



1

## Contact Information

**Mailing Address:**

TDHCA  
PO Box 13941  
Austin, TX 78711-3941

**Physical Address:**

TDHCA  
221 East 11<sup>th</sup> Street  
Austin, TX 78701

**Website:** <https://www.tdhca.texas.gov>

**Email:** [multifamilycompliance@tdhca.texas.gov](mailto:multifamilycompliance@tdhca.texas.gov)

**Division Phone Number:** (512) 305-8869  
or (800) 525-0657 (toll free in Texas only)

2

2

## Announcements

### Schedule:

- The webinar and open forum will run from 9:00 am until approximately 11:30 am
- We will take a break mid-morning to shift from the webinar to the open forum
- Staff will be present to answer any questions

### Housekeeping:

- Certificates **will not** be emailed but you will receive an email confirming your attendance, usually within 24-hours in an email from the GoTo Platform, please check your “junk” folders as we cannot reissue these emails
  - If you did not use your emailed link for the training from your registration you will not receive a follow-up email or show as having attended the webinar
- We suggest you silence your phones and put an “out of office” email response to help avoid distractions during the training
- Please pose questions and comments to the “Questions Box”

3

3

## In This Training...

- In this training:
  - We **will** talk about the allowable fees.
  - We **will** talk about some disallowed fees.
  - We **will** talk about eligible basis.
- We **will not** discuss specific properties or reviews/inspections.
- We **will not** discuss fees for programs that are not monitored by TDHCA.
- We **will not** change the outcome of an existing review/inspection or corrective action required.

4

4



## Resources

5

5

### TDHCA (Department) Resources



- **Main Compliance Page**
  - <https://www.tdhca.texas.gov/compliance>
- **Compliance Manuals & Rules**
  - <https://www.tdhca.texas.gov/compliance-manuals-and-rules>
- **Compliance Forms**
  - <https://www.tdhca.texas.gov/compliance-forms>
- **Compliance Reports**
  - <https://www.tdhca.texas.gov/compliance-reports>
- **Compliance Utility Allowance Information**
  - <https://www.tdhca.texas.gov/compliance-utility-allowance-information>
- **Income and Rent Limits**
  - <https://www.tdhca.texas.gov/income-and-rent-limits>
- **Compliance Training**
  - <https://www.tdhca.texas.gov/compliance-training>
- **Compliance Frequently Asked Questions (FAQs)**
  - <https://www.tdhca.texas.gov/compliance-frequently-asked-questions-faqs>
- **Compliance Division Staff**
  - <https://www.tdhca.texas.gov/compliance-division-staff>

6

6

## General Resources

- **Compliance Monitoring Rules**
  - [https://texas-sos.appianportalsgov.com/rules-and-meetings?chapter=10&interface=VIEW\\_TAC&part=1&subchapter=F&title=10](https://texas-sos.appianportalsgov.com/rules-and-meetings?chapter=10&interface=VIEW_TAC&part=1&subchapter=F&title=10)
- **26 US Code §42 Low-Income Housing Credit**
  - <https://www.law.cornell.edu/uscode/text/26/42>
- **26 U.S. Code § 142 Exempt Facility Bond**
  - <https://www.law.cornell.edu/uscode/text/26/142>
- **HOME Final Rule**
  - <https://www.hudexchange.info/programs/home/home-final-rule/>

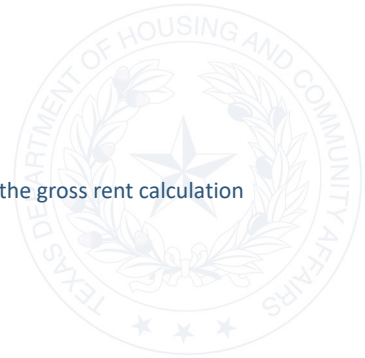


7

7

## Definitions

- **Gross Rent**
  - Tenant portion of rent plus utility allowance plus any mandatory fees
  - Some LURA's and/or programs require housing assistance to be included in the gross rent calculation
- **26 US Code §42 Low-Income Housing Credit**
  - <https://www.law.cornell.edu/uscode/text/26/42>
- **26 U.S. Code § 142 Exempt Facility Bond**
  - <https://www.law.cornell.edu/uscode/text/26/142>
- **HOME Final Rule**
  - <https://www.hudexchange.info/programs/home/home-final-rule/>
- **Types of Fees**
  - Application
  - Service
  - Contingency
  - Mandatory
  - Optional
  - Disallowed



