TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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October 2, 2025

Writer's direct phone # (512) 475 -3907
Email: Christina.Thompson@tdhca.texas.gov

Nitya Capital
Houston, Texas
awu@nityacapital.com

RE: Eden Pointe

Dear Nitya Capital:

The Texas Department of Housing and Community Affairs (Department) received documentation on September 2, 2025 addressing the noncompliance identified during the review of the Audit Report submitted by Darren Smith on June 2, 2025. Corrective action was due on September 1, 2025.

The documentation submitted was sufficient to correct the noncompliance related to **Failure to comply with §10.1104(a)** requiring an audit sample size of twenty percent (20%) of restricted units.

The documents submitted resulted in the following additional findings:

- **Household above the income limit** affecting units 3302, 3303, 3307, 3310, 3401, 3402, 3902, 4202, 4204, 4404, 4501, 4702, 4707, 4711, 4806, 4901, 4918, 5006, 5102, and 5108 : The initial Audit Report submitted to the Department was incomplete and did not contain the file sample size of at least twenty percent (20%) of the total number of restricted units for the Development, which was cited as a Finding. As Corrective Action, the Development was instructed to engage an auditor to complete the file review of at least twenty percent (20%) of the total number of Restricted Units, not to exceed fifty (50) total household files. And to submit to the Department for Review the updated Tab-9 of the audit workbook. The Development submitted the updated Tab-9 to the Department. Upon review of the updated Tab-9, additional items of noncompliance were detected. Auditor reported the household income was not provided. The updated Tab-9 submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income. Findings remain uncorrected.

- **Failure to comply with the Public Facility Corporation Regulatory Agreement** property wide: The Development submitted the updated Tab-9 to the Department. Upon review of the updated Tab-9, additional items of noncompliance were detected. Section 3(f) of the Development's Regulatory Agreement states, each lease or rental agreement pertaining to a Low-Income Unit shall contain a provision to the effect that the Development has relied on the Income Certification and supporting information supplied by the Low Income Household in determining qualification for occupancy of the Low Income Unit and that any material misstatement in such certification (whether or not intentional) may be cause for immediate termination of such lease or rental agreement. Each lease or rental agreement shall also disclose that the tenant's income is subject to annual certification. Auditor reports the leases for twenty (20) units on the updated Tab-9 of the workbook did not contain this required language. Finding remains uncorrected.

Please note, in accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.

This Development was established prior to HB 2071, therefore, the noncompliance listed above is not reportable to the County Appraiser District or the Comptroller's Office.

The next Audit report is due June 1, 2026.

If you have any questions, please contact Christina Thompson toll free in Texas at (800) 643-8204, directly at (512) 475-3907, or email: christina.thompson@tdhca.texas.gov.

Sincerely,

Christina Thompson
PFC Compliance Monitor

CC: Darren.smith@auxanodevelopment.com

Audit Report
Eden Pointe

The Texas Department of Housing and Community Affairs provides the following Technical Assistance:

- Development is required to obtain, complete and maintain on file Income Certifications from each Low-Income Household, including (i) the Income Certification provided as Exhibit D, attached hereto and incorporated herein, dated prior to the initial occupancy of such Low-Income Household in the Project that occupied the unit. The file sample revealed nineteen (19) household files where the income certification was dated after the occupancy date. Ensure initial Income Certifications are completed prior to initial occupancy in accordance with Section 3(c) of the Regulatory Agreement to maintain compliance.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

DETAIL FINDINGS AND CORRECTIVE ACTION REPORT

PFC ID: A25-101-0090
PFC User: Nitya Capital
Property Name: Eden Pointe
Address: 1307 Wilcrest Dr., Houston, Texas 77042

Regulatory Agreement Date: 10/4/2023
Audit Report Received Date: 6/3/2025
Corrective Action Due Date: 9/1/2025

Audit Report Review Date: 6/27/2025

PROGRAM: PFC

PROPERTY FINDINGS

Finding:	Failure to comply with §10.1104(a)			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
Property Wide	6/2/2025	Audit requirements under TAC §10.1104(a) require the file sample size used by the Auditor must contain at least twenty percent (20%) of the total number of Restricted Units for the Development but no more than a total of fifty (50) household files. The total number of Restricted Units for the Development is ninety-four (94) and requires a sample size of nineteen (19) household files. Audit report contained none.	Engage an Auditor to complete the file review in accordance with §10.1104(a), which requires that the file sample include at least twenty percent (20%) of the total number of Restricted Units, not to exceed fifty (50) total household files. The sample must primarily consist of new move-ins and include at least a ten percent (10%) sample of households that completed a recertification. Submit to the Department for review an updated Tab-9 of the audit workbook for at least seventeen (17) new move-in files and at least two (2) renewal files from year 2024.	9/2/2025

