

ENFORCEMENT ACTION AGAINST OSO BAY	§	BEFORE THE
APARTMENTS, LLC, MERCED ROSARIO	§	TEXAS DEPARTMENT OF HOUSING
HOUSING PARTNERS, LP, AND	§	AND COMMUNITY AFFAIRS
APARTMENTS OF LAS PALMAS I, LLC, WITH	§	
RESPECT TO OSO BAY (HTC 20620 / BOND	§	
20620B / CMTS 5670), LA MERCED HOMES	§	
(HTC 21424 / CMTS 5733), EL ROSARIO	§	
HOMES (HTC 21423 / CMTS 5732), AND LAS	§	
PALMAS APARTMENTS (HTC 21438 / CMTS	§	
5727)	§	

AGREED FINAL ORDER

General Remarks and official action taken:

On this 7th day of March, 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 Oso Bay Apartments, LLC, a Texas limited liability company, Merced Rosario Housing Partners, LP, a Texas limited partnership, and Apartments of Las Palmas I, LLC, a Texas limited liability company (collectively, the 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 Respondent 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 2020, Oso Bay Apartments, LLC, was awarded an allocation of 4% Low Income Housing Tax Credits and multifamily housing revenue bonds by the Board to acquire, rehabilitate, and operate Oso Bay (HTC file no. 20620 / Bond file no. 20620B / CMTS no. 5670).
2. Oso Bay Apartments, LLC signed a Regulatory and Land Use Restriction Agreement relating to multifamily housing revenue bonds for Oso Bay (Oso Bay Bond LURA). The Oso Bay Bond LURA was dated as of March 1, 2021, and filed of record on March 11, 2021, at Document Number 2021011192 of the Official Public Records of Real Property of Nueces County, Texas.
3. Oso Bay Apartments, LLC also signed a Declaration of Land Use Restrictive Covenants / Land Use Restriction Agreement for Low Income Housing Tax Credits regarding Oso Bay (Oso Bay HTC LURA). The Oso Bay HTC LURA was dated as of July 25, 2022, and filed of record on August 25, 2022, at Document Number 2022040370 of the Official Public Records of Real Property of Nueces County, Texas.
4. During 2021, Merced Rosario Housing Partners, LP, was awarded allocations of 4% Low Income Housing Tax Credits by the Board to acquire, rehabilitate, and operate La Merced Homes (HTC file no. 21424 / CMTS no. 5733) and El Rosario Homes (HTC file no. 21423 / CMTS no. 5732).
5. Merced Rosario Housing Partners, LP signed a Declaration of Land Use Restrictive Covenants / Land Use Restriction Agreement for Low Income Housing Tax Credits regarding both La Merced Homes and El Rosario Homes (La Merced and El Rosario LURA). The La Merced and El Rosario LURA was dated as of December 7, 2022, and filed of record on April 25, 2023, at Document Number 3441699 of the Official Public Records of Real Property of Hidalgo County, Texas (Records).
6. During 2021, Apartments of Las Palmas I, LLC, was awarded an allocation of 4% Low Income Housing Tax Credits by the Board to acquire, rehabilitate, and operate Las Palmas Apartments (HTC file no. 21438 / CMTS no. 2727).
7. Apartments of Las Palmas I, LLC signed a Declaration of Land Use Restrictive Covenants / Land Use Restriction Agreement for Low Income Housing Tax Credits regarding Oso Bay (Oso Bay HTC LURA). The Oso Bay HTC LURA was dated as of July 25, 2022, and filed of record on August 25, 2022, at Document Number 2022040370 of the Official Public Records of Real Property of Nueces County, Texas.
8. Oso Bay, La Merced Homes, El Rosario Homes, and Las Palmas Apartments are collectively referenced herein as the Properties.

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

Compliance Violations¹:

10. TDHCA conducted an on-site file monitoring review at Oso Bay on April 12, 2023, to determine whether Oso Bay Apartments, LLC had complied with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the Oso Bay Bond LURA, Oso Bay HTC LURA, and TDHCA rules, and the Department issued a notice of noncompliance setting a July 18, 2023, corrective action deadline. The following file monitoring noncompliance was referred for an administrative penalty on September 27, 2023, after Respondent failed to submit complete corrective documentation for the following noncompliance:
 - a. Oso Bay Apartments, LLC failed to implement an updated utility allowance for the property, a violation of 10 TAC §10.614 (Utility Allowances), which requires all developments to update the utility allowance annually;
 - b. Oso Bay Apartments, LLC failed to provide sufficient evidence of the required number of supportive services, violating Addendum B of the Oso Bay HTC LURA, Exhibit C of the Oso Bay Bond LURA, and 10 TAC §10.619 (Monitoring for Social Services), which require Respondent to provide at least 8 points of services;
 - c. Oso Bay Apartments, LLC failed to provide quarterly vacancy reports, a violation of 10 TAC §10.607 (Reporting Requirements), which require quarterly vacancy reports to be submitted on the 10th of every January, April, July, and October;
 - d. Oso Bay Apartments, LLC failed to post a laminated copy of the Tenant Rights and Resources Guide in a common area of the leasing office, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a common area of the leasing office;
 - e. Oso Bay Apartments, LLC failed to provide a Tenant Rights and Resources Guide and get a signed Acknowledgment for unit 2-102, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to provide a copy of the Guide to each household during the application process and upon any subsequent change to common amenities, unit amenities, or services, and get a signed Acknowledgment;
 - f. Oso Bay Apartments, LLC failed to execute required lease provisions or exclude prohibited lease language for units 4-110, 8-141, 9-149, a violation of 10 TAC §10.613 (Lease Requirements), which requires leases to include specific language protecting tenants from eviction or termination of tenancy without good cause,

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.

and prohibiting owners from taking certain actions such as locking out or seizing property, or threatening to do so, except by judicial process;

- g. Oso Bay Apartments, LLC failed to provide Annual Eligibility Certifications for units 3-205 and 8-244, a violation of 10 TAC §10.612 (Tenant File Requirements), which requires developments to annually collect an Annual Eligibility Certification form for each household; and
- h. Oso Bay Apartments, LLC failed to submit evidence of marketing to Veterans, a violation of a violation of 10 TAC §10.801 (Affirmative Marketing Requirements) and Addendum B of the Oso Bay HTC LURA, which require Owner to affirmatively market to veterans.

Oso Bay Apartments, LLC submitted acceptable corrective documentation on October 24, 2023, December 18, 2023, and December 20, 2023, to resolve all file noncompliance.

- 11. TDHCA conducted a final construction inspection at La Merced Homes on February 22, 2023. The inspection focused on application commitments and representations, amenities, and program requirements relating to accessibility. The inspection report showed 20 deficiencies, including violations of Section 504 of the Rehabilitation Act of 1973; Titles II and III of the Americans with Disabilities Act, as further defined through the 2010 ADA Standards for Accessible Design (2010 ADA); Tex. Gov't Code §§2306.6722 and 2306.6730; 10 TAC §§1.201-1.212 (Accessibility Rules); and Addenda C and D of the La Merced and El Rosario LURA. The Department issued a notification of noncompliance setting a July 13, 2023, corrective action deadline. The 20 deficiencies listed at Exhibit 1 were referred for an administrative penalty on October 5, 2023, after Merced Rosario Housing Partners, LP failed to submit corrective documentation. Merced Rosario Housing Partners, LP submitted acceptable corrective documentation on November 13, 2023, to resolve the noncompliance.
- 12. TDHCA conducted a final construction inspection at El Rosario Homes on February 23, 2023. The inspection focused on application commitments and representations, amenities, and program requirements relating to accessibility. The inspection report showed 15 deficiencies, including violations of Section 504 of the Rehabilitation Act of 1973; Titles II and III of the Americans with Disabilities Act, as further defined through the 2010 ADA Standards for Accessible Design (2010 ADA); Tex. Gov't Code §§2306.6722 and 2306.6730; 10 TAC §§1.201-1.212 (Accessibility Rules); and Addenda C and D of the La Merced and El Rosario LURA. The Department issued a notification of noncompliance setting a July 13, 2023, corrective action deadline. The 15 deficiencies listed at Exhibit 2 were referred for an administrative penalty on October 5, 2023, after Merced Rosario Housing Partners, LP failed to submit corrective documentation. Merced Rosario Housing Partners, LP submitted acceptable corrective documentation on October 31, 2023, to resolve the noncompliance.
- 13. TDHCA conducted a Uniform Physical Condition Standards (UPCS) inspection at Las Palmas Apartments on November 2, 2022. The inspection report showed 10 property condition findings, a violation of 10 TAC §10.621 (Property Condition Standards). The

