law:

1. TDHCA has jurisdiction over Respondent and this matter pursuant to Tex. Gov't Code §§ 2306.041-.0503 and 10 Texas Administrative Code (TAC) Chapter 2.
2. The Program's goals are to maximize the number of suitable, affordable, residential rental units added to the state's housing supply and to encourage development and preservation of such housing for households that have difficulty finding it in the private marketplace. Tex. Gov't Code § 2306.6701.
3. Respondent is a Housing Sponsor as that term is defined in Texas Government Code § 2306.004(14).
4. The Property is a Development as that term is defined in 10 TAC§ 10.3(a)(37).
5. Mr. Miller is the President of CVM Interests, Inc., which is the General Partner of Respondent. LURA; 10 TAC§ 10.3(a)(39) and (71).
6. A LURA is an agreement between TDHCA and a Development Owner which is a binding covenant upon the Development Owner and successors in interest, that, when recorded, encumbers the Development with respect to the requirements of the programs for which it receives funds. 10 TAC§ 10.3(a)(71).

7. TDHCA monitors businesses with which it has entered into a LURA for noncompliance with Internal Revenue Code § 42 and habitability standards. 26 U.S.C. § 42(m)(l)(B)(iii).
8. SOAH has jurisdiction over matters related to the hearing in this case, including authority to issue a proposal for decision with proposed findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; Tex. Gov't Code §2306.0503.
9. A Development that takes appropriate corrective action within a corrective action period after its Owner is notified of a deficiency is not considered to be in non-compliance. Tex. Gov't Code§ 2306.6719(e).
10. The habitability standards include the UPCS, which TDHCA has adopted by rule. 10 TAC§ 10.621(a).
11. Acceptable evidence of correction of deficiencies is a certification from an appropriate licensed professional that the item complies with the UPCS or other documentation that will allow TDHCA to reasonably determine when the repair was made and whether the repair sufficiently corrected the violations of UPCS standards. Acceptable documentation includes copies of work orders (listing the deficiency, action taken or repairs made to correct the deficiency, date of corrective action, and signature of the person responsible for the correction), invoices (such as from vendors), or other proof of correction. 10 TAC§ 10.621(d).
12. A TDHCA rule requires that documentation of corrections be submitted electronically through TDHCA's web-based CMTS and in a format prescribed by TDHCA. 10 TAC § 10.607(a).
13. Staff has the burden of proof by a preponderance of the evidence. 1 TAC§ 155.427.
14. Staff proved an alleged violation if the preponderance of the evidence shows the deficiency existed and the corrective action deadline expired without Respondent submitting proof of correction through CMTS in compliance with TDHCA rules. Tex. Gov't Code § 2306.6719(c); 10 TAC§ 10.607(a).
15. Respondent received proper and timely notice of the hearing. Tex. Gov't Code §§ 2001.051-.052.
16. Respondent violated 10 TAC § 10.621 in 2015 by failing to comply with the UPCS when major violations were discovered and not timely corrected.
17. Respondent violated 10 TAC § 10.610 in 2016 by not maintaining written tenant selection criteria meeting TDHCA requirements.
18. Respondent violated leasing requirements in 10 TAC § 10.613(k) in 2016 by failing to post a laminated copy of the Tenant Rights and Resources Guide in a common area of the leasing office.

19. Respondent violated Section 4 of the LURA and 10 TAC § 10.613 in 2016 by failing to provide complete tenant files proving that units listed in Finding of Fact Nos. 17.c and d were leased to qualified low-income households at initial occupancy.
20. Respondent violated 10 TAC § 10.612 in 2016 by failing to collect Annual Eligibility Certifications for units listed in Finding of Fact No. 17.e.
21. Respondent violated 10 TAC § 10.613 in 2016 by failing to execute required lease language provisions for units listed in Finding of Fact No. 17.f.
22. Respondent violated 10 TAC § 10.614 in 2016 by failing to properly calculate and implement a utility allowance.
23. Respondent violated 10 TAC§ 10.607 in 2016 by failing to submit requested pre-onsite documentation by the deadline.
24. Respondent violated Section 7 of the LURA and Texas Government Code § 2306.176 and § 2306.266, by failing to pay required annual compliance fees for the years 2014 through 2016.
25. Respondent violated 10 TAC § 10.617 in 2016 by failing to provide a complete affirmative marketing plan.
26. Respondent violated 10 TAC§ 10.607 in 2016 by failing to submit parts of the AOCR for the year 2015.
27. 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. Tex. Gov't Code§ 2306.267.
28. Respondent should be ordered to correct all outstanding violations found in Conclusion of Law Nos. 16 to 26 and to submit proof of the corrective actions to TDHCA within 60 days of the issuance of the final order in this case. Tex. Gov't Code § 2306.267.
29. The overarching intent and guiding principle of TDHCA's rules on enforcement is that full compliance is required. The enforcement mechanisms are intended to be used in a manner that promotes full compliance; uses compliance assistance methods and, where needed, enforcement mechanisms, to obtain compliance and to deter noncompliance; and takes appropriate enforcement action against those who fail to take the necessary and appropriate measures to comply. 10 TAC§ 2.101(b).
30. Because Respondent violated rules promulgated pursuant to Tex. Gov't Code § 2306.053 and violated agreements with TDHCA to which Respondent is a party, TDHCA may impose an administrative penalty. Tex. Gov't Code§ 2306.041.
31. Under Texas Government Code§ 2306.042, the amount of an administrative penalty may not exceed \$1,000 for each violation. For that purpose, each day a violation continues or occurs is considered a separate violation. The amount of the penalty must be based on the following factors: (1) the seriousness of the violation including: (A) the nature, circumstance, extent, and gravity of any prohibited act; and (B) the hazard or potential hazard created to

the health, safety, or economic welfare of the public; (2) the history of previous violations; (3) the amount necessary to deter a future violation; (4) efforts made to correct the violation; and (5) any other matter that justice may require.