8

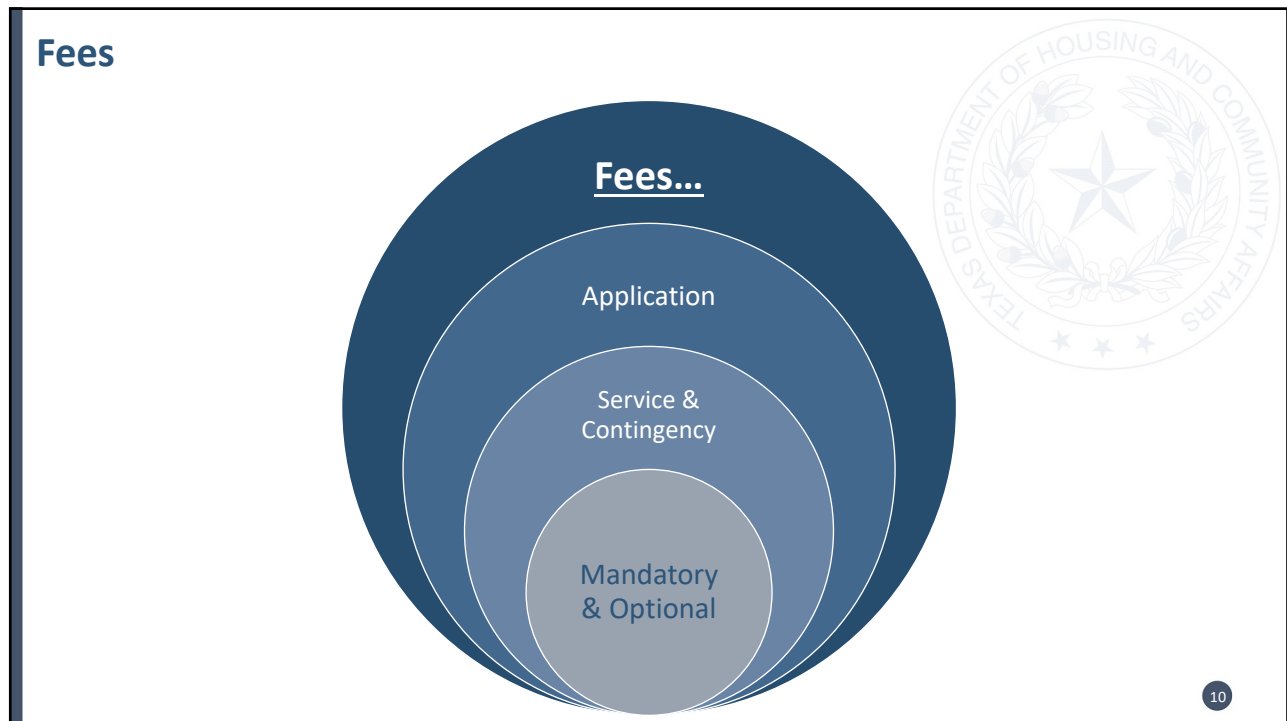
8



## Scary, Spooky Fees

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10

## Scary, Spooky Fees

- Application Fees over the amount the owner is charged to process the cost of checking an applicant's credit history and landlord references
  - The Department allows a per household fee of \$5.50 (evaluated for inflation annually based on the COLA) to be included to cover immeasurable expenses
  - If the owner elects to use an internet-based verification service, i.e. The Work Number, the cost of the service cannot be included in the application fee
- Eligible Basis
  - Amenities included in Eligible Basis cannot be billed to tenants, even market tenants
- Mandatory Fees
  - Must be included in the calculation of gross rent

