

ENFORCEMENT ACTION AGAINST	§	BEFORE THE
PK COTTONWOOD APARTMENTS, LP,	§	TEXAS DEPARTMENT OF HOUSING
PK ELMWOOD APARTMENTS, LP, AND PK	§	AND COMMUNITY AFFAIRS
OAKWOOD APARTMENTS, LP, WITH	§	
RESPECT TO COTTONWOOD APARTMENTS	§	
(HTC 12048 / HOME 1001677 / CMTS 544),	§	
ELMWOOD APARTMENTS (HTC 12045 /	§	
HOME 1001679 / CMTS 1130), AND	§	
OAKWOOD APARTMENTS (HTC 11082 /	§	
HOME 1001591 / CMTS 1304)	§	
	§	
	§	

AGREED FINAL ORDER

General Remarks and official action taken:

On this 6th day of February, 2025, the Governing Board (Board) of the Texas Department of Housing and Community Affairs (TDHCA or Department) considered the matter of whether enforcement action should be taken against **PK COTTONWOOD APARTMENTS, LP**, a Texas limited partnership (Cottonwood Owner), **PK ELMWOOD APARTMENTS, LP**, a Texas limited partnership (Elmwood Owner), and **PK OAKWOOD APARTMENTS, LP**, a Texas limited partnership (Oakwood Owner) (to be collectively known as Respondents).

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 Respondents agree to resolve this matter by this Agreed Final Order. The Respondents agree 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

Respondents acknowledge 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 Respondents waive those rights and acknowledge the jurisdiction of the Board over Respondents.

FINDINGS OF FACT (FOF)

Jurisdiction:

1. During 2011, Oakwood Owner received HOME funds and an allocation of Low Income Housing Tax Credits to build and operate Oakwood Apartments (Oakwood) (HTC 11082 / HOME 1001591 / CMTS 1304).
2. During 2012, Cottonwood Owner received HOME funds and an allocation of Low Income Housing Tax Credits to build and operate Cottonwood Apartments (Cottonwood) (HTC 12048 / HOME 1001677 / CMTS 544).
3. During 2012, Elmwood Owner received HOME funds and an allocation of Low Income Housing Tax Credits to build and operate Elmwood Apartments (Elmwood) (HTC 12045 / HOME 1001679 / CMTS 1130).
4. Respondents signed the following land use restriction agreements (LURAs):
 - a. The Oakwood HTC LURA: Declaration of Land Use Restrictive Covenants Land Use Restriction Agreement for Low Income Housing Tax Credits effective November 5, 2013, and filed of record on December 06, 2013 at Document Number 84307 in Volume 1300, Page 153 of the Official Records of Real Property of Madison County, Texas, as amended by a First Amendment to Declaration of Land Use Restrictive Covenants Land Use Restriction Agreement for Low Income Housing Tax Credits effective on September 29, 2014, and filed of record on October 2, 2014 at Document Number 89179 in Volume 1374, Page 269.
 - b. The Oakwood HOME LURA: Land Use Restriction Agreement (Multifamily Properties) effective November 27, 2012, and filed of record on November 30, 2012 at Document Number 78393 in Volume 1215, Page 7 of the Official Records of Real Property of San Patricio County, Texas.
 - c. The Cottonwood HTC LURA: Declaration of Land Use Restrictive Covenants Land Use Restriction Agreement for Low Income Housing Tax Credits effective December 5, 2013, and filed of record on December 23, 2013 at Document Number 633859 of the Official Records of Real Property of San Patricio County, Texas, as amended by a First Amendment to Declaration of Land Use Restrictive Covenants Land Use Restriction Agreement for Low Income Housing Tax Credits effective on May 7, 2019, and filed of record on May 16, 2019 at Document Number 688269.

- d. The Cottonwood HOME LURA: Land Use Restriction Agreement (Multifamily Properties) effective April 5, 2013, and filed of record on April 9, 2013 at Document Number 626659 of the Official Records of Real Property of San Patricio County, Texas.
- e. The Elmwood HTC LURA: Declaration of Land Use Restrictive Covenants Land Use Restriction Agreement for Low Income Housing Tax Credits effective November 15, 2013, and filed of record on December 27, 2013 at Document Number 00402201 in Volume 1583, Page 756 of the Official Records of Real Property of Leon County, Texas, as amended by a First Amendment to Declaration of Land Use Restrictive Covenants Land Use Restriction Agreement for Low Income Housing Tax Credits effective on May 7, 2019, and filed of record on May 10, 2019 at Document Number 2019-433274 in Volume 1758, Page 508.
- f. The Elmwood HOME LURA: Land Use Restriction Agreement (Multifamily Properties) effective April 17, 2013, and filed of record on April 19, 2013 at Document Number 00396452 in Volume 1552, Page 744 of the Official Records of Real Property of San Patricio County, Texas.