Department issued a notice of noncompliance setting a May 24, 2023, corrective action deadline. Apartments of Las Palmas I, LLC did not submit timely corrective documentation, and the noncompliance at Exhibit 3 was referred for an administrative penalty on November 1, 2023. Apartments of Las Palmas I, LLC submitted acceptable corrective documentation on November 28, 2023, to resolve the noncompliance.

14. 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 each 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. Pursuant to 10 TAC §10.621(a), TDHCA has adopted HUD's Uniform Physical Condition Standards as the standard for its physical inspections;
6. Oso Bay Apartments, LLC violated 10 TAC §10.614 at Oso Bay in 2023, by failing to implement an updated utility allowance.
7. Oso Bay Apartments, LLC violated Addendum B of the Oso Bay HTC LURA, Exhibit C of the Oso Bay Bond LURA, and 10 TAC §10.619 (Monitoring for Social Services) at Oso Bay in 2023, by failing to provide evidence of 8 points of services.
8. Oso Bay Apartments, LLC violated 10 TAC §10.607 at Oso Bay in 2023, by failing to provide quarterly vacancy reports at Oso Bay in 2023.
9. Oso Bay Apartments, LLC violated leasing requirements in 10 TAC §10.613 at Oso Bay in 2023, by failing to post a laminated copy of the Tenant Rights and Resources Guide in a common area of the leasing office.
10. Oso Bay Apartments, LLC violated leasing requirements in 10 TAC §10.613 at Oso Bay in 2023, by failing to provide a Tenant Rights and Resources Guide for unit 2-102 and have the household sign an acknowledgment form.

11. Oso Bay Apartments, LLC violated leasing requirements in 10 TAC §10.613 at Oso Bay in 2023, by failing to provide required lease provisions for units 4-110, 8-141, 9-149.
12. Oso Bay Apartments, LLC violated 10 TAC §10.612 at Oso Bay in 2023, by failing to collect Annual Eligibility Certifications for units 3-205 and 8-244.
13. Oso Bay Apartments, LLC violated 10 TAC §10.801 and Addendum B of the LURA at Oso Bay in 2023, by failing to affirmatively market to veterans.
14. Merced Rosario Housing Partners, LP, violated Section 504 of the Rehabilitation Act of 1973, Titles II and III of the Americans with Disabilities Act, as further defined through the 2010 ADA Standards for Accessible Design (2010 ADA), Tex. Gov't Code §§2306.6722 and 2306.6730, 10 TAC §§1.201-1.212 (Accessibility Rules), and Addenda C and D of the La Merced and El Rosario LURA in 2023, by failing to correct final construction inspection deficiencies at La Merced Homes.
15. Merced Rosario Housing Partners, LP, violated Section 504 of the Rehabilitation Act of 1973, Titles II and III of the Americans with Disabilities Act, as further defined through the 2010 ADA Standards for Accessible Design (2010 ADA), Tex. Gov't Code §§2306.6722 and 2306.6730, 10 TAC §§1.201-1.212 (Accessibility Rules), and Addenda C and D of the La Merced and El Rosario LURA in 2023, by failing to correct final construction inspection deficiencies at El Rosario Homes.
16. Apartments of Las Palmas I, LLC violated 10 TAC §10.621 and I.R.C. §42, as amended, at Las Palmas in 2023, by failing to comply with HUD's Uniform Physical Condition Standards when major violations were discovered and not timely corrected.
17. Because Respondents are housing sponsors with respect to the Properties, and each has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondents pursuant to Tex. Gov't Code §2306.041 and §2306.267.
18. 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 Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
19. 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.
20. An administrative penalty of \$4,000.00 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 an administrative penalty in the total amount of \$4,000.00.

IT IS FURTHER ORDERED that Respondents shall pay and are hereby directed to pay the \$4,000.00 administrative penalty by cashier's 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, sent 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 (Ownership Transfers), a copy of which is included at Exhibit 4, and obtain approval from the Department prior to consummating a sale of any of the Properties, 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 March 7, 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 §

§

COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 7th day of March, 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 §

§

COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 7th day of March, 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 WASHINGTON §
§
COUNTY OF KING §

BEFORE ME, Amanda Pang (notary name), a notary public in and for the State of Washington, on this day personally appeared Stephen R. Whyte (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 executed the same for the purposes and consideration therein expressed, who being by me duly sworn, deposed as follows:

1. "My name is Stephen R. Whyte, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of Manager & Sole Member for Oso Bay Apartments, LLC, owner of Oso Bay (HTC 20620 / Bond 20620B / CMTS 5670), which is subject to a Land Use Restriction Agreement monitored by the TDHCA in the State of Texas, and I am duly authorized to execute this document.
3. The Taxpayer ID for Oso Bay Apartments, LLC is [REDACTED].
4. The mailing address for Oso Bay Apartments, LLC is 2607 2ND Ave, Suite 300, Seattle WA 98121.
5. Oso Bay Apartments, LLC 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:

OSO BAY APARTMENTS, LLC, a Texas limited liability company

OSO BAY HOUSING PARTNERS, LP, a Texas limited partnership, its sole member and manager

OSO BAY HOUSING MANAGEMENT, LLC, a Texas limited liability company, its managing general partner

VITUS DEVELOPMENT IV, LLC, a Delaware limited liability company, its sole member and manager

VITUS GROUP, LLC, a Delaware limited liability company, its sole shareholder

By: /s/ Stephen R. Whyte

Name: Stephen R. Whyte

Title: Manager and Sole Member

Given under my hand and seal of office this 11th day of March, 2024.

/s/ Amanda Pang
Signature of Notary Public

Amanda Pang
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF Washington

My Commission Expires: 11/2/2026

STATE OF SOUTH CAROLINA §
§
COUNTY OF RICHLAND §

BEFORE ME, Christina C. Cole (notary name), a notary public in and for the State of SOUTH CAROLINA, on this day personally appeared David Cole (person signing document), known to me or proven to me personally 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, who being by me duly sworn, deposed as follows:

1. “My name is David Cole, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of Manager of Oso Affordable Housing LLC, the General Partner of Oso Bay Housing Partners, L.P., the sole member of Oso Bay Apartments, LLC, owner of Oso Bay Apartments (HTC 20620 / Bond 20620B / CMTS 5670), which is subject to a Land Use Restriction Agreement monitored by the TDHCA in the State of Texas, and I am duly authorized to execute this document.
3. The Taxpayer ID for Oso Bay Apartments, LLC is [REDACTED].
4. The mailing address for Oso Bay Apartments, LLC is 2607 2ND Ave, Suite 300, Seattle, WA 89121.
5. Oso Bay Apartments, LLC 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:

OSO BAY APARTMENTS, LLC, a Texas limited liability company

OSO BAY HOUSING PARTNERS, LP, a Texas limited partnership, its sole member and manager

OSO AFFORDABLE HOUSING LLC, a Texas limited liability company, its co-general partner

COMMONWEALTH MULTIFAMILY HOUSING CORPORATION, a Pennsylvania nonprofit corporation, its sole member

By: /s/ David P. Cole
Name: David P. Cole
Title: Executive Vice President

Given under my hand and seal of office this 12th day of March, 2024.

