

ENFORCEMENT ACTION AGAINST  
FORT STOCKTON MANOR, L.P.,  
WITH RESPECT TO  
FORT STOCKTON MANOR  
(HTC 93160)

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BEFORE THE  
TEXAS DEPARTMENT OF  
HOUSING AND  
COMMUNITY AFFAIRS

### **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 **FORT STOCKTON MANOR, 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 1994, Respondent was awarded a \$48,124.00 allocation of Low Income Housing Tax Credits by the Board, to build and operate Fort Stockton Manor Apartments (HTC 93160/ CMTS 1190 / LDLD 68).
3. Respondent signed a land use restriction agreement (“LURA”) which was effective on September 23, 1994 and recorded at Volume 656, Page 502 in the Official Public Records of Real Property of Pecos 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 June 25, 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 October 12, 2013 corrective action deadline was set. Corrective documentation was not received until March 20, 2014, after intervention by the Administrative Penalty Committee.
6. An on-site monitoring review was conducted on May 29, 2013, 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 one violation of the LURA and TDHCA rules. Notifications of noncompliance were sent and a September 19, 2013 corrective deadline was set, however, the following violations were not corrected before the deadline:
  - a. Respondent failed to provide an Annual Eligibility Certification for unit 21, a violation of 10 TEX. ADMIN. CODE §10.609 (Annual Recertification), which requires developments to annually collect an Annual Eligibility Certification form from each household.

Corrective documentation was not received until March 20, 2014, after intervention by the Administrative Penalty Committee.

7. The following violations remain outstanding at the time of this order:
  - a. None.

**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.

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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.

4. Respondent violated 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. Respondent violated 10 TEX. ADMIN. CODE §10.609 in 2013 by failing to collect Annual Eligibility Certifications.
6. 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.
7. 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.
8. 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.
9. An administrative penalty of \$250.00 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 \$250.00.

**IT IS FURTHER ORDERED** that Respondent shall pay and is hereby directed to pay the \$250.00 administrative penalty by cashier’s check payable to the “Texas Department of Housing and Community Affairs” on or before July 28, 2014, to the following address:

If via overnight mail (FedEx, UPS):	If via USPS:
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

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Approved by the Governing Board of TDHCA on June 30, 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 30<sup>th</sup> day of June, 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/ 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