

ENFORCEMENT ACTION AGAINST  
CAMERON APARTMENTS LTD  
WITH RESPECT TO CAMERON  
ASSOCIATES APARTMENTS  
(HTF FILE # 1000752 / CMTS # 4322)

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BEFORE THE  
TEXAS DEPARTMENT OF  
HOUSING AND  
COMMUNITY AFFAIRS

### **AGREED FINAL ORDER**

#### **General Remarks and official action taken:**

On this 16<sup>th</sup> day of June, 2015, 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 **CAMERON APARTMENTS LTD**, 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 Enforcement Committee, the Board makes the following findings of fact and conclusions of law and enters this Order:

#### **WAIVER**

Respondent acknowledges the existence of their right to request a hearing as provided by TEX. GOV’T CODE § 2306.044, and to seek judicial review, in the District Court of Travis County, Texas, of any order as provided by TEX. GOV’T CODE § 2306.047. Pursuant to this compromise and settlement, the Respondent waives those rights and acknowledges the jurisdiction of the Board over Respondent.

#### **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 §2.
2. During 2003, Respondent was awarded by the Board a Housing Trust Fund allocation totaling \$852,240 to build and operate Cameron Associates Apartments (“Property”) (HTC file No. 1000752 / CMTS No. 4322 / LDLD No. 538).

3. Respondent signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective July 30, 2003, and filed of record at Volume 916, Page 555 of the Official Public Records of Real Property of Milam County, Texas (“Records”).
4. Respondent is a Texas limited partnership that is qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development that is subject to the regulatory authority of TDHCA.

Compliance Violations<sup>1</sup>:

5. An on-site monitoring review was conducted on September 25, 2013, 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 violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a January 21, 2014, corrective action deadline was set. Corrective documentation was received but did not resolve the following violations, all of which remain uncorrected as of the date of this Order:
  - a. Respondent failed to provide the Fair Housing Disclosure Notice for units 35, 37, 38, 40, 41, 59, 61, and 62, a violation of 10 TEX. ADMIN. CODE § 10.608 (Lease Requirements), which required all developments to provide prospective households with a fair housing disclosure notice within a certain time period.

This form has since been combined with the Notice of Amenities and Services into a replacement document called the “Tenant Rights and Resources Guide.”
  - b. Respondent failed to properly calculate the utility allowance for the property, a violation of 10 TEX. ADMIN. CODE §10.607 (Utility Allowances), which requires all developments to establish a utility allowance.
  - c. Respondent failed to provide documentation that household incomes were within prescribed limits upon initial occupancy for units 38, 40, 41, and 59, a violation of 10 TEX. ADMIN. CODE §10.606 (Determination, Documentation and Certification of Annual Income) and Sections 2.2 and 4.2 of the LURA, which require screening of tenants to ensure qualification for the program;
6. A Uniform Physical Condition Standards (“UPCS”) inspection was conducted on January 22, 2014. Inspection reports showed numerous serious property condition violations, a violation of 10 TEX. ADMIN. CODE §10.621 (Property Condition Standards). Notifications of noncompliance were sent and a November 1, 2014, corrective action deadline was set. No corrective documentation was received and the findings listed at Attachment 1 remain unresolved.

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<sup>1</sup> Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TEX. ADMIN. CODE, CHAPTERS 10 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.

7. The following violations remain outstanding at the time of this order:
  - a. Fair Housing Disclosure Notice violations described in FOF #5a;
  - b. Utility allowance violation described in FOF #5b;
  - c. Household income above limit upon initial occupancy violations described in FOF #5c;
  - d. UPCS violations described in FOF #6.

### **CONCLUSIONS OF LAW**

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, and 10 TEX. ADMIN. CODE §2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Respondent violated 10 TEX. ADMIN. CODE §10.608 in 2013, by failing to execute the Fair Housing Disclosure Notice during the appropriate time frame for units 35, 37, 38, 40, 41, 59, 61, and 62.
4. Respondent violated 10 TEX. ADMIN. CODE §10.607 in 2013 by failing to properly calculate a utility allowance;
5. Respondent violated 10 TEX. ADMIN. CODE §10.606 (Determination, Documentation and Certification of Annual Income) and Sections 2.2 and 4.2 of the LURA in 2013 by failing to provide documentation that household incomes are within prescribed limits upon initial occupancy for units 38, 40, 41, and 59.
6. Respondent violated 10 TEX. ADMIN. CODE § 10.616 in 2013, by failing to comply with HUD's Uniform Physical Condition Standards when major violations were discovered and not timely corrected.<sup>2</sup>
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.