/s/ Christina C. Cole
Signature of Notary Public

Christina C. Cole
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA

My Commission Expires: 9/22/2032

STATE OF WASHINGTON §
§
COUNTY OF KING §

BEFORE ME, Amanda Pang (notary name), a notary public in and for the State of Washington, on this day personally appeared Stephen R. Whyte (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 executed the same for the purposes and consideration therein expressed, who being by me duly sworn, deposed as follows:

"My name is Stephen R. Whyte, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.

1. I hold the office of Manager & Sole Member for Merced Rosario Housing Partners, LP, owner of La Merced Homes (HTC 21424 / CMTS 5733) and El Rosario Homes (HTC 21423 / CMTS 5732), which are subject to Land Use Restriction Agreements monitored by the TDHCA in the State of Texas, and I am duly authorized to execute this document.
2. The Taxpayer ID for Merced Rosario Housing Partners, LP is [REDACTED].
3. The mailing address for Merced Rosario Housing Partners, LP is 2607 2ND Ave, Suite 300, Seattle WA 98121.
4. Merced Rosario Housing Partners, LP 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:

MERCED ROSARIO HOUSING PARTNERS, LP, a Texas limited partnership

MERCED ROSARIO HOUSING MANAGEMENT, LLC, a Texas limited liability company, its sponsor limited partner

VITUS DEVELOPMENT IV, LLC, a Delaware limited liability company, its sole member and manager

VITUS GROUP, LLC, a Delaware limited liability company, its sole shareholder

By: /s/ Stephen R. Whyte

Name: Stephen R. Whyte

Title: Manager and Sole Member

Given under my hand and seal of office this 11th day of March, 2024.

/s/ Amanda Pang
Signature of Notary Public

Amanda Pang
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF Washington

My Commission Expires: 11/2/2026

Given under my hand and seal of office this 12th day of March, 2024.

/s/ Christina C. Cole
Signature of Notary Public

Christina C. Cole
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA

My Commission Expires: 9/22/2032

STATE OF WASHINGTON §
§
COUNTY OF KING §

BEFORE ME, Amanda Pang (notary name), a notary public in and for the State of Washington, on this day personally appeared Stephen R. Whyte (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 executed the same for the purposes and consideration therein expressed, who being by me duly sworn, deposed as follows:

1. "My name is Stephen R. Whyte, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of Manager & Sole Member for Apartments of Las Palmas I, LLC, owner of Las Palmas Apartments (HTC 21438 / CMTS 5727), which is subject to a Land Use Restriction Agreement monitored by the TDHCA in the State of Texas, and I am duly authorized to execute this document.
3. The Taxpayer ID for Apartments of Las Palmas I, LLC is [REDACTED].
4. The mailing address for Apartments of Las Palmas I, LLC is 2607 2ND Ave, Suite 300, Seattle WA 98121.
5. Apartments of Las Palmas I, LLC 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:

APARTMENTS OF LAS PALMAS I, LLC, a Texas limited liability company

LAS PALMAS HOUSING PARTNERS, LP, a Texas limited partnership,
its sole member and manager,

LAS PALMAS HOUSING MANAGEMENT, LLC, a Texas limited
liability company, its general partner

VITUS DEVELOPMENT IV, LLC, a Delaware limited liability
company, its sole member and manager

VITUS GROUP, LLC, a Delaware limited liability
company, its sole shareholder

By: /s/ Stephen R. Whyte

Name: Stephen R. Whyte

Title: Manager and Sole Member

Given under my hand and seal of office this 11th day of March, 2024.

/s/ Amanda Pang
Signature of Notary Public

Amanda Pang
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF Washington

My Commission Expires: 11/2/2026

Exhibit 1
La Merced Final Construction Inspection Deficiency List

Item #1 Deficiency: Unit ID Numbers of Accessible Units / Section 504: The unit ID numbers must be verified for the required minimum of 5% (or 5 units) mobility and 2% (or 2 units) sensory accessible units designed in conformance the 2010 ADA Standards for Accessible Design (“ADA”). At the time of inspection the Development representative identified the unit numbers of the designated sensory accessible units, however, not all of the unit numbers match the accessible unit numbers identified in the owner’s inspection request form and the recorded LURA. The units designated by the owner’s representative at the time of inspection are listed in the table below. Numbers highlighted in bold or underlined indicate the discrepancy. Also the numbers on the apartments did not match the numbers included in the owners’ request form.

- o **Corrective Action** — Provide the unit numbers of the required 504 compliant units listed by unit type. Provide an architect’s or accessibility specialist’s certification on company letterhead stating that the listed units meet 504 requirements. Also, please provide evidence that the LURA correctly indicates the unit ID numbers for the mobility and sensory accessible units, and any units required to meet the 20% FHA single family/townhome rule (if the 20% units are identified in the LURA).

3-bedroom/1-bathroom

38 Per LURA

4-bedroom/1-bathroom

7 Per Property staff

Common Amenities Minimum Threshold The development is required to provide enough common-use amenities to meet the minimum threshold of points specified in the application. The total score required to satisfy this commitment is **14** points.

Common-Use Amenity	Value	Verified
1. Full perimeter fencing	2 pt.	X
2. Controlled access gate (for entrance and exit areas, intended to provide access that is limited to development tenancy)	1 pt.	_____
3. Gazebo with sitting area or covered pavilion	1 pt.	_____
4. Accessible walking/jogging path (not part of sidewalk and equal to perimeter of development or length that achieves same result)	1 pt.	_____
5. Community laundry room with min. one washer and dryer for each 40 units	2 pt.	_____
6. Min. one BBQ grill/table set for every 50 units (grill permanently installed)	1 pt.	_____
7. Swimming pool	3 pt.	_____
8. Splash pad water feature play area	1 pt.	_____
9. Furnished fitness center equipped with one commercial grade piece per 40 units (round down) min. 2 – max. 5 pieces required: stationary bike, elliptical trainer, treadmill, rowing, universal gym, multi-function weight bench, sauna, stair climber. (must be indoor or room with climate control, 24 hour access)	1 pt.	_____
10. Furnished fitness center equipped with one commercial grade piece per 20 units (round down) min. 2 – max. 5 pieces required: stationary bike, elliptical trainer, treadmill, rowing, universal gym, multi-function weight	2 pt.	_____