11

11

## Fees: Included in Eligible Basis

- Common Areas
- Covered Parking
- Garages
- Swimming Pool
- Fitness Center
- Storage Units
- Dog Park
- Playground

**If these items are included in eligible basis the tenants cannot be charged for their use, even market rate households!**

12

12

## Learning Point 1

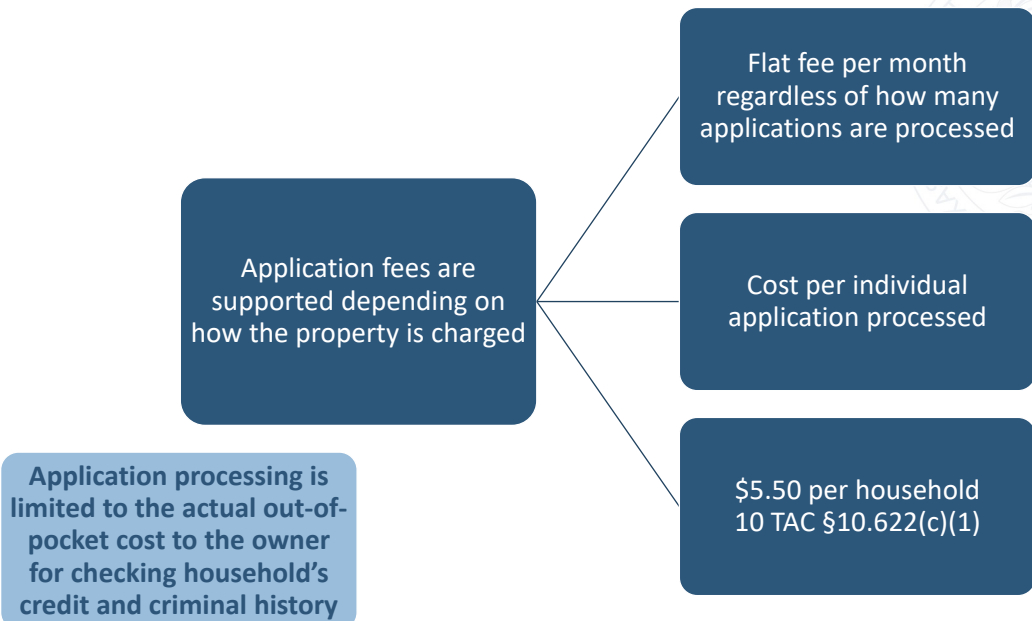
**Can a fee be charged for amenities after the Development has completed the Federal Compliance Period?**

- A** Yes, after the first 15 years, TDHCA and the IRS no longer monitor fees for amenities
- B** No, if the cost of the amenity was included in the Eligible Basis, the property may never charge a fee for it

13

13

## Fees: Application Fees



14

14

## Fees: Application Fees – Flat Fee

$\$89.36 \times 12 \text{ months} = \$1,072.32$

Annual Real Page Charge

$\$1,072.32 / 56 \text{ Applications} = \$19.15$

$\$19.15 + \$5.50 = \$24.65 \text{ Application Fee}$

### RESIDENT ACTIVITY

11/1/2021 through 10/31/2022

Don't forget! The allowable \$5.50 can only be charged to the household once, not on each application.


LeasingDesk Screening Enterprise						
Monthly Fees; Unit Pricing; 46 Unit(s); Period 11/01/2022 to 11/30/2022	46.00	1.7945	82.55	0.00	6.81	89.36
44 Unit(s) is adjusted to 46 Qty. based on PPU of 105%						
Charged at \$1.7945 per Unit						

Totals = Move-Ins: 19 Cancelled/Denied: 37

15

15

## Fees: Application Fees – Individual Fee



**TENANT TRACKER, INC**  
PO DRAWER 1980  
MCKINNEY, TX 75070

Monthly Invoice / Sep 16, 2022 - Oct 16, 2022

Questions concerning your bill: accounting@tenant-tracker.com | (972) 659-3321 ext. 204 | www.TenantTracker.com  
Send payments and correspondence to: Tenant Tracker, Inc, PO DRAWER 1980, MCKINNEY, TX 75070

