

ENFORCEMENT ACTION AGAINST
ALPINE MANOR, L.P,
WITH RESPECT TO ALPINE MANOR
APARTMENTS (HTC 93023)

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BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 26th 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 **ALPINE 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 1993, Respondent was awarded a \$50,282.80 allocation of Low Income Housing Tax Credits by the Board, to build and operate Alpine Manor Apartments (HTC 93023 / CMTS 1112 / LDLD 0072).
3. Respondent signed a land use restriction agreement (“LURA”) which was effective on May 1, 1994 and recorded at Volume 45, Page 242 in the Official Public Records of Real Property of Brewster 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 Violations¹:

5. An on-site monitoring review was conducted on July 14, 2010, 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 October 17, 2010 corrective deadline was set, however, the following violations were not resolved by the deadline:
 - a. Respondent failed to provide an affirmative marketing plan, a violation of 10 TEX. ADMIN. CODE §60.112 (Requirements Pertaining to Households with Rental Assistance); and
 - b. Respondent failed to comply with accessibility requirements under the Fair Housing Act, a violation of 10 TEX. ADMIN. CODE §60.203(f) which requires all multifamily housing designed and constructed for occupancy after March 13, 1991 to comply with the design and construction requirements of the Fair Housing Act.Fully acceptable corrective documentation was not received until May 12, 2011 for the affirmative marketing plan finding and August 29, 2011 for the accessibility findings, after intervention by the Administrative Penalty Committee.
6. A UPCS inspection was conducted on July 28, 2010. Inspection reports showed numerous serious property condition violations, a violation of 10 TEX. ADMIN. CODE §60.116 (Property Inspection Standards). Notifications of noncompliance were sent and a November 12, 2010 corrective action deadline was set. Fully acceptable corrective documentation was not received until June 13, 2011, after intervention by the Administrative Penalty Committee.
7. A 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 21, 2013 corrective action deadline was set. Fully acceptable corrective documentation was not received until March 24, 2014, after intervention by the Administrative Penalty Committee.
8. The following violations remain outstanding at the time of this order:
 - a. None.

¹ 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.

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.
4. Respondent violated 10 TEX. ADMIN. CODE §60.116 in 2010 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 §60.112 in 2010 by failing to provide an affirmative marketing plan;
6. Respondent violated 10 TEX. ADMIN. CODE §60.203 in 2010 by failing to comply with accessibility requirements under the Fair Housing Act.
7. 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.
8. 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.
9. 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.
10. An administrative penalty of \$250.00 is an appropriate penalty in accordance with 10 TAC §§60.307 and 60.308.

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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 th 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 30th 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 30th 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