

ENFORCEMENT ACTION AGAINST	§	BEFORE THE
ATLANTIC HOUSING	§	TEXAS DEPARTMENT OF
FOUNDATION, INC. WITH RESPECT	§	HOUSING AND
TO REDBUD TRAIL APARTMENTS	§	COMMUNITY AFFAIRS
(HTF FILE # 92041B / CMTS # 2515)	§	

AGREED FINAL ORDER

General Remarks and official action taken:

On this 22nd day of March, 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 **ATLANTIC HOUSING FOUNDATION, INC.**, a South Carolina nonprofit corporation (“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 1993, National Center for Housing Management, a nonprofit corporation (“Prior Owner”) was awarded a Housing Trust Fund loan in the amount of \$551,623 to acquire and operate Redbud Trail Apartments (“Property”) (HTF file No. 92041 / CMTS No. 2515 / LDLD No. 697).
2. In connection with that funding, Prior Owner signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective December 30, 1993, and filed of record at Document Number 94-0000099 of the Official Public Records of Real Property of

Collin County, Texas (“Records”), as amended by a First Amendment executed to be effective as of January 15, 2015, and filed in the Records at Document Number 20150610000688700. In accordance with Section 7.11 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 purchased the Property on December 30, 2003 and, although an Agreement to Comply was not signed, Respondent is bound to the terms of the LURA in accordance with Section 7.11 thereof.
4. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations¹:

5. An on-site monitoring review was conducted on November 15, 2016, 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 an August 31, 2017, corrective action deadline was set, however, the following violations were not corrected before the corrective action deadline:
 - a. Respondent failed to provide documentation that household incomes were within prescribed limits upon initial occupancy for units 122, 135, 173, 238, 241, 247, and 257, a violation of 10 TAC §10.611 (Determination, Documentation and Certification of Annual Income) and Section 2.2 of the LURA, which require screening of tenants to ensure qualification for the program. These findings remain unresolved.
 - b. Respondent failed to maintain fully acceptable written policies and procedures, including written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements. This finding was corrected on February 20, 2018, 173 days past the deadline.
 - c. Respondent failed to properly calculate the utility allowance for the property, a violation of 10 TAC §10.614 (Utility Allowances), which requires all developments to establish a utility allowance. This finding remains unresolved.
 - d. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §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. This finding was corrected on February 20, 2018, 173 days past the deadline.

¹ Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TAC 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.

- e. Respondent failed to implement the Tenant Rights and Resources Guide, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a common area of the leasing office and provide a copy to each household during the application process and upon any subsequent change to common amenities, unit amenities, or services. This finding was corrected on February 20, 2018, 173 days past the deadline.
6. The following violations remain outstanding at the time of this order:
 - a. Household income violations described in FOF #5.a; and
 - b. Utility allowance violation described in FOF #5.c.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, and 10 TAC Chapter 2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Respondent violated 10 TAC §10.611 and Section 2.2 of the LURA in 2016, by failing to provide documentation that household incomes were within prescribed limits upon initial occupancy for units: 122, 135, 173, 238, 241, 247, and 257.
4. Respondent violated 10 TAC §10.610 in 2016, by not maintaining written policies and procedures, including written tenant selection criteria meeting TDHCA requirements.
5. Respondent violated 10 TAC §10.614 in 2016 by failing to implement an updated utility allowance.
6. Respondent violated 10 TAC §10.617 in 2016, by failing to provide a complete affirmative marketing plan.
7. Respondent violated leasing requirements in 10 TAC §10.613 in 2016, by failing to implement the Tenant Rights and Resources Guide.
8. 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.
9. 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.
10. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code § 2306.053 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.

11. An administrative penalty of \$1,500 is an appropriate penalty in accordance with 10 TAC Chapter 2.

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 \$1,500, subject to deferral as further ordered below.

IT IS FURTHER ORDERED that onsite property management staff at Redbud Trail Apartments, with the exception of maintenance personnel, shall attend at least 8 hours of income eligibility training offered by either TDHCA or the Texas Apartment Association, and submit completion certificates to the Department via CMTS on or before June 20, 2018. Registration for these courses is available at <http://www.tdhca.state.tx.us/pmcomp/COMPtrain.html> or <http://www.taa.org/events/>.