bench, sauna, stair climber. (must be indoor or room with climate control, 24 hour access)		_____
11. Business center with work station and seating min. internet access, 1 printer/scanner and either 2 desktops or laptops available for checkout	2 pt.	_____ X _____
12. Community room furnished	2 pt.	_____
13. Library w/ accessible seating area (not community room)	1 pt.	_____
14. Enclosed sun porch or covered community porch/patio	1 pt.	_____
15. Service coordinator office in addition to leasing office	1 pt.	_____
16. Activity room (stocked w/ arts and craft supplies)	2 pt.	_____
17. Secured entry only applicable if all unit entries inside building	1 pt.	_____
18. Horseshoes, putting green, pool table, shuffleboard court or ping pong table	1 pt.	_____
19. Community dining room w/ full or warming kitchen, adequate tables, seating	3 pt.	_____
20. One playscape equipped for 5-12 yr olds, or 1 tot lot	2 pt.	_____ X _____
21. Two playscapes equipped for 5-12 yr olds, 2 tot lots or 1 of each	4 pt.	_____
22. Sport court including but not limited to tennis, basketball, volleyball, soccer or baseball	2 pt.	_____
23. Community theater w/ min. 52 inch screen, surround sound, DVD or streaming and seating	3 pt.	_____
24. Dog park/wash area enclosed (intended for dogs to run off leash)	1 pt.	_____
25. High speed WiFi in common area (10 mbps minimum)	1 pt.	_____ X _____
26. High speed WiFi throughout the development (10 mbps minimum)	2 pt.	_____
27. Security cameras monitored 24 hrs/7 days per building (on/off site)	2 pt.	_____
28. Security cameras recorded 24 hrs/7 days per building	1 pt.	_____
29. Courtesy patrol (answer phones for security/complaints and can dispatch patrol officer in timely manner minimum)	3 pt.	_____
30. Lighted pathways along all accessible routes	1 pt.	_____
31. Secured bicycle parking 1 per 5 units w/in reasonable approximation to buildings	1 pt.	_____
32. Shaded rooftop or structural viewing deck (500 sq ft minimum)	2 pt.	_____
33. Porte-cochere	1 pt.	_____
34. Resident ran community garden (owner provides access to soil, water and mulch annually)	1 pt.	_____
35. Package lockers 1 per 8 units located within development and accessible to residents 24/7)	2 pt.	_____
36. Recycling Service (includes providing storage location and pick up service)	1 pt.	_____
37. Community car vacuum station	1 pt.	_____
38. Multifunctional learning and care center or conference room (appropriate furnishings must equal 15 sq ft times the total number of units but not exceed 2000 sq ft, must be separate from any other community space but may include a kitchen, rooms include storage)	4 pt.	_____
39. Multifunctional learning and care center or conference room (appropriate furnishings must equal 10 sq ft times the total number of units but not exceed 1000 sq ft, must be separate from any other community space but	2 pt.	_____

may include a kitchen, rooms include storage)

Total Points 7

Item #2 Deficiency: Common Use Amenities. The inspection confirmed that amenity items that were identified by the owner in the inspection request form were verified by the inspector to be present. Confirmed items are marked with an “X” above. The combined point value of the confirmed items is 7 points which does not meet the required threshold.

- **Corrective Action** – Please provide photographic evidence and an architect’s or accessibility specialist’s certification listing amenity items with total scoring value that meets or exceeds the required threshold.

Accessible Site and Common Use Facilities The following item or items were found at the time of inspection to be in non-compliance or it was unclear if the item was in full compliance with applicable accessibility standard.

Item #3 Deficiency: Accessible Walking Surface (2010 ADA 206.3, 302, 403.3) This development is subject to ADA design requirements. The ground surface along accessible routes near the playground does not meet the minimum surface conditions required for an accessible walking surface.



- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected throughout the property, not including areas of sport activity, within animal containment areas, or children’s play areas. The certification must verify that walking surfaces in accessible rooms and spaces, along accessible routes, and within required clear floor spaces, wheelchair maneuvering spaces, and turning spaces are: **1) firm, stable, and slip resistant**; Note that well-drained, compacted crushed granite, or smooth pavers with no abrupt level changes are acceptable surfaces.

Item #4 Deficiency: Accessible Route Cross Slope (2010 ADA 403.3). This development is subject to ADA design requirements. The accessible pedestrian route near the office has a cross slope that exceeds the allowed maximum for any slope that runs perpendicular to the direction of travel along the accessible route. The cross slope was 7.85.



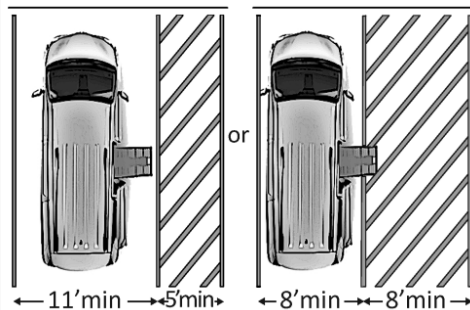
- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited and throughout

the accessible route for the property. The certification must verify that the degree of cross slope at any point along the accessible route does not exceed two percent (1:50, or ¼ inch in 12 inches, see illustration).

Item #5 Deficiency: Accessible Van Parking Space (2010 ADA 208.2.4, 502.5) This development is subject to ADA design requirements. The development provides 2 accessible parking spaces, but does not provide the required number of accessible van parking spaces.

- **Corrective Action** – Please provide an owner’s certification with photographic evidence that the condition has been corrected. The certification must verify that at least one van space is provided for every six accessible parking spaces, and that the development provides 1 accessible van spaces. The photographs must show that each van space is at least 132 inches wide, and has a minimum vertical clearance of 98 inches.

Where there are more than four accessible parking spaces in the development and where all spaces are not assigned to specific residential dwelling units, ensure that a vertically mounted sign is provided that includes the International Symbol of Accessibility and designates that the parking space is reserved for accessible parking and contains the designation “van accessible.” Ensure that the sign is at least 60 inches above the finish floor or ground surface measured to the bottom of the sign. Also ensure that an adjacent, level surface, unobstructed access aisle (no carport post or built-up ramp) that is at least 60 inches wide and is connected to the accessible route is provided (one aisle may be shared between two adjacent accessible parking spaces).

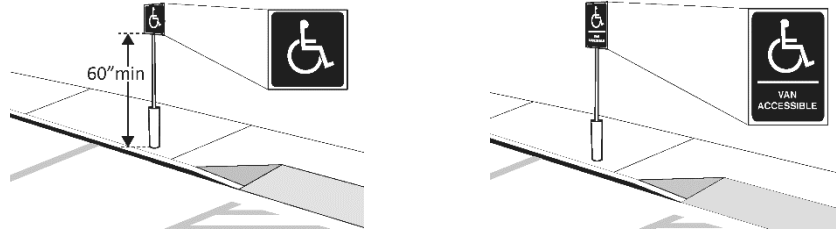


Item #6 Deficiency: Room and Egress Route Signage (2010 ADA 216.2, 216.4.1, 703) This development is subject to ADA design requirements. The signs at doors identifying dwelling units do not meet the *tactile* and *visual* character requirements for accessible signage.

- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited and throughout the property. The certification must verify that all room and space signage, including egress route signs, and excluding exterior room and space signs not located at a door, meets the technical specifications required under ADA 703, and specifically verifies the following conditions are provided: 1) a non-glare finish with text characters on a high-contrast background (light on dark or dark on light); 2) all room and egress route signs provide *tactile* text characters meeting ADA 703.2 and braille meeting ADA specifications 703.3 and installation height and location meeting ADA 703.4; 3) all room and egress route signs also provide *visual* text characters meeting ADA 703.5; 4) for any signs designating exterior rooms and spaces not located at a door and not accompanied by braille, text characters are *visual* meeting ADA 703.5; and 5) any egress route signs meet all local codes and ordinances.

Item #7 Deficiency: Accessible Parking Signs (2010 ADA 216.5) This development is subject to ADA design requirements. The accessible parking space located at the office did not have an accessible parking space identification sign designating the space as reserved for disabled use only.

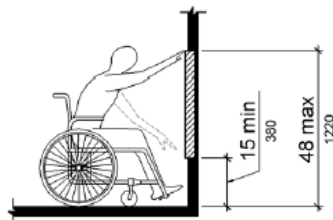
- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited. The certification must specifically verify that all accessible parking signs meet the following conditions: 1) signs include the International Symbol of Accessibility; 2) contain the designation “van accessible” for all van spaces; and 3) are mounted at least 60 inches above the floor or ground surface measured to the bottom of the sign.

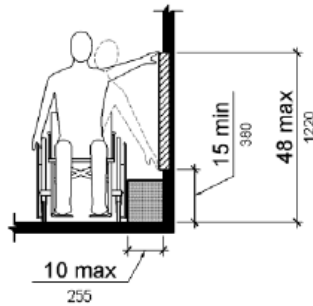


Item #8 Deficiency: Mailboxes (2010 ADA 205, 308-9) The mobility accessible units mailboxes were 58 inches above the ground surface and were not within accessible reach ranges.