To: ATTN: OFFICE  
Pandora Springs  
PO BOX 550  
AUSTIN, TX 78721

Account Summary

Previous Bill	
Payments on	
New Charges	
State Taxes	
<b>Paid</b>	
New Charges Total	39.88

Account Detail

Date	Description	Amount	Code
Sep 22, 2022	Report 4165-0 Tucker, Virginia	12.50	507
	C - Entered By Dutton, John	12.50	507
Sep 26, 2022	Report 4174-0 Garcia, Gina - Entered By Dutton, John	-53.30	
Sep 27, 2022	Payment - Thank You! INV 9876487 September 2022 Check #270	12.50	507
Oct 14, 2022	Report 4164-0 Crockett, John - Entered By Dutton, John	0.00	
Oct 15, 2022	Minimum Usage Adjustment		

Report Summary by Code

Code	Count	Charge
507	3	37.50
<b>Total:</b>	<b>3</b>	<b>37.50</b>

End of Statement

Pandora Springs Page 1

**\$12.50 per applicant**

**$\$12.50 + \$5.50 = \$18 \text{ Application Fee}$**

Don't forget! The allowable \$5.50 can only be charged to the household once, not on each application.

16

16



## Fees: Contingency Fees

- Late Rent
- Reletting Fee
- Fee to Replace Keys
- Fees to Repay Damages
- Violation Fees
- Pet Fees, as long as it is not a service, assistance or emotional support animal
- Transfer Fees, as long as it is not a VAWA or reasonable accommodation transfer
- Paying rent online as long as there is a free option

**Fees may not be charged for reasonable accommodations or service animals, ever.**

17

17

## Fees: Provisions of Service

- Sure Deposit as long as there is an option for a regular security deposit
- Meals as long as the apartment has a place to cook and meals are not a required service, i.e. supportive housing that requires this as a service would not be able to charge tenants for meals
- Hair Salon
- Commercial Space that was not included in Eligible Basis
- Valet Trash when another free option for trash is available
  - If this is included in supportive services (home chores) a fee cannot be charged
- Renting a washer and dryer when the tenant has the option to provide their own

**Keep an eye on rule changes, fees can change with program changes.**

18

18

## Fees: Mandatory Fees

- Utilities paid to the owner based on allocation method or RUBS for Housing Tax Credit during the Federal Compliance Period
- Month-to-Month Fee
- Mandatory Renter's Insurance
- Mandatory Pest Control Fee
- Mandatory Cable/Internet Fee
- Valet Trash pick-up when it is mandatory or part of supportive services
- Renting a washer and dryer when the tenant does not have the option to provide their own

**Mandatory Fees are those that are charged as a condition of occupancy and must be included in the gross rent calculation.**

19

19

## Gross Rent: Non MFDL Programs

### How to Calculate gross rent:



20

20

## Gross Rent: MFDL Programs

### How to Calculate gross rent:



21

21

## Learning Point 2

Where in the gross rent calculation does the Section 8 assistance go on a Housing Tax Credit property?

- ☒ A Tenant Paid Portion of Rent
- ☐ B Mandatory Fee
- ☐ C Utility Allowance
- ☐ D Not included

22

22

### Learning Point 3

Where in the gross rent calculation does the Pet Rent go?

- ☒ A Tenant Paid Portion of Rent
- ☐ B Mandatory Fee
- ☐ C Utility Allowance
- ☐ D Not included

23

23

### Learning Point 4

Where in the gross rent calculation does the Mandatory Renter's Insurance go?