IT IS FURTHER ORDERED that onsite property management staff at Redbud Trail Apartments, with the exception of maintenance personnel, shall complete fair housing training by either: (A) participating in the Fair Housing Overview Webinar on April 10, 2018, at <http://www.tdhca.state.tx.us/fair-housing/announcements.htm>), or (B) watching the 2015 Tenant Selection Criteria Webinar Presentation *and* the 2015 Affirmative Marketing Requirements Webinar Video at <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>). Upon completion of either (A) or (B), submit a signed letter via CMTS on or before June 20, 2018, certifying completion.

IT IS FURTHER ORDERED that Respondent shall fully correct the file monitoring violations as indicated in the exhibits and submit full documentation of the corrections to TDHCA on or before June 20, 2018.

IT IS FURTHER ORDERED that if Respondent timely and fully complies with the terms and conditions of this Agreed Final Order, correcting all violations as required, the satisfactory performance under this order will be accepted in lieu of the assessed administrative penalty and the full amount of the administrative penalty will be deferred and forgiven.

IT IS FURTHER ORDERED that if Respondent fails to satisfy any conditions or otherwise violates any provision of this order, or the property is sold before the terms and conditions of this Agreed Final Order have been fully satisfied, then the full administrative penalty in the amount of \$1,500 shall be immediately due and payable to the Department. Such payment shall be made by cashier's check payable to the "Texas Department of Housing and Community Affairs" upon the earlier of (1) within thirty days of the date the Department sends written notice to Respondent that it has violated a provision of this Order, or (2) the property closing date if sold before the terms and conditions of this Agreed Final Order have been fully satisfied.

IT IS FURTHER ORDERED that corrective documentation must be uploaded to the Compliance Monitoring and Tracking System (“CMTS”) by following the instructions at this link: <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>. After the upload is complete, an email must be sent to Ysella Kaseman at ysella.kaseman@tdhca.state.tx.us to inform her that the documentation is ready for review. If it comes due and payable, the penalty payment must be 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 shall follow the requirements of 10 TAC §10.406, a copy of which is included at Exhibit 4, and obtain approval from the Department prior to consummating a sale of the property, if contemplated.

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

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Approved by the Governing Board of TDHCA on March 22, 2018.

By: /s/ J.B. Goodwin
Name: J.B. Goodwin
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 22nd day of March, 2018, personally appeared J.B. Goodwin, 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/ Peggy M. Henderson
Notary Public, State of Texas

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 22nd day of March, 2018, 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/ Peggy M. Henderson
Notary Public, State of Texas

Exhibit 1

File Monitoring Violation Resources and Instructions

Resources:

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:
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>
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 Development submitted a utility allowance from the Housing Authority of the City of McKinney, TX effective May 1, 2016. Since the violation has been outstanding for multiple months, there is now a more recent utility allowance that must be implemented. Additionally, the Unit Status Report (USR) lists different utility allowance rates than those submitted with the corrective action.
What to submit: submit via CMTS a copy of the new utility allowance issued by the Housing Authority of the City of McKinney. Also submit the development's updated Unit Status Report to demonstrate that the utility allowance has been implemented. Rent will be tested development-wide once the proper allowance is implemented, and any resulting noncompliance will be cited at that time and provided a separate corrective action period of 90 days.
For more information, see <http://www.tdhca.state.tx.us/pmcomp/utility-allowance.htm>

7. **Household income violations for units 122, 135, 173, 238, 241, 247, and 257**

What to submit: Follow the instructions below with respect to units 122, 135, 173, 238, 241, 247, and 257, then submit documentation via CMTS.