- 32. 10 TAC§ 2.302(h) requires that a penalty matrix be used in determining appropriate and consistent administrative penalties for various violations. The penalties may not exceed the maximum penalty, but may be lower if appropriate.
- 33. An administrative penalty of \$73,890 is an appropriate administrative penalty for the violations found in this case under the penalty matrix at 10 TAC § 2.302(j) and considering the factors listed in Texas Government Code § 2306.042.

IT IS THEREFORE ORDERED that Respondent shall pay, and is hereby directed to pay, an administrative penalty in the amount of \$73,890 within 30 days from receipt of this Final Order for the above violations. Such payment shall be made by cashier’s check payable to the “Texas Department of Housing and Community Affairs” and submitted to the following address:

If via overnight mail (FedEx, UPS):	If via USPS:
TDHCA Attn: Ysella Kaseman 221 E 11 th St Austin, Texas 78701	TDHCA Attn: Ysella Kaseman P.O. Box 13941 Austin, Texas 78711

IT IS FURTHER ORDERED that Respondent must correct all outstanding violations found in Conclusion of Law Nos. 16 to 26 and submit complete proof of the corrective actions to TDHCA, following all instructions in the exhibits hereto, within 60 days of the issuance of this Final Order. Corrections must be uploaded to the attention of Ysella Kaseman in the Compliance Monitoring and Tracking System (“CMTS”) by following the upload instructions at this link: <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>.

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

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Exhibit 1

UPCS Instructions

1. Prepare corrective documentation for each UPCS violation following these guidelines:
<http://www.tdhca.state.tx.us/pmcomp/inspections/docs/UPCS-WorkOrderGuidelines.pdf>
2. Submit complete corrective documentation via CMTS upload. Upload instructions are available at: <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>.
3. A list of al UPCS violations that must be corrected is attached below.

#	Location / Site	Level	Deficiency	Deficiency Notes	Additional Notes
1	Health & Safety	L3	Hazards – Tripping	Sidewalk uneven near pool	
2	Intentionally Omitted, but left in place to maintain numbering from Proposal for Decision*				
3	Intentionally Omitted, but left in place to maintain numbering from Proposal for Decision*				
Bldg 3: TX-94-01233. Unit 301					
4	Bathroom	L1	Bathroom Cabinets – Damaged/Missing	Damaged	
5	Bathroom	L3	Shower/Tub Damaged/Missing	Missing hardware	
6	Bathroom	L3	Water Closet / Toilet – Damaged/Clogged/Missing	Toilet not functioning	
7	Doors	L3	Damaged Hardware/Locks	Entry missing	
8	Doors	L3	Missing Doors	Missing throughout	
9	Electrical System	L3	GFI – Inoperable	Missing throughout	
10	Floors	L3	Soft Floor covering Missing/Damaged	Missing throughout	
11	HVAC System	L3	Inoperable	Missing	
12	Kitchen	L2	Dishwasher – Inoperable	Dishwasher not functioning	
13	Kitchen	L3	Range/Stove – Damaged / Inoperable	2 or more burners do not function	
14	Lighting	L3	Missing/Inoperable fixtures	Missing fixtures	

15	Walls	L3	Mold/Mildew/Water Stains/Water Damage	Mildew in laundry	
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*UPCS Findings 2 and 3 below were also listed as unresolved by TDHCA, but in the Proposal for Decision, the judge found that TDHCA staff did not prove UPCS Findings 2 and 3. The ALJ found that after determining which unit contained the deficiencies described below, a worker had made corrections and documented them referencing the same unit numbers as the UPCS inspection report to which the work orders were responding. Accordingly, no corrective response is required for the following two violations.

#	Location / Site	Level	Deficiency	Deficiency Notes	Additional Notes
Bldg 1: TX-94-01231. Unit 108 for 110					
2	Health & Safety	L3	Emergency fire exits	Bedroom 2 headboard blocking egress	ALJ found that this was not a violation. No documentation required.
3	Kitchen	L2	Dishwasher Inoperable	Dishwasher not functioning	ALJ found that this was not a violation. No documentation required.