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<sup>2</sup> HUD's Uniform Physical Condition Standards are the standards adopted by TDHCA pursuant to 10 TEX. ADMIN. CODE 10.621(a)

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 \$2,000 is an appropriate administrative penalty in accordance with 10 TEX. ADMIN. CODE §2.

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 \$2,000, subject to deferral as further ordered below.

**IT IS FURTHER ORDERED** that the property manager at Cameron Associates Apartments shall attend First Thursday Income Eligibility Training and provide a copy of the completion certificate to TDHCA on or before July 16, 2015.

**IT IS FURTHER ORDERED** that Respondent shall fully correct the file monitoring violations as indicated in Attachment 3 and submit full documentation of the corrections to TDHCA on or before July 16, 2015.

**IT IS FURTHER ORDERED** that Respondent shall repair all UPCS violations as indicated in Attachments 1 and 2, and submit work orders in the correct format, including all necessary parts, to document the corrections to TDHCA on or before July 16, 2015.

**IT IS FURTHER ORDERED** that Respondent shall follow the requirements of 10 Tex. Admin. Code 10.406, a copy of which is included at Attachment 4, and obtain approval from the Department prior to consummating a sale of the property, if contemplated.

**IT IS FURTHER ORDERED** that if Respondent timely and fully complies with the terms and conditions of this Agreed Final Order, correcting all violations as required, the satisfactory performance under this order will be accepted in lieu of the assessed administrative penalty and the full amount of the administrative penalty will be deferred and forgiven.

**IT IS FURTHER ORDERED** that if Respondent fails to satisfy any conditions or otherwise violates any provision of this order, then the full administrative penalty in the amount of \$2,000 shall be immediately due and payable to the Department. Such payment shall be made by cashier's check payable to the "Texas Department of Housing and Community Affairs" upon the earlier of (1) within thirty days of the date the Department sends written notice to Respondent that it has violated a provision of this Order, or (2) the property closing date if sold during the term of this Order.

**IT IS FURTHER ORDERED** that corrective documentation must be uploaded to the Compliance Monitoring and Tracking System (“CMTS”) by following the instructions at this link: <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>. After the upload is complete, an email must be sent to Ysella Kaseman at [ysella.kaseman@tdhca.state.tx.us](mailto:ysella.kaseman@tdhca.state.tx.us) to inform her that the documentation is ready for review. If it comes due and payable, the penalty payment must be submitted to the following address:

<b>If via overnight mail (FedEx, UPS):</b>	<b>If via USPS:</b>
TDHCA Attn: Ysella Kaseman 221 E 11 <sup>th</sup> St Austin, Texas 78701	TDHCA Attn: Ysella Kaseman P.O. Box 13941 Austin, Texas 78711

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

*[Remainder of page intentionally blank]*

Approved by the Governing Board of TDHCA on 6/16, 2015.

By: /s/ J. Paul OXer  
Name: J. Paul OXer  
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** §  
§  
**COUNTY OF TRAVIS** §

Before me, the undersigned notary public, on this 18th day of June, 2015, personally appeared J. Paul OXer, 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 18th day of June, 2015, 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/ Leah Sargent Rosas  
Notary Public, State of Texas



**Attachment 1**

**UPCS Violations**

[omitted from web version]



**Attachment 2**

**UPCS Work Order Guidelines**

**[omitted from web version]**

### Attachment 3

#### **Tenant File Resources and Instructions**

1. Refer to the following link for all references to the rules at 10 TEX. ADMIN. CODE §10 that are referenced below:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y)

2. Refer to the following link for copies of forms that are referenced below:

<http://www.tdhca.state.tx.us/pmcomp/forms.htm>

3. Technical support and training presentations are available at the following links:

Video/Audio Training: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>

Income and Rent Limits: <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>

Utility Allowance: <http://www.tdhca.state.tx.us/pmcomp/utility-allowance.htm>

Online Reporting: <http://www.tdhca.state.tx.us/pmcomp/reports.htm>

FAQ's: <http://www.tdhca.state.tx.us/pmcomp/compFaqs.htm>

4. **Fair Housing Disclosure Notice:** This notice has since been replaced by the Tenants Rights and Resource Guide as indicated at 10 TEX. ADMIN. CODE §10.613(k).

Correctable findings: Implement Tenants Rights and Resource Guide as indicated at 10 TEX. ADMIN. CODE §10.613(k) and submit signed Tenants Rights and Resource Guide Acknowledgments for units 35, 40, 41, 59, 61, 62. If households that triggered the findings have moved out without signing this form, please submit a letter to TDHCA including the move-out date and acknowledging that the finding cannot be resolved.