- **Corrective Action** – Provide an architect’s or accessibility specialist’s certification with photographic evidence that the mailbox lock at this location and at other accessible unit mailboxes have been corrected or are already correct. The certification should say that they are on an accessible route, and, where the clear floor space is positioned for an (a)unobstructed front (forward) approach, the height of the mailbox lock is 15-48 inches above the ground surface (b)unobstructed side (parallel) approach, the height of the mailbox lock is 15-48 inches.

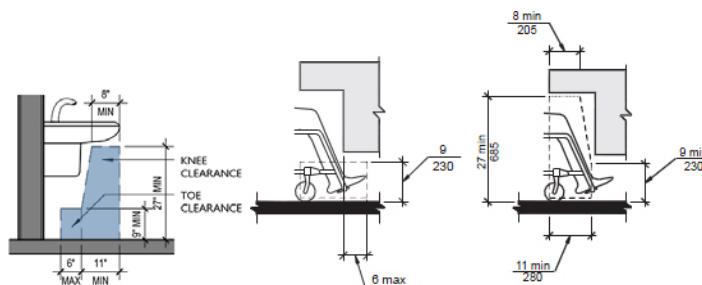




Item #9 Deficiency: Exposed Pipes (2010 ADA 606.5) The office is identified as a common use facility and subject to ADA design requirements. The kitchen sink does not provide adequate protection from exposed pipes and sharp or abrasive surfaces under the sink that may cause injury to certain users.



- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited. The certification must verify the following: 1) water supply and drain pipes under sinks are insulated or otherwise configured to protect against contact; 2) there are no exposed sharp or abrasive surfaces under the sink; and 3) the minimum clearance beneath the sink is: (a) knee space is 8 inches deep (measured horizontally from the front edge of the sink counter) at a point that is 27 inches above the floor; (b) leg clearance is 11 inches deep at a point 9 inches high; and (c) toe clearance is at least 17 inches deep a point at least 9 inches high.



Item #10 Deficiency: Tables & Work Surfaces (2010 ADA 226, 902) The Office is identified as a common use facility and subject to ADA design requirements. The common use computer desk at the business center does not provide an accessible height working surface.



- **Corrective Action** –Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited. The certification must verify that at least 5% of all common use work surfaces on the property(ADA) and specifically verifies that the following design features are provided for each accessible work surfaces: 1) a minimum 30 inch by 48 inch clear floor or ground space provides one unobstructed side located adjacent to the accessible route for the property, and is positioned for a forward (front) approach; 2) top surface is 28 to 34 inches high; and 3) open space beneath accessible tables and work surfaces provides the required knee, leg and toe clearances.

Item #11 Deficiency: Additional Accessible Ground Level Play Components (2010 ADA 240.2.1.2) The play area for 5-12 year olds is identified as a common use facility and subject to ADA design requirements. *Elevated play components* were provided (*i.e.* play components approached from above or below grade and which are part of a composite play structure with 2 or more components). *Ground level play components* were provided (*i.e.* play component with ground level-only approach and exit), however, the required total number of accessible *ground components* were not provided relative to the total number of *elevated components* provided (1 more required).

- **Corrective Action** – Please provide an architect’s or accessibility specialist’s written certification on business letterhead with photographic evidence that the condition has been corrected. The certification must verify that the total number of accessible *ground components* and the number of different experience types they provide (*i.e.* general or primary experience) relative to the number of *elevated components* meets or exceeds the minimum totals specified *ADA Table 240.2.1.2*.

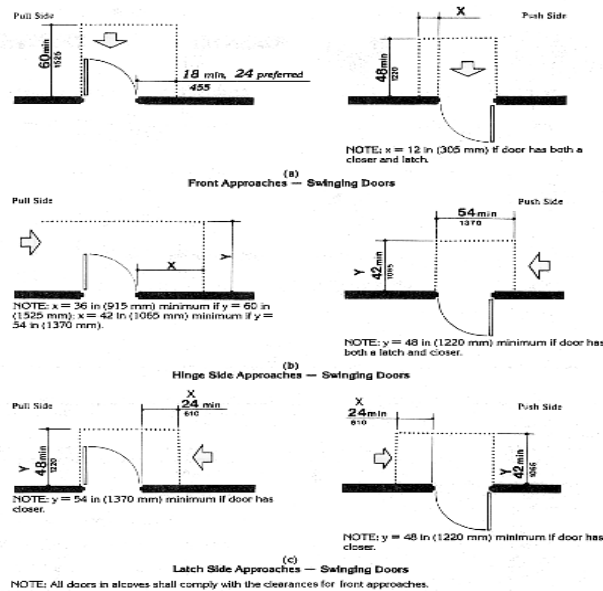
Note that the requirement to provide additional accessible ground components in accordance with the *ADA Table 240.2.1.2* specifications are not applicable if 50% of the elevated components have an accessible ground ramp connection to a min of 3 elevated components providing different experience types.

Dwelling Units The following item or items were found at the time of inspection to be in non-compliance or it was unclear if the item was in full compliance with applicable accessibility standard. As a reminder, only a selection of units were inspected, and some Corrective Action instructions below may require you to make corrections in the cited units, and also in units that were not inspected but are subject to the same requirement(s).

Item #12 Deficiency: Door Maneuvering Clearance (2010 ADA 404.2.4, 809.2) Units 99 and 98 are designated as mobility accessible dwelling units and subject to ADA design requirements. The bathroom door does not provide an unobstructed landing or floor space for maneuvering on the interior side that is of the required dimensions for the approach conditions for a passage door on an accessible route. Additional mobility accessible dwelling units were not inspected but may also be affected.



- **Corrective Action** – Provide an owner’s certification with photographic evidence (one sample photo only) that the condition has been corrected in the cited units and all other mobility accessible dwelling units. Ensure that the door at this location and at all other interior and exterior passage doors on accessible routes provide a landing or floor surface area on both sides of the door that is unobstructed and level (max. 2% slope) within the perimeter dimensions illustrated below. This includes a clear floor area that extends 18 inches beyond the latch side of a door that must be pulled to open (see upper left diagram). This includes a 48 inches wide hallway at doors that swing into the hall if the approach is from the latch-side, and 54 inches wide if from the hinge-side (see middle and lower left diagrams).



Item #13 Deficiency: Operable Parts (2010 ADA 205, 308-9) Units 99 and 98 are identified as mobility accessible dwelling units and subject to ADA design requirements. The unit breaker box switch is not within accessible reach ranges. Additional mobility accessible dwelling units were not inspected but may also be affected.

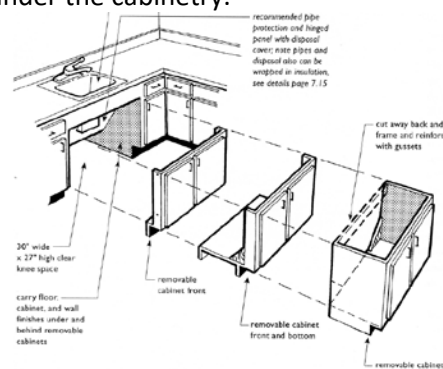


- **Corrective Action** – Provide an architect’s or accessibility specialist’s certification with photographic evidence that the breaker boxes at the cited unit and all other mobility accessible dwelling and units have been corrected or are already correct. The certification must verify that accessible breaker boxes and are on an accessible route, and, where the clear floor space is positioned for an **(a)**unobstructed front (forward) approach, the height of the switch is 15-48 inches above the floor **(b)**unobstructed side (parallel) approach, the height of the switch is 15-48 inches above the floor (an object that is less than or equal to 34 inches high and less than or equal to 10 inches deep is not considered an obstruction).

Item #14 Deficiency: Work Counter (2010 ADA 804.3, 804.6.5) Unit 98 is designated as a mobility accessible dwelling unit and subject to ADA design requirements. The kitchen does not provide an accessible work counter with a minimum 30” wide accessible open knee space or removable cabinet beneath. Additional mobility accessible dwelling units were not inspected but may also be affected.