Exhibit 2

File Monitoring Violation Resources and Instructions

Reference Information:

1. Refer to the following link for all references to the rules at 10 TAC §10 that are referenced below:
[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y)
2. Refer to the following link for copies of forms that are referenced below:
<http://www.tdhca.state.tx.us/pmcomp/forms.htm>
3. Technical support and training presentations are available at the following links:
Video/Audio Training: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>
Income and Rent Limits: <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>
Utility Allowance: <http://www.tdhca.state.tx.us/pmcomp/utility-allowance.htm>
Income and Rent Limits: <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>
Utility Allowance: <http://www.tdhca.state.tx.us/pmcomp/utility-allowance.htm>
Affirmative Marketing Webinar: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>
Affirmative Marketing Technical Assistance: <http://www.tdhca.state.tx.us/pmcdocs/AMT-Assistance-Guide.pdf>
Tenant Selection Criteria Webinar: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>
Online Reporting: <http://www.tdhca.state.tx.us/pmcomp/reports.htm>
FAQ's: <http://www.tdhca.state.tx.us/pmcomp/compFaq.htm>
4. **All corrections must be submitted via CMTS:** See link for steps to upload documents
<http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>.
5. **Important notes -**
 - i. Do not backdate any documents listed below.
 - ii. A transfer of a qualified household from another unit is not sufficient to correct any findings. If there is a tenant income certification or household income above limit violation, a transfer from another unit will simply cause the finding to transfer to that unit.

Instructions:

6. **Utility Allowance** – The City of Pasadena Housing Authority is the applicable housing authority. If you are unfamiliar with utility allowances, a copy of the utility allowance rule is at 10 TAC §10.614, and additional information regarding utility allowances are available at the link in #3 above. To correct:
 - i. Implement the most current utility allowance schedule by the City of Pasadena Housing Authority and upload a copy of the utility allowance schedule to CMTS.
 - ii. Update the unit status report in CMTS to reflect the current utility allowance, then submit the report.
 - iii. Ensure that gross rents charged to tenants do not exceed rental limits. When determining the appropriate rental amount, ensure that the tenant's rent, plus the utility allowance, plus any

housing subsidies, plus any mandatory fees, are below the maximum limits set by TDHCA. TDHCA limits are available at the link in #3 above. If rents exceed limits, contact Wendy Quackenbush at wendy.quackenbush@tdhca.state.tx.us for further instructions.

7. **Annual Owner's Compliance Fees:** Respondent failed to pay annual compliance fees for the years 2014 through 2016, totaling \$4,185. A fee of \$1,395 is due from Respondent every year on November 1. Submit a check in the amount of \$4,185 to TDHCA for these delinquent fees. Please be aware that this does not include the annual fee that came due on 11/1/2017, after the contested case hearing had already been scheduled. That 2017 fee is not part of this Final Order as a result, but it is outstanding.
8. **Pre-onsite documentation** – Submit the Entrance Interview Questionnaires dated 1/27/2012 and 12/18/2015 via CMTS. These questionnaires are filled out within CMTS and are in the same location as the Unit Status Reports / Quarterly Vacancy Reports.

9. **Written tenant selection criteria -**

How to prepare compliant criteria: First watch the webinar presentation is available at: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>. Then prepare updated written policies and procedures addressing all requirements at [10 TAC §10.610](#), including but not limited to the highlighted requirements at *Exhibit 3*. Ensure that you include an effective date for the policy. The “10.610 (policy & procedures)” tab of the spreadsheet at the following link provides details regarding how TDHCA monitors for this item so that you can check over your work before submission: <http://www.tdhca.state.tx.us/pmcdocs/OnsiteMonitoringForms.xlsx>

What to submit: Upload to CMTS a copy of the complete written policies and procedures along with the signed Owner Certification that is included at *Exhibit 3*.

10. **Tenant Rights and Resources Guide** – Update the Tenant Rights and Resources Guide from <http://www.tdhca.state.tx.us/pmcomp/forms.htm> and customize it for the property. Laminate the guide and post it in a common area of the leasing office. Upload to CMTS a copy of the customized Guide, along with the signed Owner Certification from *Exhibit 4*.
11. **Lease language for units 106, 110, 118, 120, 203, 301, 303, 305, 401, 403, 418, 420, 508, 513, 603, 801, 804, 805, 806, 807, and 813** – The leases did not contain required prohibitive language regarding locking out, threatening to lock out, seizing personal property, or threatening to seize personal property as required per 10 TAC §10.613(e), nor did they contain required language that evictions or terminations of tenancy for other than good cause are prohibited as required per 10 TAC §10.613(a).

For Units 110, 118, 203, 303, 403, 418, 508, 603, 801, 805, 806, and 813:

- a. If the households occupying these units at the time of the review on 1/26/2016 remain in the units, submit via CMTS a lease or addendum to the lease for each unit that contains the required language under 10 TAC §10.613. If you use TAA forms, there is a “Lease Contract Addendum for Units Participating in Government Regulated Affordable Housing Programs” that may be used. Please note that the lease or addendum must not be backdated.
- b. If the households occupying these units at the time of the review on 1/26/2016 have vacated the units without executing the lease/addendum with the required language, submit a letter stating that the household(s) moved out before signing, providing the move-out date(s), and acknowledging that these violations are uncorrectable.

For Units 106, 120, 301, 305, 401, 420, 513, 804, 807: Corrective documentation indicated that the households occupying these units at the time of the review on 1/26/2016 have vacated the units without executing the lease/addendum with the required language. Submit letter acknowledging that these violations are uncorrectable.

12. **Affirmative marketing plan** – Submit complete Affirmative Marketing Plan along with outreach marketing materials, as indicated below. A webinar presentation is available at: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>.

