

ENFORCEMENT ACTION AGAINST
MANOR STONE PARTNERS, L.P.
WITH RESPECT TO STONE MANOR
(LIHTC FILE # 70076)

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BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 31st day of July, 2014, the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA”) considered the matter of whether enforcement action should be taken against **MANOR STONE PARTNERS, L.P.**, a Texas limited partnership (“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 Administrative Penalties Committee, the Board makes the following findings of fact and conclusions of law and enters this Order:

FINDINGS OF FACT

Jurisdiction:

1. The Department has jurisdiction over this matter pursuant to Tex. Gov’t Code §§2306.041-.0503, and 10 TEX. ADMIN. CODE §1.14 and 10 TEX. ADMIN. CODE Chapter 60.
2. In 1990, Manor Park Joint Venture (“Prior Owner”) was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of \$55,886.00 to rehabilitate Stone Manor (“Property”) (HTC file No. 70076 / CMTS No. 908 / LDLD No. 98).
3. Prior Owner signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective February 17, 1992, and filed of record at Volume 92035, Page 1046 of the Official Public Records of Real Property of Dallas County, Texas (“Records”). In accordance with Section 2 of the LURA, the LURA is a restrictive covenant/deed restriction encumbering the property and binding on all successors and assigns for the full term of the LURA. When the property was purchased by Respondent in 2001, the property was purchased subject to the terms of the LURA.

4. Respondent is a Texas limited partnership that is approved by TDHCA as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development that is subject to the regulatory authority of TDHCA.

Compliance Violations¹:

1. On September 12, 2007, TDHCA sent notice that Respondent had failed to timely submit their 2006 Annual Owner's Compliance Report, a violation of 10 TEX. ADMIN. CODE §60.10 (Annual Owner's Compliance Report Certification and Review), which requires each development to submit an Annual Owner's Compliance Report no later than the last day in April of each year.

The final part was submitted on January 6, 2010, 982 days late, after intervention by the Administrative Penalty Committee.

2. On May 28, 2008, TDHCA sent notice that Respondent had failed to timely submit their 2007 Annual Owner's Compliance Report, a violation of 10 TEX. ADMIN. CODE §60.105 (Reporting Requirements), which requires each development to submit an Annual Owner's Compliance Report no later than the last day in April of each year.

The final part was submitted on January 6, 2010, 616 days late, after intervention by the Administrative Penalty Committee.

3. A Uniform Physical Condition Standards ("UPCS") inspection was conducted on July 25, 2008. Inspection reports showed numerous serious property condition violations, a violation of 10 TEX. ADMIN. CODE § 60.116 (Property Condition Standards). Notifications of noncompliance were sent and a February 27, 2008 corrective action deadline was set. TDHCA verified resolution of the violations on January 20, 2010, during a reinspection performed after intervention by the Administrative Penalty Committee. Full resolution took 693 days.

4. An on-site monitoring review was conducted on December 9, 2008, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 12, 2009, corrective action deadline was set, however, the following violations were not corrected before the deadline:

- a. Respondent failed to incorporate required lease language, a violation of 10 TEX. ADMIN. CODE §60.110 (Lease Requirements), which requires leases to include language stating that evictions or non-renewal of leases for other than good cause are prohibited;

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

- b. Respondent failed to provide documentation that household incomes were within prescribed limits upon initial occupancy for four units, a violation of 10 TEX. ADMIN. CODE §60.108 (Determination, Documentation and Certification of Annual Income) and the LURA;
- c. Respondent collected gross rents that exceeded income limits as a result of an unsupported \$35.00 application fee charged to 41 units, a violation of 10 TEX. ADMIN. CODE § 60.118 (Special Rules Regarding Rents and Rent Limit Violations). TDHCA publishes maximum rent limits for the tax credit program annually and owners are responsible for ensuring that the maximum rents that they charge include the amount of rent paid by the household, plus an allowance for utilities, plus any mandatory fees. Application fees can only be charged for the actual cost of checking a prospective tenant's income, credit history, and landlord references, and owners are required to support the fees with invoices. Respondent was unable to provide invoices supporting their application fees at the time that the finding was recorded.

The final file monitoring violation was resolved on October 27, 2011, 898 days late, after intervention by the Administrative Penalty Committee.

- 5. A UPCS inspection was conducted on April 14, 2009. Inspection reports showed numerous serious property condition violations, a violation of 10 TEX. ADMIN. CODE § 60.116 (Property Condition Standards). Notifications of noncompliance were sent and an September 17, 2009 corrective action deadline was set. TDHCA verified resolution of the violations on January 20, 2010, during a reinspection performed after intervention by the Administrative Penalty Committee. Full resolution took 281 days.
- 6. On May 21, 2009, TDHCA sent notice that Respondent had failed to timely submit their 2008 Annual Owner's Compliance Report, a violation of 10 TEX. ADMIN. CODE §60.105 (Reporting Requirements), which requires each development to submit an Annual Owner's Compliance Report no later than the last day in April of each year.