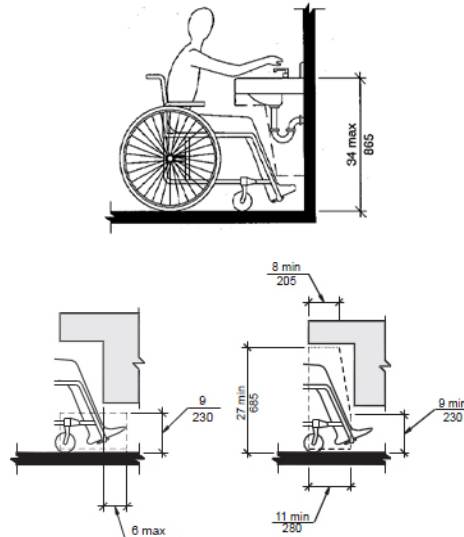
- **Corrective Action** – Provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected in the cited unit and all other mobility accessible dwelling units. The certification must verify that all accessible work counters meet the following conditions: 1) the counter height is no more than 34 inches above the floor; 2) an unobstructed 30 inch by 48 inch floor space is positioned to provide a forward (perpendicular) approach, with the 48 inch dimension measured from a point under the counter that is no more than 19 inches back from the front edge of the counter; 3) the work surface is positioned adjacent to one side of the bottom-hinged oven; 4) the minimum clearance beneath the counter is: (a) knee space is 8 inches deep (measured horizontally from the front edge of the counter) at a point that is 27 inches above the floor; (b) leg clearance is 11 inches deep at a point 9 inches high; and (c) toe clearance is at least 17 inches deep at a point at least 9 inches high; 5) any base cabinetry that conceals the knee, leg, and toe clearance below the counter is quickly and easily removable without removal or replacement of the counter or surrounding structure, the walls behind and surrounding the cabinetry are finished, and the finish floor extends under the cabinetry.



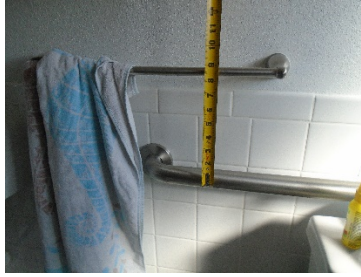
Item #15 Deficiency: Exposed Pipes (2010 ADA 606.5) Unit 99 is designated as a mobility accessible dwelling unit and subject to ADA design requirements. The accessible kitchen sink does not provide adequate protection from exposed pipes and sharp or abrasive surfaces under the sink that may cause injury to certain users. Additional mobility accessible dwelling units were not inspected but may also be affected.



- **Corrective Action** – Provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected in the cited unit and all other mobility accessible dwelling units. The certification must verify the following: 1) water supply and drain pipes under sinks are insulated or otherwise configured to protect against contact; 2) there are no exposed sharp or abrasive surfaces under the sink; and 3) the minimum clearance beneath the sink is: (a) knee space is 8 inches deep (measured horizontally from the front edge of the sink counter) at a point that is 27 inches above the floor; (b) leg clearance is 11 inches deep at a point 9 inches high; and (c) toe clearance is at least 17 inches deep a point at least 9 inches high.

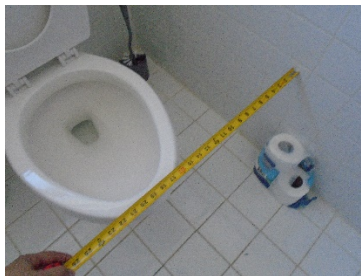


Item #16 Deficiency: Grab Bar Height & Clearance (2010 ADA 609, 609.4) Unit 99 is designated as a mobility accessible dwelling unit and subject to ADA design requirements. The grab bars at the toilet in the bathroom does not provide the required minimum clearance. Additional mobility accessible dwelling units were not inspected but may also be affected.

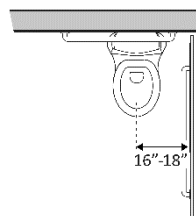


- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected in the cited unit and all other mobility accessible dwelling units. The certification must verify that grab bars meet each of the following conditions: 1) grab bars are securely-mounted and do not rotate in their fittings; 2) are 1¼ inches to 1½ inches in diameter; 3) grab bars located in the positions that are specified for grab bars at toilets, showers and bathtubs are mounted with the center of the bars at 33 inches to 36 inches above the floor (except the lower grab bar at the back wall of bathtubs); 4) all grab bars located in the positions that are specified for grab bars at toilets, showers and bathtubs are mounted horizontally; and 5) all specified and non-specified grab bars provide at least 1½” of clearance between the grab bar and any obstruction and 12 inches minimum from the grab bars and any protruding object above it (e.g., soap dish, spray unit bar, valve, and other bars).

Item #17 Deficiency: Toilet Placement/ADA (2010 ADA 604.2). Unit 98 is designated as a mobility accessible dwelling and subject to ADA design requirements. The toilet position in the accessible bathroom is positioned 19 inches from the sidewall. Additional mobility accessible dwelling units were not inspected but may also be affected.



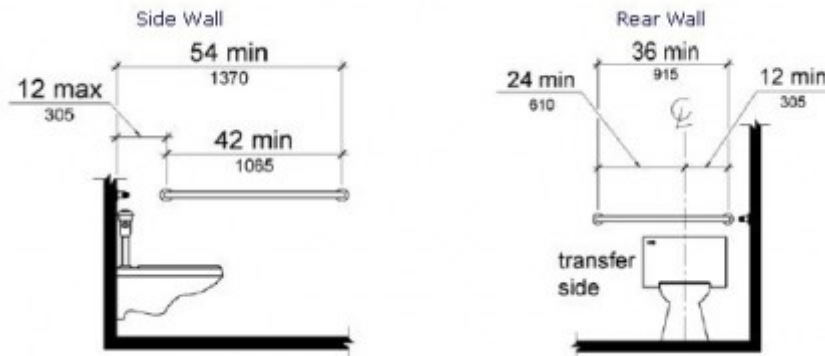
- **Corrective Action:** Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited and at all other mobility accessible dwelling units (one sample photo only). The certification must verify that every mobility unit has at least one fully accessible bathroom that provides each of the following conditions: 1) toilet is located in the corner of the bathroom; 3) grab bar reinforcement is provided in the back wall for a minimum 36 inch grab bar and extends to at least 42 inches from the corner; 3) grab bar reinforcement is provided in the sidewall for a 42 inch grab bar and extends to at least 54 inches from the corner; 1) the centerline of the toilet is positioned in a range of from 16 to 18 inches from the sidewall ADA.



Item #18 Deficiency: Toilet Grab Bars (2010 ADA 604.5) Unit 98 is designated as a mobility accessible dwelling unit and subject to ADA design requirements. The side grab bar is 36 inches long and extends 47 inches from the corner. Additional mobility accessible dwelling units were not inspected but may also be affected.

- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected in the cited unit and all other mobility accessible dwelling units. The certification must verify that all of the following installation requirements have been met for toilet grab bars that are currently installed, or, if not installed, that reinforcement has been installed in walls and located so as to permit the installation of grab bars that meet all of the following features: 1) grab bars are mounted horizontally, securely and will not rotate in their fittings; 2) bars are 1¼ inches to 1½ inches in diameter; 3) the center of the bars is 33 inches to 36 inches above the floor; 4) bars have at least 1½ inches clearance and are not obstructed by any dispenser, any other inaccessible grab bar, fixture or architectural element; 5) the sidewall bar is at least 42 inches long with one end positioned no more than 12 inches, and with the other end no less than 54 inches from the corner; 6) bar at the back is at least 36 inches long and positioned so that the end nearest to the sidewall is no less than 12 inches from the centerline of the toilet, and the other end is no less than 24 inches from the toilet centerline (or a centered 24 inch back bar if an adjacent lavatory is recessed in the back wall).