5. Respondents are subject to the regulatory authority of TDHCA.

Compliance Violations¹:

- 6. An on-site monitoring review was conducted at Elmwood on February 16, 2024, to determine whether Respondent complied 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 May 21, 2024, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
 - a. Respondent failed to market to veterans, a violation of Appendix A of the Elmwood HTC LURA, which requires affirmative marketing to veterans through direct marketing or contracts with veterans organizations. This violation was corrected on September 4, 2024, after intervention by the Enforcement Committee.
 - b. Respondent failed to submit evidence that ten required supportive services points were being provided, a violation of Appendix A of the Elmwood HTC LURA and 10 TAC §10.619 (Monitoring for Social Services), which require the development to maintain evidence proving that ten points worth of services from Appendix A were

¹ Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TAC Chapter 10 refers 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.

provided. This violation was corrected on September 4, 2024, after intervention by the Enforcement Committee.

7. An on-site monitoring review was attempted at Cottonwood on April 12, 2024, to determine whether Respondent complied with LURA requirements to lease units to low-income households and maintain records demonstrating eligibility. The Department gave reasonable notice of the review on March 21, 2024, but the leasing office was closed at the appointed time. The onsite review was therefore cancelled, and a notice of noncompliance was issued, setting a July 25, 2024, corrective action deadline to submit requested files electronically. Respondent submitted files, and the Department issued a subsequent notice of noncompliance, setting a corrective action deadline of August 9, 2024. The following violations were not resolved before the extended corrective action deadline:
 - a. Respondent failed to allow onsite monitoring on April 12, 2024, resulting in inspection cancellation, a violation of 10 TAC §10.618 (Monitoring and Inspections), which requires Respondent to permit the Department access to the premises and records in order to review all documents supporting compliance. When documentation was submitted on June 10, 2024, five of the tenant files were missing ledgers, three were missing current tenant income certifications, and one unit was not correctly designated as a HOME household. This violation, and the subsequent documentation noncompliance, was corrected on September 18, 2024, after intervention by the Enforcement Committee.
 - b. Respondent failed to properly implement the utility allowance for Cottonwood, a violation of 10 TAC §10.614 (Utility Allowances), which requires all developments to establish and update the utility allowance annually. This violation was corrected on September 18, 2024, after intervention by the Enforcement Committee.
 - c. Respondent failed to market to veterans, a violation of Appendix A of the Cottonwood HTC LURA, which requires affirmative marketing to veterans through direct marketing or contracts with veterans organizations. This violation was corrected on September 18, 2024, after intervention by the Enforcement Committee.
 - d. Respondent failed to submit evidence that five out of ten required supportive services points were being provided, a violation of Appendix A of the Cottonwood HTC LURA and 10 TAC §10.619 (Monitoring for Social Services), which require the development to maintain evidence proving that ten points worth of services from Appendix A were provided. This violation was corrected on October 14, 2024, after intervention by the Enforcement Committee.
8. An on-site monitoring review was conducted at Oakwood on April 16, 2024, to determine whether Respondent complied 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 an August 7, 2024, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:

- a. Respondent failed to market to veterans, a violation of Appendix A of the Oakwood HTC LURA, which requires affirmative marketing to veterans through direct marketing or contracts with veterans organizations. This violation was corrected on October 11, 2024, after intervention by the Enforcement Committee.
 - b. Respondent failed to submit evidence that six out of eight required supportive services points were being provided, a violation of Appendix A of the Oakwood HTC LURA and 10 TAC §10.619 (Monitoring for Social Services), which require the development to maintain evidence proving that eight points worth of services from Appendix A were provided. This violation was corrected on October 11, 2024, after intervention by the Enforcement Committee.
 - c. Respondent failed to provide a tenant income certification for unit 201D that was due November 28, 2023, the move-in anniversary date, a violation of 10 TAC §10.612(b)(2) (Tenant File Requirements) and Section 2.4(a) of the Oakwood HOME LURA, which require annual recertification within 120 days before the anniversary date. This violation was corrected on October 25, 2024, after intervention by the Enforcement Committee.
 - d. Respondent failed to collect an Annual Eligibility Certification for unit 201D that was due November 28, 2023, the move-in anniversary date, a violation of 10 TAC §10.612(b)(2) (Tenant File Requirements), which requires developments to annually collect an Annual Eligibility Certification form from each household within 120 days before the move-in date. This violation was corrected on October 25, 2024, after intervention by the Enforcement Committee.
9. All violations listed above are considered resolved at the time of this Order.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503 and 10 TAC Chapter 2.
2. Respondents are 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. Pursuant to Tex. Gov't Code Chapter 2306, Subchapter DD and Tex. Gov't Code §2306.185, TDHCA is authorized to make Housing Tax Credit Allocations for the State of Texas and is required to monitor to ensure compliance.
5. Respondents violated Appendix A of the Elmwood HTC LURA, the Cottonwood HTC LURA, and the Oakwood HTC LURA in 2024, by failing to provide evidence of affirmative marketing to veterans.