Unit	Triggering household's move-in date
35	6/11/2013
40	8/2/2013
41	6/8/2013
59	6/10/2013
61	7/8/2013
62	5/16/2013

Uncorrectable findings: The households that triggered the findings for units 37 & 38 have vacated the units without completing the required form. Therefore, there is no corrective action available and the finding will remain outstanding.

- 5. Utility Allowance violation:** Has the 2013 Utility allowance and or budget been approved?
- a. If “yes”,** submit copy of utility allowance approval for year 2013 or a copy of the property’s approved Rural Development budget for 2013.
  - b. If “no”:**
    - i.** Submit all necessary documentation to Zeffert & Associates so that they may begin calculations for the utility allowance.
    - ii.** Submit to TDHCA a copy of a letter or email from Zeffert & Associates confirming that they have received your documentation and will begin working on your utility allowance calculations;
    - iii.** Submit copy to TDHCA once Rural Development approves the budget / utility allowance. This final step may be completed after the 7/16/2015 deadline provided that requirements i. and ii. above are timely completed.
- 6. Household income violations for units 38, 40, 41, 59:** Follow the individual unit instructions below. If the circumstances as of 9/25/2013 that are indicated below no longer exist, see the table beneath them for alternate instructions:
- a. Unit 38:** The household did not execute a required Income Certification form at move-in. There was an Income Certification in the file; however it was not executed by the resident.  
  
Submit the executed *initial* Income Certification (signed and dated by all adult household members). Do not back date this form. The day the households execute the required form will be the date of correction.
  - b. Unit 40:** The household was certified at move-in with income that exceeded the applicable income limit for 2 people at 60% AMI.  
  
If the household’s circumstances have changed since move-in, a new certification may be performed using current circumstances and current income and asset information and current income limits. If a new certification is preformed for the existing household, the property must obtain first hand documentation such as pay stubs and bank statements to document income and assets. Submit these documents.
  - c. Unit 41:** The household did not execute a required Income Certification form at move-in. There was an Income Certification in the file; however it was not executed by the resident. Submit the executed initial Income Certification (signed and dated by all adult household members). Do not back date this form. The day the households execute the required form will be the date of correction.
  - d. Unit 59:** The household did not execute a required Income Certification form at move-in. There was an Income Certification in the file; however it was not executed by the resident.  
  
Submit the executed initial Income Certification (signed and dated by all adult household members). Do not back date this form. The day the households execute the required form will be the date of correction.

<b>Circumstance</b>	<b>Alternate Instructions</b>
If unit is occupied by a new qualified household (moved in after 9/25/2013 monitoring review)	Submit the full tenant file, including the tenant application, verifications of all sources of income and assets, tenant income certification, lease, lease addendum, and Tenant Rights and Resources Guide Acknowledgment.
If unit is occupied by a nonqualified household on a month-to-month lease	<ol style="list-style-type: none"> <li>1. Follow your normal procedures for terminating residency and provide a copy of documentation to TDHCA.</li> <li>2. As soon as the unit is occupied by a qualified household, you must submit the full tenant file, including the tenant application, verifications of all sources of income and assets, tenant income certification, lease, lease addendum and Fair Housing Choice Disclosure Notice. Receipt of Requirement 2 after 7/16/2015 is acceptable for this circumstance provided that Requirement 1 is fulfilled.</li> </ol>
If unit is occupied by a nonqualified household with a non-expired lease	<ol style="list-style-type: none"> <li>1. Issue a nonrenewal notice to tenant and provide a copy to TDHCA.</li> <li>2. As soon as the unit is occupied by a qualified household, you must to submit the full tenant file, including the tenant application, verifications of all sources of income and assets, tenant income certification, lease, lease addendum and Fair Housing Choice Disclosure Notice. Receipt of Requirement 2 after 7/16/2015 is acceptable for this circumstance provided that Requirement 1 is fulfilled.</li> </ol>
If unit is vacant	<ol style="list-style-type: none"> <li>1. Unit must be made ready for occupancy and a letter certifying to that effect must be submitted to TDHCA.</li> <li>2. As soon as the unit is occupied by a qualified household, you must submit the full tenant file, including the tenant application, verifications of all sources of income and assets, tenant income certification, lease, lease addendum and Fair Housing Choice Disclosure Notice. Receipt of Requirement 2 after 7/16/2015 is acceptable for this circumstance provided that Requirement 1 is fulfilled.</li> </ol>

## Attachment 4:

### **Texas Administrative Code**

<u>TITLE 10</u>	COMMUNITY DEVELOPMENT
<u>PART 1</u>	TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
<u>CHAPTER 10</u>	UNIFORM MULTIFAMILY RULES
<u>SUBCHAPTER E</u>	POST AWARD AND ASSET MANAGEMENT REQUIREMENTS
RULE §10.406	Ownership Transfers (§2306.6713)

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(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice to the Department at least thirty (30) calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Transfers that are the result of an involuntary removal of the general partner by the investment limited partner must be reported to the Department, as soon as possible due to the sensitive timing and nature of this decision. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure, staff may make a recommendation to the Board for the debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with §1.5 of this title (relating to Previous Participation Reviews), prior to recommending any new financing or allocation of credits.