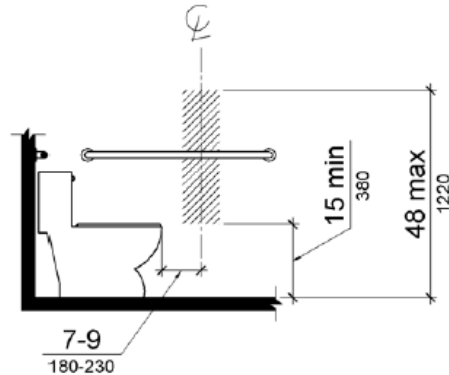
Note that in multi-bathroom mobility units, only one bathroom is required to be fully accessible. In Fair Housing Act-covered units, all bathrooms must comply with the Fair Housing Act Design Manual.



Item #19 Deficiency: Toilet Paper Dispensers (2010 ADA 604.7) Unit 98 is designated as a mobility accessible dwelling unit and subject to ADA design requirements. The toilet paper dispenser in the bathroom is not installed in an accessible location relative to the toilet. It was measured at 17 inches from the front of the toilet to the centerline of the dispenser. Additional mobility accessible dwelling units were not inspected but may also be affected.



- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected in the cited unit and all other mobility accessible dwelling units. The certification must verify that the toilet paper dispenser in all accessible bathrooms meets the following conditions: 1) does not control delivery or prevent continuous paper flow; 2) centerline is located between 7 and 9 inches in front of the toilet bowl; 3) outlet is between 15 and 48 inches above the floor; and 4) is no less than 1½ inches to the bottom and no less than 12 inches to the top of the grab bar.



Item #20 Deficiency: Roll-in Shower Grab Bars (2010 ADA 608.3.2) Unit 99 is designated as a mobility accessible dwelling unit and subject to ADA design requirements. The grab bar wall reinforcement located at the back wall of the shower is not positioned correctly in relation to the corner. Additional mobility accessible dwelling units were not inspected but may also be affected.



- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected in the cited unit and all other mobility accessible dwelling units. The certification must verify that all of the following installation requirements have been met for roll-in shower grab bars that are currently installed, or, if not installed, that wall reinforcement has been installed in walls and located so as to permit the installation of accessible grab bars that meet all of the following features: 1) grab bars are installed no more than 6 inches from the corner of adjacent walls.

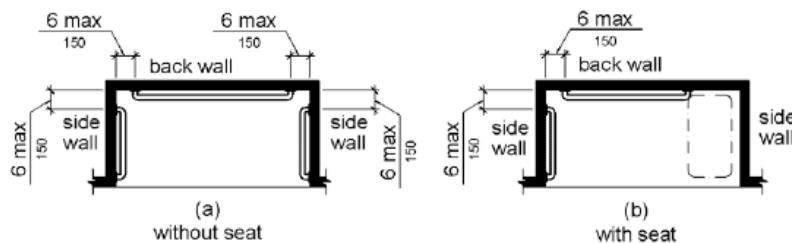


Exhibit 2
El Rosario Final Construction Inspection Deficiency List

Item #1 Deficiency: Unit Amenities. The inspection confirmed that amenity items that were identified by the owner in the inspection request form were verified by the inspector to be present. Confirmed items are marked with an “X” above. The combined point value of the confirmed items is **13.5** points which does not meet the required threshold.

- **Corrective Action** – Please provide photographic evidence and an architect’s or accessibility specialist’s certification listing amenity items with total scoring value that meets or exceeds the required threshold.

Common Amenities Minimum Threshold The development is required to provide enough common-use amenities to meet the minimum threshold of points specified in the application. The total score required to satisfy this commitment is **9** points.

Common-Use Amenity	Value	Verified
40. Full perimeter fencing	2 pt.	_____
41. Controlled access gate (for entrance and exit areas, intended to provide access that is limited to development tenancy)	1 pt.	_____
42. Gazebo with sitting area or covered pavilion	1 pt.	_____
43. Accessible walking/jogging path (not part of sidewalk and equal to perimeter of development or length that achieves same result)	1 pt.	_____
44. Community laundry room with min. one washer and dryer for each 40 units	2 pt.	_____
45. Min. one BBQ grill/table set for every 50 units (grill permanently installed)	1 pt.	_____
46. Swimming pool	3 pt.	_____
47. Splash pad water feature play area	1 pt.	_____
48. Furnished fitness center equipped with one commercial grade piece per 40 units (round down) min. 2 – max. 5 pieces required: stationary bike, elliptical trainer, treadmill, rowing, universal gym, multi-function weight bench, sauna, stair climber. (must be indoor or room with climate control, 24 hour access)	1 pt.	_____
49. Furnished fitness center equipped with one commercial grade piece per 20 units (round down) min. 2 – max. 5 pieces required: stationary bike, elliptical trainer, treadmill, rowing, universal gym, multi-function weight bench, sauna, stair climber. (must be indoor or room with climate control, 24 hour access)	2 pt.	_____
50. Business center with work station and seating min. internet access, 1 printer/scanner and either 2 desktops or laptops available for checkout	2 pt.	_____ X _____
51. Community room furnished	2 pt.	_____
52. Library w/ accessible seating area (not community room)	1 pt.	_____
53. Enclosed sun porch or covered community porch/patio	1 pt.	_____
54. Service coordinator office in addition to leasing office	1 pt.	_____
55. Activity room (stocked w/ arts and craft supplies)	2 pt.	_____
56. Secured entry only applicable if all unit entries inside building	1 pt.	_____
57. Horseshoes, putting green, pool table, shuffleboard court or ping pong	1 pt.	_____

table		_____
58. Community dining room w/ full or warming kitchen, adequate tables, seating	3 pt.	_____
59. One playscape equipped for 5-12 yr olds, or 1 tot lot	2 pt.	_____
60. Two playscapes equipped for 5-12 yr olds, 2 tot lots or 1 of each	4 pt.	_____
61. Sport court including but not limited to tennis, basketball, volleyball, soccer or baseball	2 pt.	_____
62. Community theater w/ min. 52 inch screen, surround sound, DVD or streaming and seating	3 pt.	_____
63. Dog park/wash area enclosed (intended for dogs to run off leash)	1 pt.	_____
64. High speed WiFi in common area (10 mbps minimum)	1 pt.	X _____
65. High speed WiFi throughout the development (10 mbps minimum)	2 pt.	_____
66. Security cameras monitored 24 hrs/7 days per building (on/off site)	2 pt.	_____
67. Security cameras recorded 24 hrs/7 days per building	1 pt.	_____
68. Courtesy patrol (answer phones for security/complaints and can dispatch patrol officer in timely manner minimum)	3 pt.	_____
69. Lighted pathways along all accessible routes	1 pt.	_____
70. Secured bicycle parking 1 per 5 units w/in reasonable approximation to buildings	1 pt.	_____
71. Shaded rooftop or structural viewing deck (500 sq ft minimum)	2 pt.	_____
72. Porte-cochere	1 pt.	_____
73. Resident ran community garden (owner provides access to soil, water and mulch annually)	1 pt.	_____
74. Package lockers 1 per 8 units located within development and accessible to residents 24/7)	2 pt.	_____
75. Recycling Service (includes providing storage location and pick up service)	1 pt.	_____
76. Community car vacuum station	1 pt.	_____
77. Multifunctional learning and care center or conference room (appropriate furnishings must equal 15 sq ft times the total number of units but not exceed 2000 sq ft, must be separate from any other community space but may include a kitchen, rooms include storage)	4 pt.	_____
78. Multifunctional learning and care center or conference room (appropriate furnishings must equal 10 sq ft times the total number of units but not exceed 1000 sq ft, must be separate from any other community space but may include a kitchen, rooms include storage)	2 pt.	_____
Total Points		3

Item #2 Deficiency: Common Use Amenities. The inspection confirmed that amenity items that were identified by the owner in the inspection request form were verified by the inspector to be present. Confirmed items are marked with an "X" above. The combined point value of the confirmed items is **3** points which does not meet the required threshold.

