

ENFORCEMENT ACTION AGAINST	§	BEFORE THE
ANTELOPE RIDGE SENIOR LIMITED	§	TEXAS DEPARTMENT OF
PARTNERSHIP WITH RESPECT TO	§	HOUSING AND COMMUNITY
ANTELOPE RIDGE APARTMENTS	§	AFFAIRS
(HTC FILE # 95021 / CMTS # 1328)	§	

AGREED FINAL ORDER

General Remarks and official action taken:

On this 5th day of September, 2024, 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 **ANTELOPE RIDGE SENIOR LIMITED PARTNERSHIP**, a New Mexico 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 (FOF)

Jurisdiction:

1. During 1995, Respondent was awarded an allocation of Low Income Housing Tax Credits by the Board to build and operate Antelope Ridge Apartments (Property) (HTC No. 95021 / CMTS No. 1328).

2. Respondent signed a Declaration of Land Use Restrictive Covenants for Low-Income Housing Credits (LURA) regarding the Property. The LURA was dated December 11, 1995, and filed of record on February 27, 1996 at Volume 5100, Page 23 of the Official Public Records of Real Property of Lubbock County, Texas (Records).
3. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations¹:

4. The Department conducted a Uniform Physical Condition Standards (UPCS) inspection on June 30, 2023, to determine whether the Property was in compliance with LURA requirements to maintain units in a condition that is decent, safe, sanitary, in good repair, and suitable for occupancy. The inspection report showed numerous property condition deficiencies, and two accessibility deficiencies, violations of 10 TAC §10.621 (Property Condition Standards). The Department issued a notification of noncompliance setting a January 23, 2024, corrective action deadline. Respondent did not reply to the corrective action deadline, but then submitted partial corrective documentation on April 11, 2024, after referral for an administrative penalty. Additional corrective documentation was submitted on April 25, 2024, May 15, 2024, and August 2, 2024.
5. A complete list of referred 2023 UPCS deficiencies is at Exhibit 1. All listed deficiencies are considered corrected 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. 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. 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.

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.

5. Pursuant to 10 TAC §10.621(a), as of the 2023 inspection date, TDHCA had adopted HUD's Uniform Physical Condition Standards as the standard for its physical inspections.²
6. Respondent violated 10 TAC §10.621 in 2023 and I.R.C. §42, as amended, by failing to comply with HUD's UPCS when major violations were discovered and not timely corrected.
7. Because Respondent is a housing sponsor with respect to the Property, and has 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.
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 §2306.053 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 \$3,750.00 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 Respondent is assessed an administrative penalty in the amount of \$3,750.00.

IT IS FURTHER ORDERED that Respondent shall pay and is hereby directed to pay the \$3,750.00 administrative penalty by check payable to the "Texas Department of Housing and Community Affairs" within thirty days of the date this Agreed Final Order is approved by the Board.

IT IS FURTHER ORDERED that the penalty payment must be submitted to the following address:

If via overnight mail (FedEx, UPS):	If via USPS:
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² HUD's UPCS was the standard adopted by TDHCA pursuant to 10 TAC 10.621(a) as of the 2023 physical inspection that is the subject of this Order. That standard switched to the NSPIRE standard on February 26, 2024, but the UPCS deficiencies remain effective and must be resolved.

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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IT IS FURTHER ORDERED that Respondent 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 September 5, 2024.

By: /s/ Leo Vasquez

Name: Leo Vasquez

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 §

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COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 5th day of September, 2024, 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 5th day of September, 2024 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/ Nancy Dennis

Notary Public, State of Texas

STATE OF New Mexico §
§
COUNTY OF San Juan §

BEFORE ME, Lori Varnell (notary name), a notary public in and for the State of New Mexico (state), on this day personally appeared J. Scot Fishburn (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 J. Scot Fishburn, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of Managing Member for Respondent. I am the authorized representative of Respondent, owner of the Property, which is subject to a Land Use Restriction Agreement monitored by the TDHCA in the State of Texas, and I am duly authorized by Respondent to execute this document.
3. The Taxpayer ID for Respondent is [REDACTED].
4. The mailing address for Respondent is [REDACTED].
5. Respondent knowingly and voluntarily enters into this Agreed Final Order, and agrees with and consents to the issuance and service of the foregoing Agreed Order by the Governing Board of the Texas Department of Housing and Community Affairs."

RESPONDENT:

ANTELOPE RIDGE SENIOR LIMITED PARTNERSHIP,
a New Mexico limited partnership

ANTELOPE RIDGE APARTMENTS LLC,
a New Mexico limited liability company, its general partner

By: /s/ J. Scot Fishburn

Name: J. Scot Fishburn

Title: /s/ Managing General Partner

Given under my hand and seal of office this 10th day of September, 2024.