(b) Requirement. Department approval must be requested for any new member to join in the ownership of a Development. Exceptions include changes to the investment limited partner, non-controlling limited partner, or other partners affiliated with the investment limited partner, or changes resulting from foreclosure wherein the lender or financial institution involved in the transaction is the resulting owner. Any subsequent transfer of the Development will be required to adhere to the process in this section. Furthermore, a Development Owner may not transfer an allocation of tax credits or ownership of a Development supported with an allocation of tax credits to any Person or entity unless the Development Owner obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section. Notwithstanding the foregoing, a Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new members or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(c) Transfers Prior to 8609 Issuance or Construction Completion. Transfers (other than those that do not require Executive Director approval, as set forth in subsection (b) of this section) will not be approved prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) unless the Development Owner can provide evidence that the need for the transfer is due to a hardship (ex. potential bankruptcy, removal by a partner, etc.). The Development Owner must provide the Department with a written explanation describing the hardship and a copy of any applicable agreement between the parties to the transfer, including any Third-Party agreement.

(d) Non-Profit Organizations. If the ownership transfer request is to replace a non-profit organization within the Development ownership entity, the replacement non-profit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Non-Profit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Non-Profit Organization that meets the requirements of §42(h)(5) of the Code and

Texas Government Code §2306.6706.

(2) If the LURA requires ownership or material participation in ownership by a qualified non-profit organization, but the Development did not receive Tax Credits pursuant to §42(h)(5) of the Code, the Development Owner must show that the transferee is a non-profit organization that complies with the LURA.

(e) Historically Underutilized Business ("HUB") Organizations. If a HUB is the general partner of a Development Owner and it (i) is being removed as the result of a default under the organizational documents of the Development Owner or (ii) determines to sell its ownership interest, in either case, after the issuance of 8609s, the purchaser of that general partnership interest is not required to be a HUB as long as the LURA does not require such continual ownership or a material LURA amendment is approved. Such approval can be obtained concurrent with Board approval described herein. All such transfers must be approved by the Board and require that the Board find that:

(1) the selling HUB is acting of its own volition or is being removed as the result of a default under the organizational documents of the Development Owner;

(2) the participation by the HUB has been substantive and meaningful, or would have been substantial and meaningful had the HUB not defaulted under the organizational documents of the Development Owner, enabling it to realize not only financial benefit but to acquire skills relating to the ownership and operation of affordable housing; and

(3) the proposed purchaser meets the Department's standards for ownership transfers

(f) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances that gave rise to the need for the transfer and the effects of approval or denial. Documentation includes but is not limited to:

(1) a written explanation outlining the reason for the request;

(2) a list of the names of transferees and Related Parties;

(3) detailed information describing the experience and financial capacity of transferees and related parties holding an ownership interest of 10 percent or greater in any Principal or Controlling entity;

(4) evidence and certification that the tenants in the Development have been notified in writing of the proposed transfer at least thirty (30) calendar days prior to the date the transfer is approved by the Department. The ownership transfer approval letter will not be issued until this 30 day period has expired.

(g) Within five (5) business days after the date the Department receives all necessary information under this section, staff shall initiate a qualifications review of a transferee, in accordance with §1.5 of this title, to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter.

(h) Credit Limitation. As it relates to the Housing Tax Credit amount further described in §11.4(a) of this title (relating to Tax Credit Request and Award Limits), the credit amount will not be applied in circumstances described in paragraphs (1) and (2) of this subsection:

(1) in cases of transfers in which the syndicator, investor or limited partner is taking over ownership of the Development and not merely replacing the general partner; or

(2) in cases where the general partner is being replaced if the award of credits was made at least five (5) years prior to the transfer request date.

(i) Penalties. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department.

(j) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by corresponding ownership transfer fee as outlined in §10.901 of this chapter (relating to Fee Schedule).

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**Source Note:** The provisions of this §10.406 adopted to be effective December 9, 2014, 39 TexReg 9518