Frequent problems observed by TDHCA that cause plans to be rejected include, but are not limited to:

- Not using HUD Form 935.2A;
- Not correctly identifying populations “least likely to apply”. In general, those populations that are least likely to apply *might* include: African Americans, Native Americans, Alaskan Natives, Asians, Native Hawaiians, Other Pacific Islanders, Caucasians (non-Hispanic), Hispanics or Latinos, families with children, and the disabled. Analysis is required to determine which of these groups are least likely to apply;
- Not affirmatively marketing to the disabled. All properties must market to the disabled.
- Not correctly identifying organizations that are specifically associated with groups identified as “least likely to apply”. For example, marketing to the Housing Authority or placing ads in Craigslist would be considered general marketing, not affirmative marketing, because both serve all persons living in the area;
- Not including evidence of special outreach efforts, such as marketing letters, to those “least likely to apply” populations through specific media, organizations, or community contacts that work with “least likely to apply” populations or work in areas where “least likely to apply” populations live;
- Not including consideration regarding how Limited English Proficiency may affect populations that are least likely to apply, and not including ways to mitigate language barriers related to advertising and community outreach; and
- Not including a sentence in English and Spanish in the outreach marketing materials that prospective tenants can access if reasonable accommodations are needed to complete the application process. (This must be done regardless of targeted group).

To correct:

- a. Identify the appropriate housing market in which outreach efforts will be made;
- b. Determine the groups that are least likely to apply. The Multifamily Affirmative Marketing Web Tool referenced at 10 TAC §10.617(d)(5) to determine groups that are least likely to apply is available online at: <http://www.tdhca.state.tx.us/pmcomp/forms.htm>. Persons with disabilities must always be selected as a group least likely to apply. If there is no checkbox in the Plan form for a group that is identified by the Tool, you would add that group under “Other”. If you use this Tool and include a copy with your Plan, you may rely upon its results.

Alternatively, if you do not use the Tool, you may perform your own analysis to determine groups that are least likely to apply, but you must perform and document a reasonable analysis by which those groups were identified, you must always include persons with disabilities, and populations representing less than 1% of the total population of the County or MSA will not be required in your affirmative marketing. This analysis must be included with the plan.

If the “Not Hispanic” population is identified by the Web Tool as a group least likely to apply, that group would be marked in your plan as “Other” and you would write in “Not Hispanic”. Many owners assume that the “Not Hispanic” group identified by the Affirmative Marketing Web Tool means “White”. That is not necessarily the case. The Compliance Division explains the category like this: each household member has a Race *and* an Ethnicity. The Race could be White, American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander. The Ethnicity could be either Hispanic or Not Hispanic. In other words, a person could be Black/African American and

Hispanic. Likewise, a person could be White and Hispanic. In other words, the “Not Hispanic” demographic is literally everyone who is “Not Hispanic.”

- c. Identify in your plan specific organizations, media, and community contacts in the housing market to send marketing outreach materials. The organizations must specifically reach those groups designated as least likely to apply. The Tool provides a link to a map that will show which Census tracts may be most beneficial for affirmative marketing. The census tracts provided for outreach consideration represent nearby neighborhoods identified in the U.S. Census as having the greatest number of the groups who are least likely to apply at your development based on its location. The identified neighborhoods may represent a first step for planning meaningful outreach and marketing for your development. Examples of how to identify organizations:
 - i. Least likely to apply population - People with disabilities:
 1. Local Center for Independent Living (“CIL”) – serve persons with all disability types. Not all counties are covered http://www.txsilc.org/page_CILs.html
 2. Aging and Disability Resource Center (“ADRC”) – intake and referral for persons with physical, intellectual, or developmental disabilities - all counties are covered: <https://www.dads.state.tx.us/contact/search.cfm>
 3. Local Intellectual and Developmental Disability Authority (LIDDA) – serves persons with intellectual, or developmental disabilities - all counties are covered: <https://www.dads.state.tx.us/contact/search.cfm>
 4. Local Mental Health Authority (LMHA) – serves persons with Mental Illness and Substance Use disorders - all counties are covered: <https://www.dshs.texas.gov/mhservices-search/>
 5. Local non-profits in your area serving people with disabilities
 6. Call 211 and ask about resources for people with disabilities in your area, reach out to groups serving people with disabilities in your community
 - ii. Least likely to apply population - Black/African American:
 1. Local Black/African American Chamber of Commerce
 2. Local Black/African American Professionals Social Network
 3. Weekly Black/African American newspaper / website for a city
 4. Local community center or YMCA in a historically black/African American neighborhood;
 5. Community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group. In TDHCA’s Web Tool, these areas are listed under “tracts for outreach consideration”
 - iii. Least likely to apply population – Not Hispanic:
 1. Community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group. In TDHCA’s Web Tool, these areas are listed under “tracts for outreach consideration”
 - iv. Least likely to apply population - Asian:
 1. Local Asian real estate association
 2. Local Asian Chamber of Commerce
 3. Local Asian American Resource Center
 4. Local organizations serving the Asian community
 5. Community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group. In TDHCA’s Web Tool, these areas are listed under “tracts for outreach consideration”