ADDITIONAL FINDINGS

Finding:	Failure to comply with the Public Facility Corporation Regulatory Agreement			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
Property Wide	9/2/2025	Section 3(f) of the Development's Regulatory Agreement states, each lease or rental agreement pertaining to a Low-Income Unit shall contain a provision to the effect that the Development has relied on the Income Certification and supporting information supplied by the Low Income Household in determining qualification for occupancy of the Low Income Unit and that any material misstatement in such certification (whether or not intentional) may be cause for immediate termination of such lease or rental agreement. Each lease or rental agreement shall also disclose that the tenant's income is subject to annual certification. Auditor reports the leases for twenty (20) units in the sample size did not contain this required language.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected

Finding:	Household above the income limit			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
3302	9/2/2025	In accordance with Section 3(c) of the Regulatory Agreement, the following items are acceptable to determine income eligibility: (1) pay stubs for the most recent four-week period; (2) income tax returns for the most recent two tax years; (3) an income verification from the applicant's current employer; (4) an income verification from the Social Security Administration; or (5) if applicant is unemployed, does not have tax returns or is otherwise unable to provide other forms of verification as required, another form of independent verification as would be satisfactory. Auditor reports the total household income was not provided. The updated Tab-9 of the workbook submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected

Finding:	Household above the income limit			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
3303	9/2/2025	In accordance with Section 3(c) of the Regulatory Agreement, the following items are acceptable to determine income eligibility: (1) pay stubs for the most recent four-week period; (2) income tax returns for the most recent two tax years; (3) an income verification from the applicant's current employer; (4) an income verification from the Social Security Administration; or (5) if applicant is unemployed, does not have tax returns or is otherwise unable to provide other forms of verification as required, another form of independent verification as would be satisfactory. Auditor reports the total household income was not provided. The updated Tab-9 of the workbook submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected

Finding:	Household above the income limit			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
3307	9/2/2025	In accordance with Section 3(c) of the Regulatory Agreement, the following items are acceptable to determine income eligibility: (1) pay stubs for the most recent four-week period; (2) income tax returns for the most recent two tax years; (3) an income verification from the applicant's current employer; (4) an income verification from the Social Security Administration; or (5) if applicant is unemployed, does not have tax returns or is otherwise unable to provide other forms of verification as required, another form of independent verification as would be satisfactory. Auditor reports the total household income was not provided. The updated Tab-9 of the workbook submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected

Finding:	Household above the income limit			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
3310	9/2/2025	In accordance with Section 3(c) of the Regulatory Agreement, the following items are acceptable to determine income eligibility: (1) pay stubs for the most recent four-week period; (2) income tax returns for the most recent two tax years; (3) an income verification from the applicant's current employer; (4) an income verification from the Social Security Administration; or (5) if applicant is unemployed, does not have tax returns or is otherwise unable to provide other forms of verification as required, another form of independent verification as would be satisfactory. Auditor reports the total household income was not provided. The updated Tab-9 of the workbook submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected

Finding:	Household above the income limit			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
3401	9/2/2025	In accordance with Section 3(c) of the Regulatory Agreement, the following items are acceptable to determine income eligibility: (1) pay stubs for the most recent four-week period; (2) income tax returns for the most recent two tax years; (3) an income verification from the applicant's current employer; (4) an income verification from the Social Security Administration; or (5) if applicant is unemployed, does not have tax returns or is otherwise unable to provide other forms of verification as required, another form of independent verification as would be satisfactory. Auditor reports the total household income was not provided. The updated Tab-9 of the workbook submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected

Finding:	Household above the income limit			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
3402	9/2/2025	In accordance with Section 3(c) of the Regulatory Agreement, the following items are acceptable to determine income eligibility: (1) pay stubs for the most recent four-week period; (2) income tax returns for the most recent two tax years; (3) an income verification from the applicant's current employer; (4) an income verification from the Social Security Administration; or (5) if applicant is unemployed, does not have tax returns or is otherwise unable to provide other forms of verification as required, another form of independent verification as would be satisfactory. Auditor reports the total household income was not provided. The updated Tab-9 of the workbook submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected

Finding:	Household above the income limit			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
3902	9/2/2025	In accordance with Section 3(c) of the Regulatory Agreement, the following items are acceptable to determine income eligibility: (1) pay stubs for the most recent four-week period; (2) income tax returns for the most recent two tax years; (3) an income verification from the applicant's current employer; (4) an income verification from the Social Security Administration; or (5) if applicant is unemployed, does not have tax returns or is otherwise unable to provide other forms of verification as required, another form of independent verification as would be satisfactory. Auditor reports the total household income was not provided. The updated Tab-9 of the workbook submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected

Finding:	Household above the income limit			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
4202	9/2/2025	In accordance with Section 3(c) of the Regulatory Agreement, the following items are acceptable to determine income eligibility: (1) pay stubs for the most recent four-week period; (2) income tax returns for the most recent two tax years; (3) an income verification from the applicant's current employer; (4) an income verification from the Social Security Administration; or (5) if applicant is unemployed, does not have tax returns or is otherwise unable to provide other forms of verification as required, another form of independent verification as would be satisfactory. Auditor reports the total household income was not provided. The updated Tab-9 of the workbook submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected

Finding:	Household above the income limit			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
4204	9/2/2025	In accordance with Section 3(c) of the Regulatory Agreement, the following items are acceptable to determine income eligibility: (1) pay stubs for the most recent four-week period; (2) income tax returns for the most recent two tax years; (3) an income verification from the applicant's current employer; (4) an income verification from the Social Security Administration; or (5) if applicant is unemployed, does not have tax returns or is otherwise unable to provide other forms of verification as required, another form of independent verification as would be satisfactory. Auditor reports the total household income was not provided. The updated Tab-9 of the workbook submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected

Finding:	Household above the income limit			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
4404	9/2/2025	In accordance with Section 3(c) of the Regulatory Agreement, the following items are acceptable to determine income eligibility: (1) pay stubs for the most recent four-week period; (2) income tax returns for the most recent two tax years; (3) an income verification from the applicant's current employer; (4) an income verification from the Social Security Administration; or (5) if applicant is unemployed, does not have tax returns or is otherwise unable to provide other forms of verification as required, another form of independent verification as would be satisfactory. Auditor reports the total household income was not provided. The updated Tab-9 of the workbook submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected

Finding:	Household above the income limit			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
4501	9/2/2025	In accordance with Section 3(c) of the Regulatory Agreement, the following items are acceptable to determine income eligibility: (1) pay stubs for the most recent four-week period; (2) income tax returns for the most recent two tax years; (3) an income verification from the applicant's current employer; (4) an income verification from the Social Security Administration; or (5) if applicant is unemployed, does not have tax returns or is otherwise unable to provide other forms of verification as required, another form of independent verification as would be satisfactory. Auditor reports the total household income was not provided. The updated Tab-9 of the workbook submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected

Finding:	Household above the income limit			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
4702	9/2/2025	In accordance with Section 3(c) of the Regulatory Agreement, the following items are acceptable to determine income eligibility: (1) pay stubs for the most recent four-week period; (2) income tax returns for the most recent two tax years; (3) an income verification from the applicant's current employer; (4) an income verification from the Social Security Administration; or (5) if applicant is unemployed, does not have tax returns or is otherwise unable to provide other forms of verification as required, another form of independent verification as would be satisfactory. Auditor reports the total household income was not provided. The updated Tab-9 of the workbook submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected

Finding:	Household above the income limit			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
4707	9/2/2025	In accordance with Section 3(c) of the Regulatory Agreement, the following items are acceptable to determine income eligibility: (1) pay stubs for the most recent four-week period; (2) income tax returns for the most recent two tax years; (3) an income verification from the applicant's current employer; (4) an income verification from the Social Security Administration; or (5) if applicant is unemployed, does not have tax returns or is otherwise unable to provide other forms of verification as required, another form of independent verification as would be satisfactory. Auditor reports the total household income was not provided. The updated Tab-9 of the workbook submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected

Finding:	Household above the income limit			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
4711	9/2/2025	In accordance with Section 3(c) of the Regulatory Agreement, the following items are acceptable to determine income eligibility: (1) pay stubs for the most recent four-week period; (2) income tax returns for the most recent two tax years; (3) an income verification from the applicant's current employer; (4) an income verification from the Social Security Administration; or (5) if applicant is unemployed, does not have tax returns or is otherwise unable to provide other forms of verification as required, another form of independent verification as would be satisfactory. Auditor reports the total household income was not provided. The updated Tab-9 of the workbook submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected

Finding:	Household above the income limit			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
4806	9/2/2025	In accordance with Section 3(c) of the Regulatory Agreement, the following items are acceptable to determine income eligibility: (1) pay stubs for the most recent four-week period; (2) income tax returns for the most recent two tax years; (3) an income verification from the applicant's current employer; (4) an income verification from the Social Security Administration; or (5) if applicant is unemployed, does not have tax returns or is otherwise unable to provide other forms of verification as required, another form of independent verification as would be satisfactory. Auditor reports the total household income was not provided. The updated Tab-9 of the workbook submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected

Finding:	Household above the income limit			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
4901	9/2/2025	In accordance with Section 3(c) of the Regulatory Agreement, the following items are acceptable to determine income eligibility: (1) pay stubs for the most recent four-week period; (2) income tax returns for the most recent two tax years; (3) an income verification from the applicant's current employer; (4) an income verification from the Social Security Administration; or (5) if applicant is unemployed, does not have tax returns or is otherwise unable to provide other forms of verification as required, another form of independent verification as would be satisfactory. Auditor reports the total household income was not provided. The updated Tab-9 of the workbook submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected

Finding:	Household above the income limit			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
4918	9/2/2025	In accordance with Section 3(c) of the Regulatory Agreement, the following items are acceptable to determine income eligibility: (1) pay stubs for the most recent four-week period; (2) income tax returns for the most recent two tax years; (3) an income verification from the applicant's current employer; (4) an income verification from the Social Security Administration; or (5) if applicant is unemployed, does not have tax returns or is otherwise unable to provide other forms of verification as required, another form of independent verification as would be satisfactory. Auditor reports the total household income was not provided. The updated Tab-9 of the workbook submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected

Finding:	Household above the income limit			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
5006	9/2/2025	In accordance with Section 3(c) of the Regulatory Agreement, the following items are acceptable to determine income eligibility: (1) pay stubs for the most recent four-week period; (2) income tax returns for the most recent two tax years; (3) an income verification from the applicant's current employer; (4) an income verification from the Social Security Administration; or (5) if applicant is unemployed, does not have tax returns or is otherwise unable to provide other forms of verification as required, another form of independent verification as would be satisfactory. Auditor reports the total household income was not provided. The updated Tab-9 of the workbook submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected

Finding:	Household above the income limit			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
5102	9/2/2025	In accordance with Section 3(c) of the Regulatory Agreement, the following items are acceptable to determine income eligibility: (1) pay stubs for the most recent four-week period; (2) income tax returns for the most recent two tax years; (3) an income verification from the applicant's current employer; (4) an income verification from the Social Security Administration; or (5) if applicant is unemployed, does not have tax returns or is otherwise unable to provide other forms of verification as required, another form of independent verification as would be satisfactory. Auditor reports the total household income was not provided. The updated Tab-9 of the workbook submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected

Finding:	Household above the income limit			
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
5108	9/2/2025	In accordance with Section 3(c) of the Regulatory Agreement, the following items are acceptable to determine income eligibility: (1) pay stubs for the most recent four-week period; (2) income tax returns for the most recent two tax years; (3) an income verification from the applicant's current employer; (4) an income verification from the Social Security Administration; or (5) if applicant is unemployed, does not have tax returns or is otherwise unable to provide other forms of verification as required, another form of independent verification as would be satisfactory. Auditor reports the total household income was not provided. The updated Tab-9 of the workbook submitted to the Department did not contain the household's reported income nor the auditor's estimate of the household's income. Department cannot determine or verify the household's income.	In accordance with the Department's PFC rule and the Texas Local Government Code Chapter 303, the Department will not accept or review any additional corrective action documentation resulting from this audit submission.	Uncorrected