/s/ Lori Varnell
Signature of Notary Public

Lori Varnell
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF New Mexico

My Commission Expires: 3-6-28

Exhibit 1

UPCS List of Deficiencies

(see attached)

6/30/2023 UPCS Inspection
List of Deficiencies

Area	Bldg	Unit	Inspectable Item	Deficiency	Level	Note	Corrected Date
Building Exterior	Bldg 1		Walls	Missing Pieces/Holes/Spalling	L2	siding material deteriorating at rear of building near foundation	5/10/2024
Building Exterior	Bldg 1		Windows	Damaged Sills/Frames/Lintels/Trim	L1	deteriorating window trim	5/10/2024
Building Systems	Bldg 1		Fire Protection	Missing/Damaged/Expired Extinguishers	L3	Expired fire extinguisher unit #101	7/14/2023
Unit	Bldg 1	Unit 101	Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	L3	X2 Furniture	7/14/2023
Unit	Bldg 1	Unit 101	Kitchen	Range/Stove - Missing/Damaged/Inoperable	L3	inoperable (covered with personal items-unable to test)	5/11/2024
Building Exterior	Bldg 2		Doors	Damaged Surface (Holes/Paint/Rusting)	L2	unit rear entry door deteriorating near foundation	5/11/2024
Building Exterior	Bldg 2		Walls	Missing Pieces/Holes/Spalling	L2	siding material deteriorating at rear of building near foundation	5/11/2024
Building Systems	Bldg 2		Sanitary System	Missing Drain/Cleanout/Manhole Covers	L3	rear of building #2	5/11/2024
Building Exterior	Bldg 3		Walls	Missing Pieces/Holes/Spalling	L2	siding material deteriorating at rear of building near foundation	5/11/2024
Unit	Bldg 3	Unit 110	Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	L3	removed table with sewing machine during inspection	6/30/2023
Building Exterior	Bldg 4		Walls	Missing Pieces/Holes/Spalling	L2	siding material deteriorating at rear of building near foundation	5/11/2024
Common Areas	Bldg 4	Doors	Storage	Damaged Surface (Holes/Paint/Rusting)	L1	storage door trim requires paint	7/10/2024
Unit	Bldg 4	Unit 114	Doors	Damaged/Missing Screen/Storm/Security Door	L2	screen/storm door glass falls out-being held in place by tape	5/11/2024
Building Exterior	Bldg 5		Walls	Missing Pieces/Holes/Spalling	L2	siding material deteriorating at rear of building near foundation & siding seperating over unit #120 eave	5/10/2024
Building Exterior	Bldg 5		Windows	Damaged Sills/Frames/Lintels/Trim	L1	window trim deteriorating	5/11/2024
Building Systems	Bldg 5		Fire Protection	Missing/Damaged/Expired Extinguishers	L3	expired fire extinguisher unit #116 (last inspected 2020)	7/14/2023
Unit	Bldg 5	Unit 116	Bathroom	Plumbing - Leaking Faucet/Pipes	L1	bathroom sink drips	5/14/2024

6/30/2023 UPCS Inspection
List of Deficiencies

Unit	Bldg 5	Unit 116	Doors	Damaged Hardware/Locks	L3	entry door lock strike plate	5/14/2024
Unit	Bldg 5	Unit 116	Doors	Damaged/Missing Screen/Storm/Security Door	L2	scree/storm door glass fell out-	5/14/2024
Unit	Bldg 5	Unit 116	Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	L3	file cabinet blocks secondary egress	5/14/2024
Building Exterior	Bldg 6-BB @121		Walls	Missing Pieces/Holes/Spalling	L2	siding material deteriorating at rear of building near foundation	5/11/2024
Building Exterior	Bldg 7		Walls	Missing Pieces/Holes/Spalling	L2	siding material deteriorating at rear of building near foundation	5/12/2024
Building Systems	Bldg 7		Fire Protection	Missing/Damaged/Expired Extinguishers	L3	expired fire extinguisher unit #124 (last inspected 2020)	7/14/2023
Unit	Bldg 7	Unit 124	Bathroom	Lavatory Sink - Damaged/Missing	L1	Pop-up assembly inoperable	5/14/2024
Unit	Bldg 7	Unit 124	Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	L3	personal effects	5/14/2024
Building Systems	Common/Office		Fire Protection	Missing/Damaged/Expired Extinguishers	L3	expired Fire extinguisher at office	7/14/2023
Common Areas	Common/	Doors	Office	Damaged Surface (Holes/Paint/Rusting)	L1	Interior door to manager's office hole in surface (due to missing hardware-no key)	5/15/2024
<p>Item #1 Deficiency: Operable Parts (Fair Housing Act Design Manual 3.3) The Common Office/Community Building is identified as fair housing covered, subject to FHA design requirements. The main entry door has a knob type handle that is not operable with a shape that is easy to grip with one hand. It also requires tight grasping, pinching, and twisting of the wrist.</p>							4/25/2024 submission
<p>Item #2 Deficiency: Trash Disposal (Fair Housing Act Design Manual 2.16) The garbage dumpsters at the site are identified as a common use facilities, subject to FHA design requirements. The dumpsters are all located behind buildings 4-7 and are not on an accessible route.</p>							8/2/2024 submission