Circumstance with respect to units listed above	Instruction
If unit is occupied by a qualified household	Follow the instructions that are outlined separately for each unit at Exhibit 2. If the circumstances outlined at Exhibit 2 no longer exist because the affected household has moved out, follow the instructions in the applicable row below.
If unit is occupied by a new qualified household	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. Once the unit becomes available, occupy the unit by a qualified household, and submit the full new tenant file within 30 days of occupancy*. Receipt of the full tenant file after 6/20/2018 is acceptable for this circumstance provided that Requirement A above is fulfilled.
If unit is occupied by a nonqualified household with a non-expired lease	A. Issue a nonrenewal notice to tenant and provide a copy to TDHCA.** B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt of the full tenant file after 6/20/2018 is acceptable for this circumstance provided that Requirement A above is fulfilled.
If unit has been vacant <i>more than</i> 30 days	A. Unit must be made ready for occupancy and a letter certifying to that effect must be submitted to TDHCA. B. Occupy the unit by a qualified household, and submit the full new tenant file within 30 days of occupancy*. Receipt of the full tenant file after 6/20/2018 is acceptable for this circumstance provided that Requirement A above is fulfilled.
If unit has been vacant <i>less than</i> 30 days	A. If unit is ready for occupancy, a letter certifying to that effect must be submitted to TDHCA. 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). C. Occupy the unit by a qualified household, and submit the full new tenant file within 30 days of occupancy*. Receipt of the full tenant file after 6/20/2018 is acceptable for this circumstance provided that Requirements A and B above are fulfilled.

**Full tenant file must include: tenant application, verifications of all sources of income and assets, tenant income certification, lease, lease addendum, Tenant Rights and Resources Guide Acknowledgment, and a copy of the tenant selection criteria under which the household was screened. For reference, some technical support regarding tenant files is at Exhibit 3.*

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

Exhibit 2

Specific instructions for units 122, 135, 173, 238, 241, 247, and 257

Follow the instructions that are outlined separately for each unit below. If the circumstances outlined below no longer exist because the affected household has moved out, follow the instructions in the applicable row in the table at Exhibit 1, section 7. Technical support regarding tenant files is included at Exhibit 3 as a courtesy.

- **Unit 122:** Based upon the 2/20/2018 submission by the property, it appears that a new household moved to this unit July 7, 2017. The applicant disclosed Social Security and Dallas Seminary Pension as other non-work income; however, the pension was not verified.

What to submit: Obtain verification of pension income from the time of move-in. If the household is eligible, submit a copy of the verification to the Department.

If the household's circumstances have changed since move-in, but the household is eligible, a new certification may be performed using current circumstances and current income and asset information. If a new certification is performed for the existing household, the property must obtain first-hand documentation, such as award letters and bank statements to document income and assets. Submit copies of the household's application, verifications of income and assets, executed Tenant Income Certification form, first and signatory page of the lease contract, applicable lease addendums and the Acknowledgement from the Tenant Rights and Resources Guide.

If the household is not eligible or any of the above circumstances no longer apply to this unit, follow the instructions in the applicable row in the table at Exhibit 1, section 7.

- **Unit 135:** Based upon the 2/20/2018 submission by the property, it appears the Development is recertifying the household under the current circumstances; however, an Annual Eligibility Certification was submitted instead of the 3-page Tenant Income Certification, and the initial application was submitted rather than getting a new one.

What to submit: If the household is eligible, submit an executed copy of the new Tenant Income Certification, a copy of a current application providing the current and previous employers of both adult household members, verifications of all sources of income and assets disclosed on the application.

If the household is not eligible or any of the above circumstances no longer apply to this unit, follow the instructions in the applicable row in the table at Exhibit 1, section 7.

- **Unit 173:** Based upon the 2/20/2018 submission by the property, it appears that the second household member's birth year is 1999. As a result, the second household member was 18 at the time of application and should have been screened as an adult. The Tenant Income Certification (TIC) and Supplemental Rental Application incorrectly list the second household member as 17 years old. Additionally, the household certified to not having any assets on the Under \$5,000 Asset Certification; however, pay stubs show that income is being directly deposited into a checking account.

What to submit: Properly screen the household (including the second household member) for all income and assets using current income and asset sources. The development must obtain first hand documentation such as pay stubs and bank statements to document income and assets for each adult household member.

If the household is eligible, submit copies of the household's application, verifications of income and assets, executed Tenant Income Certification form, first and signatory page of the lease contract, applicable lease addendums and the Acknowledgement from the Tenant Rights and Resources Guide.

