

<p>ENFORCEMENT ACTION AGAINST</p> <p>WILLS POINT CROSSING, L.P.</p> <p>WITH RESPECT TO</p> <p>WILLS POINT CROSSING (HTC 94012)</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>BEFORE THE</p> <p>TEXAS DEPARTMENT OF</p> <p>HOUSING AND</p> <p>COMMUNITY AFFAIRS</p>
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**AGREED FINAL ORDER**

**General Remarks and official action taken:**

On this 26<sup>th</sup> day of June, 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 **WILLS POINT CROSSING, 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 1995, Respondent was awarded a \$46,874.00 allocation of Low Income Housing Tax Credits by the Board, to build and operate Wills Point Crossing Apartments (HTC 94012/ CMTS 1211 / LDLD 67)
3. Respondent signed a land use restriction agreement (“LURA”) which was effective on November 13, 1995 and recorded at Volume 1386, Page 873 in the Official Public Records of Real Property of Van Zandt County.
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 Violations<sup>1</sup>:

5. A Uniform Physical Condition Standards ("UPCS") inspection was conducted on April 17, 2007. Inspection reports showed numerous serious property condition violations, a violation of 10 TEX. ADMIN. CODE §60.13 (Inspection Standard). Notifications of noncompliance were sent and a August 15, 2007 corrective action deadline was set. Fully acceptable corrective documentation was not received until May 12, 2011, after intervention by the Administrative Penalty Committee.
6. A Uniform Physical Condition Standards ("UPCS") inspection was conducted on May 25, 2010. Inspection reports showed numerous serious property condition violations, a violation of 10 TEX. ADMIN. CODE §60.116 (Property Inspection Standards). Notifications of noncompliance were sent and a October 4, 2010 corrective action deadline was set. Fully acceptable corrective documentation was not received until April 21, 2011, after intervention by the Administrative Penalty Committee.
7. A UPCS inspection was conducted on March 12, 2013. Inspection reports showed numerous serious property condition violations, a violation of 10 TEX. ADMIN. CODE §10.616 (Property Inspection Standards). Notifications of noncompliance were sent and a July 11, 2013 corrective action deadline was set. Corrective documentation has not been received. A copy of the inspection violation list is at **Attachment 1**.
8. The following violations remain outstanding at the time of this order:
  - a. UPCS violations described in FOF #7;

### 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 §60.13 in 2007, 10 TEX. ADMIN. CODE §60.116 in 2010, and 10 TEX. ADMIN. CODE §10.616 in 2013, as amended, by failing to comply with HUD's Uniform Physical Condition Standards when major violations were discovered and not timely corrected.
5. 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.

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<sup>1</sup> 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.

6. 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.
7. 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.
8. An administrative penalty of \$1,500.00 is an appropriate penalty in accordance with 10 TAC §§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 \$1,500.00, subject to deferral as further ordered below.

**IT IS FURTHER ORDERED** that Respondent shall pay and is hereby directed to pay a \$250.00 portion of the assessed administrative penalty by cashier's check payable to the "Texas Department of Housing and Community Affairs" on or before July 28, 2014.

**IT IS FURTHER ORDERED** that Respondent shall repair all UPCS violations and accessibility violations as indicated in Attachments 1 and 2 and submit fully acceptable documentation to document the corrections to TDHCA on or before July 28, 2014.

**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 \$1,250.00 remaining assessed administrative penalty and that remaining 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 assessed administrative penalty in the amount of \$1,250.00 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>. Penalty payment(s) must be submitted to the following address:

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

*[remainder of page intentionally blank]*

Approved by the Governing Board of TDHCA on June 30, 2014.

By: /s/ J. Paul OXer  
Name: J. Paul OXer  
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 30<sup>th</sup> day of June, 2014, personally appeared J. Paul OXer, 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/ Leah Sargent Rosas  
Notary Public, State of Texas

**THE STATE OF TEXAS** §  
§  
**COUNTY OF TRAVIS** §

Before me, the undersigned notary public, on this 30<sup>th</sup> day of June, 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/ Leah Sargent Rosas  
Notary Public, State of Texas



Given under my hand and seal of office this 24th day of July, 2014.

/s/ Wanda F. Wood  
Signature of Notary Public

Wanda F. Wood  
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF GEORGIA  
My Commission Expires: September 1, 2015

## Attachment 1

### Wills Point Crossing – UPCS Violation List and Accessibility Violations

**[NOTE – THIS CHART HAS BEEN OMITTED FROM THE VERSION OF THE AGREED FINAL ORDER TO BE UPLOADED TO THE WEB BECAUSE IT IS NOT AVAILABLE IN AN ACCESSIBLE FORMAT]**

In addition to the UPCS findings listed in the chart above, the following accessibility violations of the Fair Housing Act must be addressed.

1. Fair Housing 1.6 and 2.12 Accessible Route (*Fair Housing Act Design Manual reference pg. 1.6, 2.12.*) It is reported that there is not a continuous, unobstructed accessible route through the development. The route to unit # 22 (a covered unit) was observed to be inaccessible.
2. Accessible Route Running Slope (*Fair Housing Act Design Manual reference pg. 1.7*) It was observed that the accessible route to Unit #22 (a covered unit) in building F has a running slope (slope in line with direction of travel) that appears to be >8.33%.
3. Accessible Route to Building Entrances of Accessible Dwelling Units, Fair Housing Act-covered Units (*Fair Housing Act Design Manual reference pg. 1.10*) It was observed that Building F/unit #22 is not connected with the accessible route for the property.
4. Accessible Ramp Handrails (*Fair Housing Act Design Manual reference pg. 1.7*) It was observed that the accessible route at the ramp at Building F does not provide ramp handrails on both sides.

