

ENFORCEMENT ACTION AGAINST
JARED REMINGTON

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BEFORE THE
TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS

FINAL ORDER

General Remarks and official action taken:

On this 15th day of June, 2023, 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 Jared Remington (Respondent), the responsible party for CC Hillcrest, LLC, owner of Hillcrest Apartments (HTC 060615 / Bond 060615B / CMTS 4342) (Property), for the following offenses: (1) failure to allow file monitoring or make records available, (2) failure to make units available due to failure to notify tenants of a Uniform Physical Condition Standards (UPCS) inspection, and (3) submitting a written certification that materially misrepresented the status of UPCS noncompliance.

This Final Order is executed pursuant to the authority granted in the Tex. Gov't Code, section 2306.0504, which requires the Board to adopt a policy providing for the debarment of a person from participation in Department programs because of a person's past failure to comply with conditions imposed by the Department in the administration of its programs. A policy was adopted by the Board and is set forth at 10 TAC §2.401.

Upon recommendation of the Executive Director, the Board makes the following findings of fact and conclusions of law and enters this Order:

FINDINGS OF FACT

Jurisdiction:

1. During 2006, Summit Hillcrest Apartments, Ltd., a Texas limited partnership (Prior Owner) received a TDHCA Multifamily Housing Revenue Bonds issuance of \$12,435,000 to acquire, rehabilitate, and operate the Property.
2. In conjunction with the Bond financing, Prior Owner was also awarded an allocation of Low Income Housing Tax Credits by the Board, in the annual amount of \$449,583.
3. Prior Owner signed two land use restriction agreements (LURAs) regarding the Property:
 - a. A Regulatory and Land Use Restriction Agreement relating to \$12,435,000 TDHCA Multifamily Housing Revenue Bonds (Hillcrest Apartments) Series 2006 (Bond LURA), dated as of August 1, 2006, and filed of record on August 3, 2006 at Document Number 200600283382 of the Official Public Records of Real Property of Dallas County, Texas (the Records).

- b. A Declaration of Land Use Restrictive Covenants / Land Use Restriction Agreement for Low-Income Housing Tax Credits (HTC LURA), dated as of August 1, 2009, and filed of record on February 5, 2010, at Document Number 201000029394 of the Records.
4. CC Hillcrest, LLC purchased the Property on September 17, 2020, and signed an Assignment, Assumption and Consent Agreement with TDHCA, dated as of September 17, 2020, and filed of record on September 18, 2020, at Document Number 202000254022 of the Records, thereby binding Respondent to the terms of the Bond LURA. Respondent agreed to assume the duties imposed by the Bond LURA, and to comply fully with the terms thereof.
5. In accordance with Section 2 of the HTC LURA, the HTC LURA is a restrictive covenant/deed restriction encumbering the Property and binding on all successors and assigns for the full term of the LURA. These restrictions remain in place in accordance with Section 2 of the LURA, thereby binding Respondent to the terms of the agreement.
6. CC Hillcrest, LLC sold the Property to Hillcrest Redevelopment LLC on February 3, 2023.
7. CC Hillcrest, LLC was an organization that was qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development that is subject to the regulatory authority of TDHCA.
8. Respondent controlled Code Capital Partners, L.L.C., the manager member of CC Hillcrest, LLC.
9. Respondent is subject to the regulatory authority of TDHCA and is considered the Responsible Party for purposes of this debarment recommendation.

Material Violations Subject To Debarment:

1. Failure to allow file monitoring or make records available for an onsite file monitoring review that was attempted on August 24, 2022, a violation of 10 TAC §10.618, which requires Owners to permit the Department access to the premises and records in order to review all documents supporting compliance with the Housing Tax Credit and Bond programs. This is considered a material violation under 10 TAC §2.401(d)(2), and is grounds for mandatory debarment.
2. Failure to make units available for inspection due to failure to notify tenants of a Uniform Physical Condition Standards (UPCS) Inspection that was attempted on September 28, 2022, a violation of 10 TAC §10.618, which requires Owners to permit the Department access to the premises to inspect the physical condition of a sample of units. This is considered a material violation under 10 TAC §2.401(d)(2), and is grounds for mandatory debarment.
3. Submitting a written Owner Certification of Corrected Noncompliance signed by Respondent on August 26, 2022, materially misrepresenting the status of UPCS

noncompliance by certifying that noncompliance had been corrected when it was later determined by the Department that the Events of Noncompliance were not corrected. Providing an intentional or negligent material misrepresentation with regard to a certification made to the Department is considered a violation under 10 TAC §2.401(a)(5). The person who signs a written certification that non-compliance has been corrected when it is determined that the Event of Noncompliance was not corrected may be referred for debarment under 10 TAC §2.401(a)(13).