If the household is not eligible or any of the above circumstances no longer apply to this unit, follow the instructions in the applicable row in the table at Exhibit 1, section 7.

- **Unit 238:** Based upon the 2/20/2018 submission by the property, it appears the Development is recertifying the household under the current circumstances; however, the file was incomplete and included information that conflicted with the original submission. A new Tenant Income Certification (TIC) executed January 19, 2017, included two dependents that were not included on the TIC at the time of initial certification. There was no documentation submitted to determine if the head of household is/is not receiving child support. The pay stubs for household member number two appear to differ from the employer noted in the file the day of the onsite review. Lastly, a copy of a current application providing the current and previous employers of both adult household members was not submitted with the response.

What to submit: If the household's circumstances have changed since move-in, a new certification may be performed using current circumstances and current income and asset information. If a new certification is performed for the existing household, the property must obtain first hand documentation, such as pay stubs and bank statements to document income and assets.

If the household is eligible, submit copies of the household's application, verifications of income and assets, executed Income Certification form, first and signatory page of the lease contract, applicable lease addendums and the Acknowledgement from the Tenant Rights and Resources Guide.

If the household is not eligible or any of the above circumstances no longer apply to this unit, follow the instructions in the applicable row in the table at Exhibit 1, section 7.

- **Unit 241:** Based upon the 2/20/2018 submission by the property, it appears that there are no original household members remaining in this unit. If original household members have moved out, any remaining tenants need to be certified as a new income qualified household under current circumstances.

What to submit: Properly screen the current household using current income and asset sources. The development must obtain first hand documentation such as pay stubs and bank statements to document income and assets for each adult household member. Additionally, both household members are servers, and tips are received. Declared tips have been verified on the pay stubs; however, they also need to self certify to the tips they receive (cash) that is not reported to their employers.

If the household is eligible, submit copies of the household's application, verifications of income and assets, executed Income Certification form, first and signatory page of the lease contract, applicable lease addendums and the Acknowledgement from the Tenant Rights and Resources Guide.

If the household is not eligible or any of the above circumstances no longer apply to this unit, follow the instructions in the applicable row in the table at Exhibit 1, section 7.

- **Unit 247:** The 2/20/2018 submission by the property included illegible pay stubs, and an updated application for the 2017 certification was not provided. Lastly, the second adult disclosed employment with First Convenience Bank; however, documentation to evidence the termination date for this employer was not submitted.

What to submit:

If the household is eligible, submit (1) pay stubs that clearly detail the company name, pay periods, and pay amounts; (2) verification(s) of termination for previous employer(s); (3) a copy of the a current application providing the current and previous employers of both adult household members; and (4) verifications for all income and assets disclosed on the new application.

If the household is not eligible or any of the above circumstances no longer apply to this unit, follow the instructions in the applicable row in the table at Exhibit 1, section 7.

- **Unit 257:** Based upon the 2/20/2018 submission by the property, it appears the Development is certifying the household under current circumstances; however, an Annual Eligibility Certification (AEC) form was provided instead of a new three-page Tenant Income Certification (TIC). A new TIC must be created and executed to certify the household under current circumstances.

What to submit:

If the household is eligible, complete a new TIC to show the household is certifying under the current circumstances. Do not back date the certification. Submit the TIC to the Department for review.

If the household is not eligible or any of the above circumstances no longer apply to this unit, follow the instructions in the applicable row in the table at Exhibit 1, section 7.

Exhibit 3

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. 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.
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 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. 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, 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 above.

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.
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.

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.

Exhibit 4:

Texas Administrative Code

TITLE 10	COMMUNITY DEVELOPMENT
PART 1	TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 10	UNIFORM MULTIFAMILY RULES
SUBCHAPTER E	POST AWARD AND ASSET MANAGEMENT REQUIREMENTS
RULE §10.406	Ownership Transfers (§2306.6713)

(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice to the Department at least thirty (30) calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Transfers that are the result of an involuntary removal of the general partner by the investment limited partner must be reported to the Department, as soon as possible due to the sensitive timing and nature of this decision. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure, staff may make a recommendation to the Board for the debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with §1.5 of this title (relating to Previous Participation Reviews), prior to recommending any new financing or allocation of credits.