- ☒ A Tenant Paid Portion of Rent
- ☐ B Mandatory Fee
- ☐ C Utility Allowance
- ☐ D Not included

24

24

## Learning Point 5

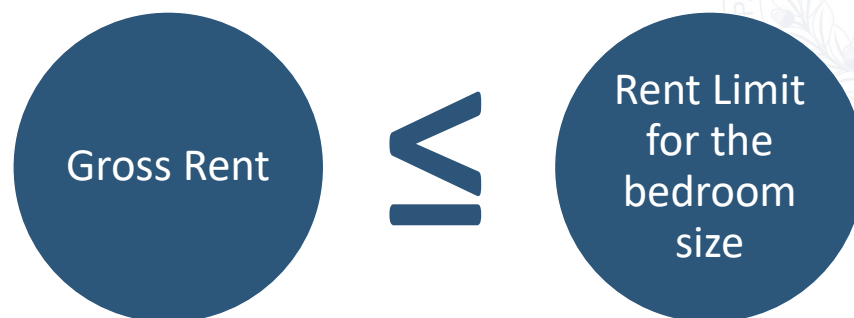
Where in the gross rent calculation does the Section 8 assistance go on a HOME property?

- A Tenant Paid Portion of Rent
- B Mandatory Fee
- C Utility Allowance
- D Housing Assistance

25

25

## Gross Rent and the Rent Limit



26

26



## Disallowed Fees

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27

### Disallowed Fees

- Admin fees for submetered water and sewer billing for Housing Tax Credit households and households receiving Section 8 Vouchers
- Charges for copies of the paperwork for the low-income unit
- Fees to use the clubhouse/amenities
- Fees for preparing a unit for occupancy
- Fees for assistance with application and tenancy paperwork
- Assistance animal fees and deposits
- Fees or Deposits to be placed on the waitlist
- Make-ready costs that are not beyond normal wear and tear
- Fees for third party verification methods (i.e. the Work Number)
- Fees to pay rent online when there is not a free option
- Section 811 PRA does not allow for any type of fee

28

28



## Fees and the 10 TAC

29

29

### Rule §10.802: Written Policies and Procedures

- Application Fee
  - The Application Fee should be defined in the written policies and procedures and/or tenant selection plans
- Security Deposit
  - The Security Deposit should be clearly outlined in the written policies and procedures and/or tenant selection plans
- Transfer fee, if applicable and not for a reasonable accommodation request or VAWA
  - If a household is required to pay a transfer fee when moving from one unit to another this should be outlined in the policies and procedures
- Waiting List
  - An applicant can be charged an application fee when joining the waitlist, but a security deposit should never be charged. Application fee should only be charged if the credit and criminal checks are being processed.

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### Rule §10.614: Utility Allowances

- Submetered Utility
  - This will be included in the Utility Allowance
- Allocation method or Ratio Utility Billing System (RUBS)
  - This is considered a mandatory fee during the Compliance Period for programs that observe a Compliance Period
  - After the Compliance Period and in all MFDL properties this is part of the Utility Allowance
- An Owner may not change Utility Allowance methods, start or stop charging residents for a utility without prior written approval from the Department

31

31

### Rule §10.619: Monitoring for Social Services

- No fees may be charged to the residents for any of the services
- Unless otherwise specified, services must be provided on-site or transportation, with no fee, to those off-site services identified on the list must be provided

32

32



## Rule §10.622: Special Rules Regarding Rents and Rent Limit Violations

- **Rent or Utility Allowance Violations of the maximum allowable limit** for the HTC, TCAP, and Exchange programs
- Rent or Utility Allowance Violations of **additional rent restrictions** under the HTC, TCAP, and Exchange programs
- Rent Violations of the maximum allowable limit due to **application fees**
- Rent or Utility Allowance Violations on **MFDL programs**
- Rent or Utility Allowance Violations on HTC, TCAP, and Exchange Developments **after the Compliance Period**
- Owners are not permitted to increase the household portion of rent more than **once during a 12 month period**
- If an Owner is **increasing a household's rent \$75 or more per month**, the Owner is required to provide the household a 75-day written notice of such increase
- Owners must provide an option to **pay rent in a manner that does not involve additional out of pocket costs** to the household

33

33

## Rule §10.623: Monitoring Procedures After the Compliance Period

### Monitoring Procedures for Housing Tax Credit, TCAP, and Exchange Properties After the Compliance Period

- The Department will not monitor the Development's application fee after the Compliance Period is over
- Rents will remain restricted for all Low-Income Units
- Utilities paid to the Owner (RUBS) are accounted for in the utility allowance
  - The tenant paid portion of the rent plus the applicable utility allowance must not exceed the applicable limit
- Owners may not charge fees for amenities that were included in the Development's Eligible Basis