6. Respondents violated 10 TAC §10.614 in 2024, by failing to implement the 2024 utility allowance at Cottonwood.
7. Respondents violated 10 TAC §10.619 and Appendix A of the Elmwood HTC LURA, the Cottonwood HTC LURA, and the Oakwood HTC LURA in 2024, by failing to provide evidence of required supportive services.
8. Respondents violated 10 TAC §10.618 at Cottonwood in 2024, by failing to allow onsite monitoring.
9. Respondents violated 10 TAC §10.612 and Section 2.4A of the Oakwood HOME LURA in 2024, by failing to provide a tenant income certification and documentation to annually recertify unit 201D within the prescribed time period.
10. Respondents violated 10 TAC §10.612 in 2024, by failing to collect an Annual Eligibility Certification for unit 201D within the prescribed time period.
11. Because Respondents are a housing sponsor with respect to the properties, and have violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and Tex. Gov't Code §2306.267.
12. Because Respondents are housing sponsors, TDHCA may order Respondents 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 Respondents and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
13. Because Respondents have violated rules promulgated pursuant to Tex. Gov't Code §2306.053 and has violated agreements with the Agency to which Respondents are a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.
14. An administrative penalty of \$2,500.00 is an appropriate penalty in accordance with 10 TAC Chapter 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 Governing Board of the Texas Department of Housing and Community Affairs orders the following:

IT IS HEREBY ORDERED that Respondents are assessed a collective administrative penalty in the amount of \$2,500.00

IT IS FURTHER ORDERED that Respondents shall pay and are hereby directed to pay the \$2,500.00 administrative penalty by cashier's check payable to the "Texas Department of Housing and Community Affairs" on or before March 10, 2025, 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

IT IS FURTHER ORDERED that Respondents shall follow the requirements of [10 TAC §10.406](#), and obtain approval from the Department prior to consummating a sale of the property, if contemplated.

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

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Approved by the Governing Board of TDHCA on February 6, 2025.

By: /s/ Leo Vasquez

Name: Leo Vasquez

Title: Chair of the Board of TDHCA

By: /s/ Michael Lyttle

Name: Michael Lyttle

Title: Assistant Secretary of the Board of TDHCA

THE STATE OF TEXAS §

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COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 6th day of February, 2025, personally appeared Leo Vasquez, 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/ Nancy Dennis

Notary Public, State of Texas

THE STATE OF TEXAS §

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COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 6th day of February, 2025, personally appeared Michael Lyttle, 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/ Nancy Dennis

Notary Public, State of Texas

STATE OF ~~TEXAS~~ Michigan §
§
COUNTY OF Ingham §

BEFORE ME, C. Frato (*notary name*), a notary public in and for the State of MI, on this day personally appeared Ronald Potterpin (*person signing document*), known to me or proven to me through circle one: personally known / driver's license / passport to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (he/she) executed the same for the purposes and consideration therein expressed, who being by me duly sworn, deposed as follows:

1. "My name is Ronald Potterpin, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I am the authorized representative of Respondents, PK Cottonwood Apartments, LP, PK Elmwood Apartments, LP, and PK Oakwood Apartments, LP, which are each subject to Land Use Restriction Agreements monitored by the TDHCA in the State of Texas, and I am duly authorized by Respondents to execute this document on behalf of each owning entity.
3. The Taxpayer ID for PK Cottonwood Apartments, LP, is [REDACTED].
4. The Taxpayer ID for PK Elmwood Apartments, LP is [REDACTED].
5. The Taxpayer ID for PK Oakwood Apartments, LP is [REDACTED].
6. The mailing address for Respondents is [REDACTED].
7. Respondents knowingly and voluntarily enter into this Agreed Final Order, and agree with and consent to the issuance and service of the foregoing Agreed Order by the Governing Board of the Texas Department of Housing and Community Affairs."

RESPONDENTS:

PK COTTONWOOD APARTMENTS, LP, a Texas limited partnership

PK COTTONWOOD, GP, LLC, a Texas limited liability company, its general partner

By: /s/ Ronald Potterpin

Name: Ronald Potterpin

Title: Manager

Given under my hand and seal of office this 7th day of February, 2025.

/s/ C. Frato

Signature of Notary Public

C. Frato

Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF Michigan

My Commission Expires: 12/26/2025

PK ELMWOOD APARTMENTS, LP, a Texas limited partnership

PK ELMWOOD, GP, LLC, a Texas limited liability company, its general partner

By: /s/ Ronald Potterpin

Name: Ronald Potterpin

Title: Manager

Given under my hand and seal of office this 7th day of February, 2025.

/s/ C. Frato
Signature of Notary Public

C. Frato
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF Michigan

My Commission Expires: 12/26/2025

PK OAKWOOD APARTMENTS, LP, a Texas limited partnership

MEGAN & ASSOCIATES XIII, LLC, a Texas limited liability company, its general partner

/s/ Ronald Potterpin

Name: Ronald Potterpin

Title: Manager

Given under my hand and seal of office this 7th day of February, 2025.

/s/ C. Frato

Signature of Notary Public

C. Frato

Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF Michigan

My Commission Expires: 12/26/2025