(b) Requirement. Department approval must be requested for any new member to join in the ownership of a Development. Exceptions include changes to the investment limited partner, non-controlling limited partner, or other partners affiliated with the investment limited partner, or changes resulting from foreclosure wherein the lender or financial institution involved in the transaction is the resulting owner. Any subsequent transfer of the Development will be required to adhere to the process in this section. Furthermore, a Development Owner may not transfer an allocation of tax credits or ownership of a Development supported with an allocation of tax credits to any Person or entity unless the Development Owner obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section. Notwithstanding the foregoing, a Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new members or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(c) Transfers Prior to 8609 Issuance or Construction Completion. Transfers (other than those that do not require Executive Director approval, as set forth in subsection (b) of this section) will not be approved prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) unless the Development Owner can provide evidence that the need for the transfer is due to a hardship (ex. potential bankruptcy, removal by a partner, etc.). The Development Owner must provide the Department with a written explanation describing the hardship and a copy of any applicable agreement between the parties to the transfer, including any Third-Party agreement.

(d) Non-Profit Organizations. If the ownership transfer request is to replace a non-profit organization within the Development ownership entity, the replacement non-profit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Non-Profit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Non-Profit Organization that meets the requirements of §42(h)(5) of the Code and Texas Government Code §2306.6706.

(2) If the LURA requires ownership or material participation in ownership by a qualified non-profit organization, but the Development did not receive Tax Credits pursuant to §42(h)(5) of the Code, the Development Owner must show that the transferee is a non-profit organization that complies with the LURA.

(e) Historically Underutilized Business ("HUB") Organizations. If a HUB is the general partner of a Development Owner and it (i) is being removed as the result of a default under the organizational documents of the Development Owner or (ii) determines to sell its ownership interest, in either case, after the issuance of 8609s, the purchaser of that general partnership interest is not required to be a HUB as long as the LURA does not require such continual ownership or a material LURA amendment is approved. Such approval can be obtained concurrent with Board approval described herein. All such transfers must be approved by the Board and require that the Board find that:

(1) the selling HUB is acting of its own volition or is being removed as the result of a default under the organizational documents of the Development Owner;

(2) the participation by the HUB has been substantive and meaningful, or would have been substantial and meaningful had the HUB not defaulted under the organizational documents of the Development Owner, enabling it to realize not only financial benefit but to acquire skills relating to the ownership and operation of affordable housing; and

(3) the proposed purchaser meets the Department's standards for ownership transfers

(f) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances that gave rise to the need for the transfer and the effects of approval or denial. Documentation includes but is not limited to:

(1) a written explanation outlining the reason for the request;

(2) a list of the names of transferees and Related Parties;

(3) detailed information describing the experience and financial capacity of transferees and related parties holding an ownership interest of 10 percent or greater in any Principal or Controlling entity;

(4) evidence and certification that the tenants in the Development have been notified in writing of the proposed transfer at least thirty (30) calendar days prior to the date the transfer is approved by the Department. The ownership transfer approval letter will not be issued until this 30 day period has expired.

(g) Within five (5) business days after the date the Department receives all necessary information under this section, staff shall initiate a qualifications review of a transferee, in accordance with §1.5 of this title, to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter.

(h) Credit Limitation. As it relates to the Housing Tax Credit amount further described in §11.4(a) of this title (relating to Tax Credit Request and Award Limits), the credit amount will not be applied in circumstances described in paragraphs (1) and (2) of this subsection:

(1) in cases of transfers in which the syndicator, investor or limited partner is taking over ownership of the Development and not merely replacing the general partner; or

(2) in cases where the general partner is being replaced if the award of credits was made at least five (5) years prior to the transfer request date.

(i) Penalties. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department.

(j) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by corresponding ownership transfer fee as outlined in §10.901 of this chapter (relating to Fee Schedule).

Source Note: The provisions of this §10.406 adopted to be effective December 9, 2014, 39 TexReg 9518