



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.texas.gov](http://www.tdhca.texas.gov)

Greg Abbott  
GOVERNOR

### BOARD MEMBERS

Leo Vasquez, *Chair*  
Kenny Marchant, *Vice Chair*  
Cindy Conroy, *Member*  
Anna Maria Farias, *Member*  
Holland Harper, *Member*  
Ajay Thomas, *Member*

June 13, 2025

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

Nitin Nagpal  
Nitya Capital  
Houston, Texas  
[nnagpal@nityacapital.com](mailto:nnagpal@nityacapital.com); [awu@nityacapital.com](mailto:awu@nityacapital.com)

RE: Lakeside Forest Apartments

Dear Nitin Nagpal:

The Texas Department of Housing and Community Affairs (Department) has reviewed the Public Facility Corporation (PFC) Audit Report submitted by Darren Smith on June 2, 2025. This review was performed as required by Section 303.042 (c) of Chapter 303, the Texas Administrative Code Chapter 10, Subchapter I, and the Regulatory Agreement/Deed Restriction for Lakeside Forest Apartments.

Events of noncompliance have been identified and corrective action is required. The attached Findings Report details the event(s) of noncompliance and the required corrective action. This notice begins the corrective action period. Please supply all requested documentation no later than **August 12, 2025**, the last day of the corrective action period.

If clarification is necessary to complete the corrective action, contact us as soon as possible. If it is not possible to provide the requested documentation by the corrective action period, correct as much as you can and submit a corrective action plan detailing how and when the remaining issue(s) of noncompliance will be corrected. Development owned by a PFC that were acquired and or approved by the PFC on or after June 18, 2023, any uncorrected noncompliance including a corrective action plan, if one is submitted will be provided to the Texas Comptroller and the Chief Appraiser.

The Department recommends submitting a cover letter explaining the documentation submitted to address each event of noncompliance. Submit corrective action to [pfc.monitoring@tdhca.texas.gov](mailto:pfc.monitoring@tdhca.texas.gov).

**Failure to submit complete and satisfactory all corrections on or before the corrective action deadline will result in a referral to the Texas Comptroller and Chief Appraiser.**



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

Sincerely,

A handwritten signature in black ink, appearing to be 'CT' followed by a long horizontal flourish.

Christina Thompson  
PFC Monitor

CC: [Darren.smith@auxanodevelopment.com](mailto:Darren.smith@auxanodevelopment.com)

**Audit Report**  
Lakeside Forest Apartments

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

- The Audit Report submitted by the Development was completed using the incorrect version of the Audit Workbook. The report was submitted on the Pre-June 18, 2023, version; however, the Development is a Public Facility Corporation (PFC) approved after June 18, 2023, and is therefore subject to all requirements under House Bill 2071 and Texas Administrative Code, Chapter 10, Subchapter I. The Post-June 18, 2023, version of the Audit Workbook is available on the Department's website and includes updated reporting requirements applicable to such Developments. The Auditor and Development must ensure to use and submit the appropriate, current forms to be in compliance with TAC §10.1104(a).
- Public Facility Corporations (PFCs) approved on or after June 18, 2023, are subject to all requirements of HB 2071 and Texas Administrative Code, Chapter 10, Subchapter I. As provided in TAC §10.1105(a), annual income for households in Restricted Units must be determined in accordance with the Section 8 program administered by the U.S. Department of Housing and Urban Development (HUD), using the definitions of annual income described in 24 CFR §5.609 as further described in the HUD Handbook 4350.3, as amended from time to time. All income sources must be properly verified and documented to ensure compliance.
- Annual income includes all income derived from assets as identified and calculated in accordance with 24 CFR § 5.609. All income and asset sources must be properly verified and documented to ensure full compliance.
- In accordance with TAC §10.1104(b)(6), tenants in Restricted Units must recertify income at lease renewal using the Department-approved form. If a household's income exceeds the applicable limit, the Available Unit Rule must be followed as outlined in Section 42(g)(2)(D) of the Internal Revenue Code.
- TAC §10.1104(b)(3)(D) requires all occupied multifamily developments acquired by a Public Facility Corporation on or after June 18, 2023, to expend at least fifteen percent (15%) of the development's gross cost on rehabilitation, renovation, reconstruction, or repairs. These expenditures must begin no later than the first anniversary of the acquisition date and be completed no later than the third anniversary of the acquisition date. The third anniversary date for the Development is October 5, 2026.

## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## DETAIL FINDINGS AND CORRECTIVE ACTION

PFC ID: B25-101-0092  
 PFC User: Nitya Capital  
 Property Name: Lakeside Forest Apartments  
 Address: 1251 Wilcrest Drive, Houston TX 77042

Regulatory Agreement Date: 10/5/2023  
 Audit Report Received Date: 6/2/2025  
 Corrective Action Due Date: 8/12/2025

Audit Report Review Date: 6/11/2025

PROGRAM: PFC

## PROPERTY FINDINGS

Finding: Failure to comply with §10.1104(b)(1)				
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
Property Wide	11/1/2023	<p>TAC §10.1104(b)(1) Requires all Public Facility Corporations approved post June 18, 2023 a recorded Regulatory Agreement with a minimum 10-year term.</p> <p>The Development's recorded Regulatory Agreement does not have a minimum 10-year term, as required for per TAC §10.1104(b)(1).</p>	Amend the current Regulatory Agreement to comply. Submit documentation that evidences the amendment process has begun for Department review.	

Finding: Failure to comply with §10.1104(a)				
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
Property Wide	6/2/2025	<p>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.</p> <p>The total number of Restricted Units for the Development is one-hundred fifty-six (156) and requires a sample size of thirty-two (32) household files. Audit report contained one (1) household file.</p>	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 twenty-eight (28) new move-in files and at least four (4) renewal files from year 2024.	

Finding: Failure to comply with TAC§10.1104(c).				
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
Property Wide	6/2/2025	<p>TAC §10.1104(c) requires the Auditor to review the Development's tenant lease and leasing policies to ensure compliance with tenant protections, including non-discrimination against Housing Choice Voucher holders, limits on income standards, anti-retaliation provisions, specific grounds for non-renewal, required notice periods, and the prohibition on waiving tenant rights.</p> <p>The Audit Report does not indicate if the Auditor reviewed the tenant lease and the leasing policies to establish compliance with this requirement.</p>	Submit a copy of the tenant lease and the leasing policies for Department review.	

Finding: Failure to comply with TAC§10.1104(b)(7).				
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
Property Wide	6/2/2025	<p>TAC §10.1104(b)(7) requires all Developments to affirmatively market to households participating in the Housing Choice Voucher program and to local housing authorities.</p> <p>The Audit Report does not include documentation or information demonstrating this requirement has been satisfied.</p>	To correct, provide for Department review documentation showing targeted efforts to affirmatively market available residential units to individuals and families participating in the Housing Choice Voucher program, and evidence that local housing authorities have been notified of the Development's acceptance of voucher holders.	

Finding: Failure to comply with TAC§10.1104(b)(8).				
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
Property Wide	6/2/2025	<p>TAC §10.1104(b)(8) requires the Public Facility Corporation's website display their policies regarding acceptance of Housing Choice Vouchers.</p> <p>Audit report does not provide documentation or information demonstrating this requirement has been satisfied</p>	To correct, provide for Department review documentation showing the Public Facility Corporation's website includes their policies regarding acceptance of Housing Choice Vouchers.	