34

34

### Rule §10.624: Compliance Requirements for Developments with 811 PRA Units

- Owners may not charge application fees, must cap the security and pet deposits, and may not charge impermissible fees
- Owners cannot charge fees for late payment of rent
- Owners may not charge any impermissible fee, such as unpaid utility bills fees (reimbursement of utility bills is permitted), pet fees, etc.
- Owners may charge an NSF fee on the second returned check

35

35

### Rule §10.625: Events of Noncompliance

- A fee or deposit was charged that is impermissible for **811 PRA**
- Owners cannot charge fees for late payment of rent for **811 PRA**
- Development failed to meet additional state required rent and occupancy restrictions
- Gross rent exceeds the highest rent allowed under the LURA or other deed restriction
- Utility Allowance – RUBS not handled correctly
- Eligible Basis – charging for amenities included in EB

36

36



## Fees and the 8823 Audit Guide

37

37

### Guide for Completing Form 8823

- F.3. Fees – Provision of Services
  - A service is optional when the service is not a condition of occupancy and there is a reasonable alternative.
  - Charges for non-optional services such as a washer and/or dryer hookup fee and built-in/on storage sheds might be included in gross rent.
  - No separate fees should be charged for tenant facilities (i.e., pools, parking, recreational facilities) if the costs of the facilities are included in eligible basis.
  - Assuming they are optional, charges such as pet fees, laundry room fees, garage, and storage fees may be charged in addition to the rent; i.e., they are not included in the rent computation.

38

38

## Guide for Completing Form 8823

- **F.4. Fees – Condition of Occupancy**
  - Under Treas. Reg. §1.42-11(a)(3), the cost of services that are required as a condition of occupancy must be included in gross rent even if federal or state law required that the services be offered to tenants by building owners.
  - Refundable fees associated with renting a unit are not included in the gross rent calculation. For example, security deposits and fees paid if a lease is prematurely terminated are one-time payments that are not considered in the rent calculation.
  - Required costs or fees, which are not refundable, are included in the rent calculation. Examples include fee(s) for month-to-month tenancy and renter's insurance.
  - Fees for preparing a unit for occupancy must not be charged; owners are responsible for preparing units in a manner suitable for occupancy.

39

39

## Guide for Completing Form 8823

- **F.5. Fees – Application Processing**
  - Application fees may be charged to cover the actual cost of checking a prospective tenant's credit history and landlord references.
  - The fee is limited to recovery of the actual out-of-pocket costs.
  - No amount may be charged in excess of the average expected out-of-pocket costs of checking tenant qualifications at the project.

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## Fees: Out of Compliance

- A unit is considered out of compliance if an owner charges impermissible fees.
  - The owner charges new tenants a one-time optional fee of \$125 to clean a unit before move-in; i.e., the new tenant may move into the unit as the previous tenant left it (which is not suitable for occupancy) or pay the fee to the owner to clean and prepare the unit for occupancy. A new tenant paid the \$125 cleaning fee and moved into the unit on March 15, 2025.
  - It is not permissible for owners to charge tenants a fee for maintaining low-income units in a condition suitable for occupancy under IRC §42(i)(3). Under Treas. Reg. §1.42-5(g), compliance with the requirements of IRC §42 is the responsibility of the owner of the building for which the credit is allowable. The unit is out of compliance as of March 15, 2025.
- Once a unit is determined to be out of compliance with the rent limits, the unit ceases to be a low-income unit for the remainder of the owner's tax year. A unit is back in compliance on the first day of the owner's next tax year if the rent charged on a monthly basis does not exceed the limit.

41

41



# THANK YOU!

## Scary, Spooky Fees

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
 221 EAST 11<sup>TH</sup> STREET, AUSTIN, TEXAS 78701  
 PO Box 13941, AUSTIN, TEXAS 78711  
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42