The final part was submitted on January 6, 2010, 265 days late, after intervention by the Administrative Penalty Committee.

- 7. A UPCS inspection was conducted on October 24, 2011. Inspection reports showed numerous serious property condition violations, a violation of 10 TEX. ADMIN. CODE § 60.118 (Property Condition Standards). Notifications of noncompliance were sent and an April 12, 2012, corrective action deadline was set. Partial corrective action was received, but violations relating to damaged and/or missing window screens in Buildings 1 through 6 were not resolved until the Administrative Penalty Committee intervened. Respondent claimed that city code allowed an exemption from the requirement to repair and/or install window screens, but did not provide acceptable evidence to show that the property was fully complying with those city code requirements until the morning of June 17, 2014, the date of the property's second administrative penalty informal conference. Full resolution took 786 days.

8. On May 1, 2013, TDHCA sent notice that Respondent had failed to timely submit their 2012 Annual Owner's Compliance Report, a violation of 10 TEX. ADMIN. CODE §10.603 (Reporting Requirements), which requires each development to submit an Annual Owner's Compliance Report no later than the last day in April of each year.

Parts A and C were submitted on June 16, 2014, 412 days late. Parts B and D have not been submitted.
9. On May 1, 2014, TDHCA sent notice that Respondent had failed to timely submit their 2013 Annual Owner's Compliance Report, a violation of 10 TEX. ADMIN. CODE §10.607 (Reporting Requirements), which requires each development to submit an Annual Owner's Compliance Report no later than the last day in April of each year.

Parts A and C were submitted on June 16, 2014, 47 days late. Parts B and D have not been submitted.
10. The following violations remain outstanding at the time of this order:
 - a. 2012 Annual Owner's Compliance Report violation described in FOF #8;
 - b. 2013 Annual Owner's Compliance Report violation described in FOF #9;

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, 10 TAC §1.14 and 10 TAC, Chapter 60.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance.
4. Respondent violated 10 TEX. ADMIN. CODE §60.10 in 2007, 10 TEX. ADMIN. CODE § 60.105 in 2008 and 2009, 10 TEX. ADMIN. CODE §10.603 in 2013, and 10 TEX. ADMIN. CODE §10.607 in 2014, by failing to submit Annual Owner's Compliance Reports for the years 2006, 2007, 2008, 2012, and 2013;
5. Respondent violated 10 TEX. ADMIN. CODE § 60.116 in 2008 and 2009, 10 TEX. ADMIN. CODE § 60.118 in 2011, and I.R.C. §42, as amended, by failing to comply with HUD's Uniform Physical Condition Standards when major violations were discovered and not timely corrected.
6. Respondent violated 10 TEX. ADMIN. CODE §60.110 in 2008, by failing to incorporate required lease language.

7. Respondent violated representations made on page 1 of the LURA, Section 4 of the LURA, and 10 TEX. ADMIN. CODE §60.108 in 2008, by failing to provide documentation that household incomes are within prescribed limits upon initial occupancy for four units.
8. Respondent violated 10 TEX. ADMIN. CODE § 60.118 in 2008, by charging excessive application fees resulting in gross rents exceeding the allowable limits, and not making timely corrections once the violations were discovered;
9. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules and agreements, the Board has personal and subject matter jurisdiction over Respondent pursuant to TEX. GOV'T CODE §2306.041 and §2306.267.
10. 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.
11. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code Chapter 2306 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to TEX. GOV'T CODE §2306.041.
12. An administrative penalty of \$2,000.00 is an appropriate penalty in accordance with 10 TEX. ADMIN. CODE §§60.307 and 60.308.

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 \$2,000.00, subject to deferral as further ordered below.

IT IS FURTHER ORDERED that Respondent shall pay and is hereby directed to pay a \$500.00 portion of the assessed administrative penalty by cashier's check payable to the "Texas Department of Housing and Community Affairs" on or before August 30, 2014.

IT IS FURTHER ORDERED that Respondent shall fully submit Parts B and D of the 2012 and 2013 Annual Owner's Compliance Reports online via the Compliance Monitoring and Tracking System at <https://pox.tdhca.state.tx.us/aims2/pox> on or before August 30, 2014, reporting data as of December 31 of 2012 and 2013, respectively.

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 remaining assessed administrative penalty and the remaining \$1,500.00 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, then the remaining administrative penalty in the amount of \$1,500.00 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" within thirty days of the date the Department sends written notice to Respondent that it has violated a provision of this order.

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>. 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

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Approved by the Governing Board of TDHCA on July 31st, 2014.

By: /s/ J. Paul Oxe
Name: J. Paul Oxe
Title: Chair of the Board of TDHCA

By: /s/ Barbara B. Deane
Name: Barbara B. Deane
Title: Secretary of the Board of TDHCA

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 31st day of July, 2014, personally appeared J. Paul Oxe, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

/s/ Peggy Henderson
Notary Public, State of Texas

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 31st day of July, 2014, personally appeared Barbara B. Deane, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

(Seal)

/s/ Peggy Henderson
Notary Public, State of Texas