Finding: Failure to comply with TAC§10.1104(c).				
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
Property Wide	6/2/2025	<p>TAC §10.1104(c) requires the Auditor to review the Development's tenant lease and leasing policies to ensure compliance with tenant protections, including non-discrimination against Housing Choice Voucher holders, limits on income standards, anti-retaliation provisions, specific grounds for non-renewal, required notice periods, and the prohibition on waiving tenant rights.</p> <p>The Audit Report does not indicate if the Auditor reviewed the tenant lease and the leasing policies to establish compliance with this requirement.</p>	Submit a copy of the tenant lease and the leasing policies for Department review.	

Finding: Failure to comply with TAC§10.1104(d).				
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
Property Wide	6/2/2025	<p>TAC §10.1104(d) requires the Audit Report to include an annual rent savings calculation. Savings must equal at least sixty percent (60%) of the estimated ad valorem taxes that would be imposed without an exemption.</p> <p>The Audit Report does not provide an annual rent savings calculation.</p>	Provide for Department review a rent savings calculation worksheet that demonstrates total savings to tenants in Restricted Units. Include methodology, unit comparison, and estimated amount of the annual ad-valorem taxes that would be imposed on the Development without the exemption.	

Finding: Failure to comply with TAC§10.1104(b)(3).				
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
Property Wide	6/2/2025	<p>TAC §10.1104(b)(3) requires at least twenty-five percent (25%) of units be reserved for or occupied by households at or below 60% AMI, and an additional forty percent (40%) at or below 80% AMI.</p> <p>Development does not have an additional forty percent (40%) of units at or below 80% AMI. An additional five (5) units must be reserved for or occupied by households at or below 80% AMI to satisfy this requirement.</p>	As units become available, lease units to households' with 80% AMI or less until the occupancy requirements have been met. The owner may also survey existing market rate households and certify them if their income is at or below 80% AMI. Submit copies of five (5) new move-ins etc. that have been certified at 80% AMI and a current rent roll. Provide the Department copies of the following for the new certified households: application(s), verifications of income/assets, executed Tenant Income Certification and the lease contract.	

Finding: Failure to comply with §10.1104(a)(4)				
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
Property Wide	12/31/2024	<p>Pursuant to TAC §10.1104(a)(4), monthly rent for Restricted Units may not exceed 30% of the imputed income limit, adjusted for a family size of one person per bedroom plus one, as determined by HUD.</p> <p>The provided rent roll and incomplete audit report indicate that the rent amounts for Restricted Units exceed the allowable limits.</p>	<p>Submit the full audit report demonstrating that restricted rents comply with the limits established under TAC §10.1104(a)(4). The audit report must reflect actual lease and rent roll data as originally executed and submitted to the Department. Should the audit confirm that rent amounts for any restricted units exceed the allowable limits, the Development must calculate the total overpaid rent for each non-compliant unit from the date of move-in, and either refund the overage or apply a credit to the household's account. Submit the following documentation for each affected unit: the rent overage calculation, an amended lease contract reflecting the corrected rent amount, the household's rent ledger showing the updated rent and any credit applied (if applicable), or a copy of the cancelled check if a refund was issued.</p>	

Finding: Failure to comply with §10.1104(b)(5)				
Unit #	Non-Compliance Date	Reason	Corrective Action	Correction Date
Property Wide	12/31/2024	<p>TAC §10.1104(b)(5) requires the percentage of Restricted Units by unit type to be equal to or greater than the percentage of unrestricted units of that same unit type.</p> <p>The Development currently has 51 unrestricted 2-bedroom units and 50 restricted 2-bedroom units.</p>	<p>As 2-bedroom units become available, lease units to households' with 80% AMI or less until the occupancy requirements of §10.1104(b)(5) have been met. The owner may also survey existing market rate households and certify them if their income is at or below 80% AMI. Submit copies of at least one (1) new move-ins etc. that have been certified at 80% AMI and a current rent roll showing at least fifty-one (51) 2-bedroom units are restricted. Provide the Department copies of the following for the new certified households: application(s), verifications of income/assets, executed Income Certification and the lease contract.</p>	