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §2306.0504 and 10 TAC §2.401.
2. Respondent is a "Responsible Party" as that term is defined in 10 TAC §2.102(12).
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 throughout the Compliance Period.
4. Pursuant to TEX. GOV'T CODE Chapter 2306, Subchapter DD and TEX. GOV'T CODE §2306.185, TDHCA is authorized to make Housing Tax Credit Allocations for the State of Texas and is required to monitor to ensure compliance.
5. Respondent materially violated 10 TAC §10.618 in 2022 by failing to permit the Department access to the premises and records in order to complete a file monitoring review.
6. Respondent materially violated 10 TAC §10.618 in 2022 by failing to make units available for physical inspection due to failure to provide advance notice to tenants.
7. Respondent violated 10 TAC §2.401(a)(5) and 10 TAC §2.401(a)(13) in 2022 by submitting a written Owner Certification of Corrected Noncompliance materially misrepresenting the status of UPCS noncompliance by certifying that non-compliance had been corrected.
8. Pursuant to Tex. Gov't. Code §2306.0504(b) the Department may debar a person from participation in a Department program on the basis of the person's past failure to comply with any condition imposed by the Department in the administration of its programs.
9. Pursuant to Tex. Gov't. Code §2306.0504(c), the Department shall debar a person from participation in a Department program if the person materially or repeatedly violates any condition imposed by the department in connection with the administration of a debarment program, including a material or repeated violation of a LURA.

Based upon the foregoing findings of fact and conclusions of law, and an assessment of material factors including those set forth in 10 TAC §2.401(j) to be considered for a recommended period

of debarment, as applied specifically to the facts and circumstances present in this case, the Board of the TDHCA orders the following:

IT IS HEREBY ORDERED that Respondent is barred from future participation in all programs administered by the Department for a **10 (ten) year term ending May 11, 2033**. This debarment does not prohibit Respondent from participating in any existing engagements funded through the Department, nor affect any responsibilities or duties thereunder.

IT IS FURTHER ORDERED that Jared Remington is required to attend Housing Tax Credit Compliance Training¹ with the Texas Apartment Association within six months of the date of this order, and submit a copy of his training completion certificate via email to Ysella Kaseman at ysella.kaseman@tdhca.state.tx.us. Failure to attend training or failure to submit the certificate shall constitute a violation of this Order.

IT IS FURTHER ORDERED that during the term of the debarment, Respondent must keep all other Developments² controlled by Respondent and monitored by The Department in compliance by timely submitting corrective action documentation via the Compliance Monitoring and Tracking System (CMTS) to fully resolve any future findings of noncompliance identified by TDHCA.

IT IS FURTHER ORDERED that timely correction of future findings of noncompliance shall be determined in accordance with 10 TAC §10.602 (Notice to Owners and Corrective Action Periods). Any corrective action documentation that is not submitted on or before a compliance monitoring deadline shall be considered untimely and shall constitute a violation of this Order, provided that Respondent did not timely request and receive an extension in accordance with the rule.

IT IS FURTHER ORDERED that full resolution of future findings of noncompliance will be determined by whether or not a timely submission includes all documentation that was requested in an annual report, file monitoring, or physical inspection letter that is sent to Respondent by the TDHCA Compliance Division via CMTS. Any incomplete corrective action documentation submission shall constitute a violation of this Order.

IT IS FURTHER ORDERED that if, and only if, Respondent timely and fully complies with the terms and conditions of this Final Order, correcting all future findings of noncompliance as required, and remaining in compliance for an initial period of five (5) years, the Respondent may petition the Board after May 11, 2028, to restore Respondent's eligibility for future participation in Department programs, except that Respondent shall remain on probationary status on the Debarment List through May 11, 2033.

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

¹ Registration is available online at <https://www.taa.org/events/>

² Developments include: Tigua Village (HTC 99010T / HTF 859005 / CMTS 2067), Avery Trace (HTC 02470 / CMTS 3273), Rosemont at Laredo Vista Phase I (HTC 01143 / CMTS 385), and Rosemont at Laredo Vista Phase II (HTC 01143 / CMTS 3237)

Approved by the Governing Board of TDHCA on June 15, 2023.

By: /s/ Leo Vasquez

Name: Leo Vasquez

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 §

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COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 15th day of June, 2023, personally appeared Leo Vasquez, 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/ Nancy Dennis

Notary Public, State of Texas

THE STATE OF TEXAS §

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COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 15th day of June, 2023, 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/ Nancy Dennis

Notary Public, State of Texas