- d. Complete and execute an affirmative marketing plan using any version of HUD Form 935.2A, including the groups and organizations identified above;
- e. Comply with all requirements of 10 TAC §10.617, which we recommend using as a checklist;
- f. Ensure that your plan includes a section considering how Limited English Proficiency may affect populations least likely to apply, and including ways you plan to mitigate language barriers related to advertising and community outreach. Such information should be included in the Plan as an additional consideration, or as an attachment to the Plan. Some sample information that may be useful for preparation is available at <http://www.tdhca.state.tx.us/pmcdocs/LAP-Guide.doc>;
- g. Send marketing outreach materials to the identified organizations, ensuring that said marketing materials comply with all requirements of 10 TAC §10.617. Remember that 10 TAC §10.617(f)(5) requires marketing materials to include the Fair Housing Logo and give contact information that prospective tenants can access if reasonable accommodations are needed in order to complete the application process. This contact information sentence must include the terms “reasonable accommodation” and must be in English and Spanish. Here is a sample of an acceptable sentence recently included in marketing materials from another property: *“Individuals who need to request a reasonable accommodation to complete the application process should contact the apartment manager at XXX-XXX-XXXX. Personas con discapacidad que necesitan solicitar un acomodacion razonable para completar el proceso de aplicacion deben comunicarse con el Administrador del apartment al XXX-XXX-XXXX.”*
- h. Look over the “10.617 (affirmative marketing)” tab of the spreadsheet at the following link, which provides details regarding how TDHCA monitors for this item so that you can check over your work before submission: <http://www.tdhca.state.tx.us/pmcdocs/OnsiteMonitoringForms.xlsx>
- i. Maintain all documentation in your files for future review.
- j. Upload the following via CMTS: the Affirmative Marketing Plan (Form 935.2A), Affirmative Marketing Web Tool (if used) or detailed analysis of groups least likely to apply if the Tool is not used, and copies of marketing outreach materials.

12. Household income and annual eligibility certification violations – Corrective documentation was received 12/22/2016, and the following instructions are based upon TDHCA’s review of those corrections. Where no corrections were received, instructions below are based upon the original monitoring letter from 6/10/2016. “AEC” stands for “Annual Eligibility Certification”. If the circumstances described below for a specific household no longer apply, follow the instructions in the table below at pages 19-20. You must respond for every unit listed below and all responses must be submitted via CMTS upload. General technical support regarding how to prepare a complete tenant file is at *Exhibit 5*.

- a. Unit 106 – Unit was vacant as of 12/22/2016. To correct, follow instructions in table at pages 19-20.
- b. Unit 107 – The household’s initial Income Certification form was submitted which is not sufficient. To correct, have the household complete a current AEC and submit. If the household has moved out or is not eligible, follow instructions in the table at pages 19-20.
- c. Unit 110 – A new household had moved in and appears to be income eligible. However, the new household’s lease contract and lease addendum was not submitted. To correct, submit the lease contract and lease addendum. See #10 above for details regarding lease addendum requirements in order to ensure that lease and lease addendum are complete. If the household has moved out or is not eligible, follow instructions in the table at pages 19-20.
- d. Unit 112 – A new household moved in and appears to be income eligible. However, the new household’s lease contract was not submitted. To correct, submit the lease contract and lease addendum. See instruction #11 above for details regarding lease addendum requirements in

order to ensure that lease and lease addendum are complete. If the household has moved out or is not eligible, follow instructions in the table at pages 19-20.

- e. Unit 118 - Documentation was not submitted for this unit. If the household present during the 1/27/2016 review remains in the unit, submit a current AEC. If that household has vacated or does not qualify for occupancy, follow instructions in the table at pages 19-20.
- f. Unit 120 - At the time of the 1/27/2016 review, the household was over income. Follow instructions in the table at pages 19-20.
- g. Unit 201 – No file was available for review during the 1/27/2016 onsite. Follow instructions in the table at pages 19-20.
- h. Unit 203 - At the time of the 1/27/2016 review, the household was over income. Follow instructions in the table at pages 19-20.
- i. Unit 204 – The household executed a blank AEC, which is insufficient. To correct, have the household fully complete an AEC and submit. If the household has moved out or is not eligible, follow instructions in the table at pages 19-20.
- j. Unit 305 - Unit was vacant as of 12/22/2016. To correct, follow instructions in the table at pages 19-20.
- k. Unit 401 - Unit was vacant as of 12/22/2016. To correct, follow instructions in the table at pages 19-20.
- l. Unit 403 – The household present at the time of the 1/27/2016 review disclosed employment income on their application, but the file did not include verification of income. To correct, either: 1) complete a retroactive income certification that completely and clearly documents the sources of income and assets, using third party or firsthand verifications that were in place at the time the initial certification should have been effective. Also complete a current AEC. Submit a copy of the original application, income and asset verifications, updated certification, and AEC for review; or 2) complete a new certification using current income and asset sources and current income limits. Submit copies of the current application, third party or firsthand income/asset verification(s), new Income Certification, Lease/Lease Addendum and Tenant Rights and Resources Guide acknowledgement. If the household has moved out or is not eligible, follow instructions in the table at pages 19-20.
- m. Unit 404 – At the time of the 1/27/2016 review, the household was over income. Follow instructions in the table at pages 19-20. Also submit current AEC if household now qualifies under current circumstances.
- n. Unit 409 – The household present at the time of the 1/27/2016 review disclosed employment income on their application, but the file did not include verification of income. To correct, either: 1) complete a retroactive income certification that completely and clearly documents the sources of income and assets, using third party or firsthand verifications that were in place at the time the initial certification should have been effective. Submit a copy of the original application, income and asset verifications, updated certification for review; or 2) complete a new certification using current income and asset sources and current income limits. Submit to the Department copies of the current application, third party or firsthand income/asset verification(s), new Income Certification, Lease/Lease Addendum and Tenant Rights and Resources Guide acknowledgement. If the household has moved out or is not eligible, follow instructions in the table at pages 19-20.
- o. Unit 418 – During the 1/27/2016 review, Department staff noted that a new household moved in on 11/1/2012 and the file contained an Income Certification form and two paystubs with white out. Department staff could not determine eligibility. To correct, either: 1) complete a retroactive income certification that completely and clearly documents the sources of income and assets, using third party or firsthand verifications that were in place at