## Attachment 2

### **Instructions for correcting UPCS Violations and Accessibility Violations**

**Instructions to resolve UPCS Violations:** Each UPCS violation indicated in the chart at Attachment 1 must be resolved and you must prepare and submit sufficient documentation of correction as indicated by the guidelines below via CMTS on or before August 6, 2014.

Ideally, a separate work order is created by Building or Unit for deficiencies found in each area. For example, the work order for a single unit may indicate all identified deficiencies listed for that unit if each correction is individually described. However, most developments generate a separate work order for each deficiency to ensure the response is adequately complete and the description of each corrective action is clearly detailed. Five pieces of information are needed on work orders or invoices:

1. The location of the deficiency, i.e. Bldg. 5 Unit 502 or Site- near outside gate, etc.
2. Description of the deficiency, i.e. Damaged Doors, Hardware, locks – Bedroom door won't latch properly. Site-Hazards Other- Broken Glass.
3. How the deficiency was corrected. Just a few quick words are sufficient, i.e. "replaced bedroom door latch" or "adjusted bedroom door latch". "Removed broken glass." "Sheetrock repair, taped, floated, and painted". Conversely, words such as "fixed," "done," "complete" are inadequate and are NOT acceptable.
4. The date the deficiency was corrected. The department requires a correction date in order to accept the documentation. If there is no date of correction listed, the deficiency is not considered corrected.
5. The signature of the person who either performed the repair or acknowledges that the repair was performed satisfactorily. This is very important. Someone must certify that the correction was acceptably completed.

Please submit all of the work orders in the same order that they appear in the list above. This facilitates faster processing and increases the chances that all violations will be fully addressed.

For repairs such as concrete repairs, roofing, etc. where vendors are utilized instead of onsite maintenance staff, please include the scope of work with the dated invoice of the contractor that performed the work.

For pest control, the Structural Pest Control Act (Chapter 1951 of the Occupations Code) requires licensing of businesses and individuals that perform structural pest control for hire. Additionally, persons performing pest control at an apartment building must be licensed. As a result, you must submit a pest control invoice by a licensed contractor that includes a date, contractor signature, units treated and the type of pest treated.

Finally, you may submit photographs in support of the above if you wish. However, they are only necessary if the TDHCA asks for them as specific support for a deficiency still in question. If you do submit photographs, please make sure that they are labeled and supporting work orders and or invoices are attached. Photographs, by themselves, are not acceptable documentation of correction.

## Instructions to resolve Accessibility Violations:

1. Fair Housing 1.6 and 2.12 Accessible Route (*Fair Housing Act Design Manual reference pg. 1.6, 2.12.*) It is reported that there is not a continuous, unobstructed accessible route through the development. The route to unit # 22 (a covered unit) was observed to be inaccessible.

Required Corrective Action: Provide a route that is entirely within the boundaries of the site; connects all accessible and Fair Housing Act-covered unit entrances to at least one of each type of common use facility and all accessible spaces and elements within the facilities, including accessible parking spaces and accessible passenger loading zones; accessible transportation stops; and public street and sidewalks. The accessible route must have a stable, firm, and slip resistant surface such as well-drained, compacted crushed granite, smooth pavers, or concrete. Submit an owner's statement and photographic evidence that the condition has been corrected. Include a site plan showing the accessible route connecting all accessible parking spaces, Fair Housing Act-covered dwelling units, and public and common use amenities. Indicate on the site plan the locations of all curb-cuts, ramps, handrails, and stairs/steps.

2. Accessible Route Running Slope (*Fair Housing Act Design Manual reference pg. 1.7*) It was observed that the accessible route to Unit #22 (a covered unit) in building F has a running slope (slope in line with direction of travel) that appears to be >8.33%.

Required Corrective Action: Provide an accessible route with a maximum running slope of 8.33% (1 in 12) at all points along the route (excluding curb ramps). Submit an owner's statement and photographic evidence that the condition has been corrected.

3. Accessible Route to Building Entrances of Accessible Dwelling Units, Fair Housing Act-covered Units (*Fair Housing Act Design Manual reference pg. 1.10*) It was observed that Building F/unit #22 is not connected with the accessible route for the property.

Required Corrective Action: Provide an accessible route within the boundaries of the site to and into each building entrance of each accessible dwelling unit, each Fair Housing Act-covered unit, and at least one of each type of common use facility. Submit an owner's statement with photographic evidence that the condition has been corrected.

4. Accessible Ramp Handrails (*Fair Housing Act Design Manual reference pg. 1.7*) It was observed that the accessible route at the ramp at Building F does not provide ramp handrails on both sides.

Required Corrective Action: Provide handrails at all *accessible ramps* where the ramp run has a vertical rise either greater than 6" or a horizontal length greater than 72" (excluding curb ramps). Note that an *accessible ramp* is a sloping walkway along an accessible route having a slope in the line of travel that is greater than 5% (1 in 20). Accessible ramp slope may not exceed 8.33% (1 in 12). Submit an owner's statement with photographic evidence that the condition has been corrected. In addition, a site plan was requested above. Indicate on the site plan the locations of all curb-cuts, ramps, handrails, and stairs/steps.