the time the initial certification should have been effective. Also complete a current AEC. Submit a copy of the original application, income and asset verifications, updated certification, and AEC for review; or 2) complete a new certification using current income and asset sources and current income limits. Submit to the Department copies of the current application, third party or firsthand income/asset verification(s), new Income Certification, Lease/Lease Addendum and Tenant Rights and Resources Guide acknowledgement. If the household has moved out or is not eligible, follow instructions in the table at pages 19-20.

- p. Unit 420 - Unit was vacant as of 12/22/2016. To correct, follow instructions in the table at pages 19-20.
- q. Unit 503 – Unit status reports indicated this unit was vacant the day of the 1/27/2016 monitoring review. To correct, follow instructions in the table at pages 19-20.
- r. Unit 506 - Unit was vacant as of 12/22/2016. To correct, follow instructions in the table at pages 19-20.
- s. Unit 508 - At the time of the 1/27/2016 review, the household was over income. To correct, follow instructions in the table at pages 19-20. Also submit current AEC if the same household now qualifies under current circumstances.
- t. Unit 513 - Unit was vacant as of 12/22/2016. To correct, follow instructions in the table at pages 19-20.
- u. Unit 515 - Unit was vacant as of 12/22/2016. To correct, follow instructions in the table at pages 19-20.
- v. Unit 601 - Unit was vacant as of 12/22/2016. To correct, follow instructions in the table at pages 19-20.
- w. Unit 603 - Documentation was not submitted for this unit. If the household present during the 1/27/2016 review remains in the unit, submit a current AEC. If that household has vacated or does not qualify for occupancy, follow instructions in the table at pages 19-20.
- x. Unit 702 - The household executed a blank Annual Eligibility Certification (AEC) which is insufficient. To correct, have the household fully complete AEC form and submit. If that household has vacated or does not qualify for occupancy, follow instructions in the table at pages 19-20.
- y. Unit 703 - The household executed a blank Annual Eligibility Certification (AEC) which is insufficient. To correct, have the household fully complete AEC form and submit. If that household has vacated or does not qualify for occupancy, follow instructions in the table at pages 19-20.
- z. Unit 801 - Documentation was not submitted for this unit. If the household present during the 1/27/2016 review remains in the unit, submit a current AEC. If that household has vacated or does not qualify for occupancy, follow instructions in the table at pages 19-20.
- aa. Unit 804 - Unit was vacant as of 12/22/2016. To correct, follow instructions in the table at pages 19-20.
- bb. Unit 805 - The income verification form present during the 1/27/2016 review was not legible and the Department staff could not determine eligibility. To correct, either: 1) complete a retroactive income certification that completely and clearly documents the sources of income and assets, using third party or firsthand verifications that were in place at the time the initial certification should have been effective. Also complete a current AEC. Submit a copy of the original application, income and asset verifications, updated certification, and AEC for review. Do not back date these forms; or 2) complete a new certification using current income and asset sources and current income limits. Submit to the Department copies of the current application, third party or firsthand income/asset verification(s), new Income Certification, Lease/Lease Addendum and Tenant Rights and

Resources Guide acknowledgement. If the household has moved out or is not eligible, follow instructions in the table at pages 19-20.

- cc. Unit 806 - The household did not execute a 2015 Income Certification form at move-in. To correct, either: 1) complete a retroactive income certification that completely and clearly documents the sources of income and assets, using third party or firsthand verifications that were in place at the time the initial certification should have been effective. Submit a copy of the original application, income and asset verifications, and updated certification for review. Do not back date these forms; or 2) complete a new certification using current income and asset sources and current income limits. Submit to the Department copies of the current application, third party or firsthand income/asset verification(s), new Income Certification, Lease/Lease Addendum and Tenant Rights and Resources Guide acknowledgement. If the household has moved out or is not eligible, follow instructions in the table at pages 19-20.
- dd. Unit 807 - Unit was vacant as of 12/22/2016. To correct, follow instructions in the table at pages 19-20.
- ee. Unit 811 - At the time of the 1/27/2016 review, the unit was vacant, and the prior household was over income. Follow instructions in the table at pages 19-20.
- ff. Unit 813 – At the time of the 1/27/2016 review, the file did not contain an executed Income Certification form. To correct, either: 1) complete a retroactive income certification that completely and clearly documents the sources of income and assets, using third party or firsthand verifications that were in place at the time the initial certification should have been effective. Also complete a current AEC. Submit a copy of the original application, income and asset verifications, updated certification, and AEC for review. Do not back date these forms; or 2) complete a new certification using current income and asset sources and current income limits. Submit to the Department copies of the current application, third party or firsthand income/asset verification(s), new Income Certification, Lease/Lease Addendum and Tenant Rights and Resources Guide acknowledgement. If the household has moved out or is not eligible, follow instructions in the table at pages 19-20.

Circumstance with respect to units listed above on pages 16-19	Instruction
If (1) unit is occupied by a household that was previously over the income limit, but circumstances have changed and the household now qualifies, or (2) the household file was originally missing but the household qualifies for occupancy	Recertify the household by collecting a new application, new tenant income certification, and verifying all sources of income and assets. Submit full tenant file*.
If unit is occupied by a new qualified household that occupied unit after 1/27/2016	Submit the full tenant file*.
If unit is occupied by a nonqualified household on a month-to-month lease	A. Follow your normal procedures for terminating residency and provide a copy of documentation to TDHCA.** B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after the 60-day deadline is acceptable for this circumstance provided that Requirement A above is fulfilled.

<p>If unit is occupied by a nonqualified household with a non-expired lease</p>	<p>A. Issue a nonrenewal notice to tenant and provide a copy to TDHCA.**</p> <p>B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after the 60-day deadline is acceptable for this circumstance provided that Requirement A above is fulfilled.</p>
<p>If unit has been vacant <i>more than</i> 30 days</p>	<p>A. Unit must be made ready for occupancy and a letter certifying to that effect must be submitted to TDHCA.</p> <p>B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after the 60-day deadline is acceptable for this circumstance provided that Requirement A above is fulfilled.</p>
<p>If unit has been vacant <i>less than</i> 30 days</p>	<p>A. If unit is ready for occupancy, a letter certifying to that effect must be submitted to TDHCA.</p> <p>B. If unit is not ready for occupancy, submit a letter to TDHCA including details regarding work that is required and when the unit will be ready for occupancy (no more than 30 days from the date of vacancy).</p> <p>C. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after the 60-day deadline is acceptable for this circumstance provided that Requirement A above is fulfilled.</p>

**Full tenant file must include: tenant application, verifications of all sources of income and assets, tenant income certification, lease, lease addendum, and Tenant Rights and Resources Guide Acknowledgment.*

*** If a notice of nonrenewal or notice of termination is sent to tenant, ensure that it complies with TDHCA requirements of the rule at 10 TAC 10.610(f) at this link:*

[http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=10&rl=610](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=10&rl=610)

Exhibit 3

10 TAC 10.610 Written Policies and Procedures

The highlighted version of this rule and the associated owner certification of corrected noncompliance, are not available in an accessible format and is therefore omitted from this web version of the Final Order. Both can be provided upon request

Exhibit 4

Owner Certification relating to Tenant Rights & Resources Guide

The owner certification is not available in an accessible format and is therefore omitted from this web version of the Final Order. It can be provided upon request

Exhibit 5

General Tenant File Guidelines

The following technical support does not represent a complete list of all file requirements and is intended only as a guide. TDHCA staff recommends that all onsite staff responsible for accepting and processing applications sign up for First Thursday Training in order to get a full overview of the process. Sign up at <http://www.tdhca.state.tx.us/pmcomp/COMPtrain.html>. Forms discussed below are available at: <http://www.tdhca.state.tx.us/pmcomp/forms.htm>.

1. **Intake Application:** Each adult household member must complete their own application in order to be properly screened at initial certification. A married couple can complete a joint application. The Department does not have a required form to screen households, but we make a sample form available for that purpose at <http://www.tdhca.state.tx.us/pmcomp/forms.htm>. All households must be screened for household composition, income and assets. Applicants must complete all blanks on the application and answer all questions. Any lines left intentionally blank should be marked with “none” or “n/a.” The application must be signed and dated by all adult household members, using the date that the form is actually completed. If you use the Texas Apartment Association (TAA) Rental Application, be aware that it does not include all requirements, but they have a “Supplemental Rental Application for Units Under Government Regulated Affordable Housing Programs” that includes the additional requirements.
2. **Release and Consent:** Have tenant sign TDHCA’s Release and Consent form so that verifications may be collected by the property. Form is available at: <http://www.tdhca.state.tx.us/pmcomp/forms.htm>
3. **Verify Income:** Each source of income and asset must be documented for every adult household member based upon the information disclosed on the application. There are multiple methods:
 - a. **Income Verification for Households with Section 8 Certificates:** This form is signed by the Public Housing Authority, certifying that the household is eligible at initial occupancy. This form can only be completed at initial occupancy and cannot be used to correct a finding of noncompliance relating to income eligibility.
 - b. **First hand verifications:** Paystubs or payroll print-outs that show gross income. If you choose this method, ensure that you consistently collect a specified number of consecutive check stubs as defined in your management plan;
 - c. **Employment Verification Form:** Part 1 must be completed by you and signed by the tenant. Part 2 must be completed by the employer. To prevent fraud, you must submit the form directly to the employer and must not allow the tenant to handle it. You should ensure that the person completing the employer portion has authority to do so and has access to all applicable information in order to verify the employment income. If you receive the verification via mail, retain the envelope. If you receive it via fax, ensure that the fax stamp is on it;
 - d. **Verification of non-employment income:** You must obtain verifications for all other income sources, such as child support, social security, and/or unemployment benefits. Self-certification by the household is not acceptable. Examples: benefit verification letter(s) would be acceptable for social security and/or employment benefits. Acceptable verifications for child support could include documents such as

- divorce decree(s), court order(s), or a written statement from the court or attorney general regarding the monthly awarded amount;
- e. **Telephone Verifications:** these are acceptable *only* for clarifying discrepancies and cannot be used as primary form of verification. Include your name, the date, the name of the person with whom you spoke, and your signature;
 - f. **Certification of Zero Income:** If an adult household member does not report any sources of income on the application, this form can be used to document thorough screening and to document the source of funds used to pay for rent, utilities, and/or other necessities.
4. **Verify Assets:** Regardless of their balances, applicants must report all assets owned, including assets such as checking or savings accounts. The accounts are typically disclosed on the application form, but you must review all documentation from the tenant to ensure proper documentation of the household's income and assets. For instance, review the credit report (if you pull one), application, pay stubs, and other documents to ensure that all information is consistent. Examples of ways to find assets that are frequently overlooked: Review pay stubs for assets such as checking and retirement accounts that the household may have forgotten to include in the application. These accounts must also be verified. Format of verifications:
- a. **Under \$5000 Asset Certification Form:** If the total cash value of the assets owned by members of the household is less than \$5,000, as reported on the Intake Application, the TDHCA Under \$5,000 Asset Certification form at <http://www.tdhca.state.tx.us/pmcomp/forms.htm> may be used to verify assets. If applicable, follow the instructions to complete one form per household that includes everyone's assets, even minors, and have all adults sign and date using the date that the form is actually completed.
 - b. **First hand verifications** such as bank statements to verify a checking account. Ensure that you use a consistent number of consecutive statements, as identified in your management plan.
 - c. **3rd party verifications** using the TDHCA Asset Verification form at <http://www.tdhca.state.tx.us/pmcomp/forms.htm>. As with the "Employment Verification Form" discussed above, Part 1 must be completed by you and signed by the tenant. Part 2 must be completed by the financial institution. To prevent fraud, you must submit the form directly to the employer and must not allow the tenant to handle it. You should ensure that the person completing the financial institution's portion has authority to do so and has access to all applicable information in order to verify the asset(s). If you receive the verification via mail, retain the envelope. If you receive it via fax, ensure that the fax stamp is on it.
5. **Tenant Income Certification Form:** Upon verification of all income and asset sources disclosed on the application and any additional information found in the documentation submitted by the tenant, the next step is to annualize the sources on the Income Certification Form (at <http://www.tdhca.state.tx.us/pmcomp/forms.htm>), add them together, and compare to the applicable income limit for household size which can be found at <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>. Be sure to include any income derived from assets. The form must include all household members, and be signed by each adult household member.

6. **Lease:** Must conform with your LURA and TDHCA requirements and indicate a rent below the maximum rent limits, which can be found at <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>. When determining the rent, ensure that the tenant's rent, plus the utility allowance, plus any housing subsidies, plus any mandatory fees, are below the maximum limits set by TDHCA. 10 TAC §10.613(a) prohibits the eviction or termination of tenancy of low income households for reasons other than good cause throughout the affordability period in accordance with Revenue Ruling 2004-82. In addition, 10 TAC §10.613(f) prohibits HTC developments from locking out or threatening to lock out any development resident, or seizing or threatening to seize personal property of a resident, except by judicial process, for purposes of performing necessary repairs or construction work, or in case of emergency. The prohibitions must be included in the lease or lease addendum. TAA has an affordable lease addendum that has incorporated this required language. If you are not a TAA member, you can draft a lease addendum using the requirements outlined at 10 TAC §10.613.
7. **Tenant Selection Criteria:** In accordance with 10 TAC §10.610(b), you must maintain written Tenant Selection Criteria and a copy of those written criteria under which an applicant was screened must be included in the household's file. A copy of the rule is at Exhibit 2.
8. **Tenant Rights and Resources Guide:** As of 1/8/2015, the Fair Housing Disclosure Notice and Tenant Amenities and Services Notice have been replaced by the Tenant Rights and Resources Guide, a copy of which is available online at: <http://www.tdhca.state.tx.us/pmcomp/forms.htm>.

In accordance with 10 TAC §10.613(m), a laminated copy of this guide must be posted in a common area of the leasing office. Development must also provide a copy of the guide to each household during the application process and upon any subsequent changes to the items described at paragraph b) below. The Tenant Rights and Resources Guide includes:

- a) Information about Fair Housing and tenant choice; and
- b) Information regarding common amenities, unit amenities, and services.

A representative of the household must receive a copy of the Tenant Rights and Resources Guide and sign an acknowledgment of receipt of the brochure prior to, but no more than 120 days prior to, the initial lease execution date. Both forms are available at: <http://www.tdhca.state.tx.us/pmcomp/forms.htm>