- o **Corrective Action** – Please provide photographic evidence and an architect’s or accessibility specialist’s certification listing amenity items with total scoring value that meets or exceeds the required threshold.

Accessible Site and Common Use Facilities The following item or items were found at the time of inspection to be in non-compliance or it was unclear if the item was in full compliance with applicable accessibility standard.

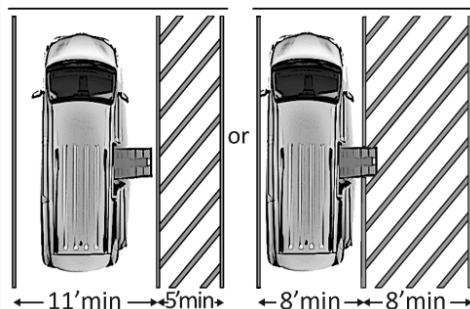
Item #3 Deficiency: Accessible Route Cross Slope (2010 ADA 403.3). This development is subject to ADA design requirements. The accessible pedestrian route near the office has a cross slope that exceeds the allowed maximum for any slope that runs perpendicular to the direction of travel along the accessible route. The cross slope was 7.85.

- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited and throughout the accessible route for the property. The certification must verify that the degree of cross slope at any point along the accessible route does not exceed two percent (1:50, or ¼ inch in 12 inches, see illustration).

Item #4 Deficiency: Accessible Van Parking Space (2010 ADA 208.2.4, 502.5) This development is subject to ADA design requirements. The development provides 2 accessible parking spaces, but does not provide the required number of accessible van parking spaces.

- **Corrective Action** – Please provide an owner’s certification with photographic evidence that the condition has been corrected. The certification must verify that at least one van space is provided for every six accessible parking spaces, and that the development provides 1 accessible van spaces. The photographs must show that each van space is at least 132 inches wide, and has a minimum vertical clearance of 98 inches.

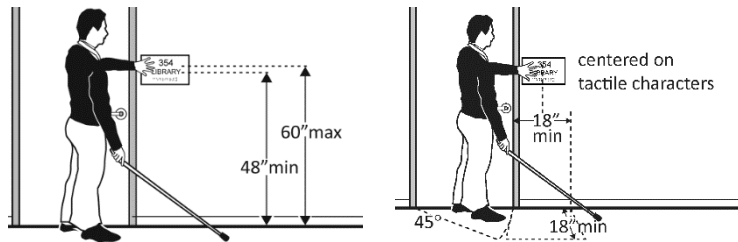
Where there are more than four accessible parking spaces in the development and where all spaces are not assigned to specific residential dwelling units, ensure that a vertically mounted sign is provided that includes the International Symbol of Accessibility and designates that the parking space is reserved for accessible parking and contains the designation “van accessible.” Ensure that the sign is at least 60 inches above the finish floor or ground surface measured to the bottom of the sign. Also ensure that an adjacent, level surface, unobstructed access aisle (no carport post or built-up ramp) that is at least 60 inches wide and is connected to the accessible route is provided (one aisle may be shared between two adjacent accessible parking spaces).



Item #6 Deficiency: Room and Egress Route Signage (2010 ADA 216.2, 216.4.1, 703) This development is subject to ADA design requirements. The signs at doors identifying dwelling units do not meet the *tactile* and *visual* character requirements for accessible signage. They were missing at all the units.

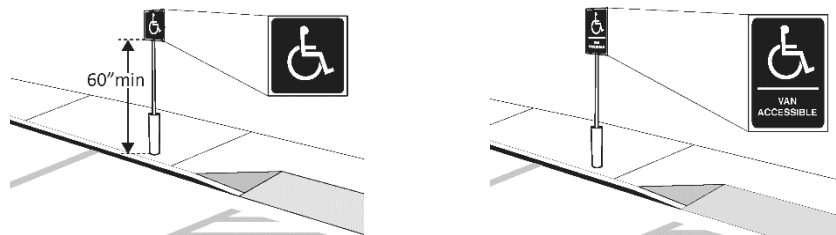
- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited and throughout the property. The certification must verify that all room and space signage, including egress route signs, and excluding exterior room and space signs not located at a door, meets the technical

specifications required under ADA 703, and specifically verifies the following conditions are provided: 1) a non-glare finish with text characters on a high-contrast background (light on dark or dark on light); 2) all room and egress route signs provide *tactile* text characters meeting ADA 703.2 and braille meeting ADA specifications 703.3 and installation height and location meeting ADA 703.4; 3) all room and egress route signs also provide *visual* text characters meeting ADA 703.5; 4) for any signs designating exterior rooms and spaces not located at a door and not accompanied by braille, text characters are *visual* meeting ADA 703.5; and 5) any egress route signs meet all local codes and ordinances.



Item #7 Deficiency: Accessible Parking Signs (2010 ADA 216.5) This development is subject to ADA design requirements. The accessible parking space located at the office did not have an accessible parking space identification sign designating the space as reserved for disabled use only.

- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited. The certification must specifically verify that all accessible parking signs meet the following conditions: 1) signs include the International Symbol of Accessibility; 2) contain the designation “van accessible” for all van spaces; and 3) are mounted at least 60 inches above the floor or ground surface measured to the bottom of the sign.

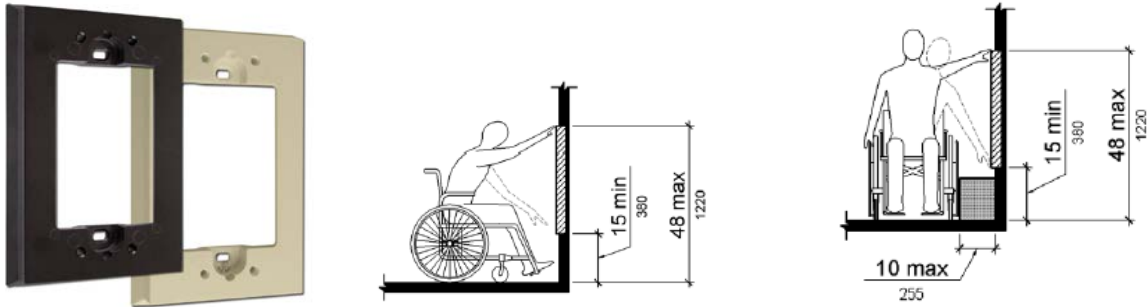


Item #8 Deficiency: Controls and Outlets (2010 ADA 205, 308-9) The office is identified as a common use facility and employee work area and subject to ADA design requirements. The breaker box top switch is 64 inches above the floor surface and is not within accessible reach ranges.



- **Corrective Action** – Provide an architect’s or accessibility specialist’s certification with photographic evidence that the breaker box switches at this location have been corrected or are already correct, are on an accessible route and, where the clear floor space is positioned for an (a)unobstructed front (forward) approach, the height of the switches is 15-48 inches above the floor surface (b)

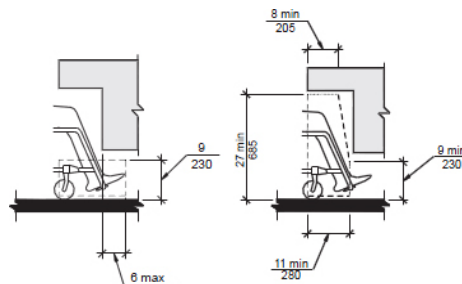
unobstructed side (parallel) approach, the height of the switches is 15-48 inches above the floor (an object that is less than or equal to 34 inches high and less than or equal to 10 inches deep is not considered an obstruction).

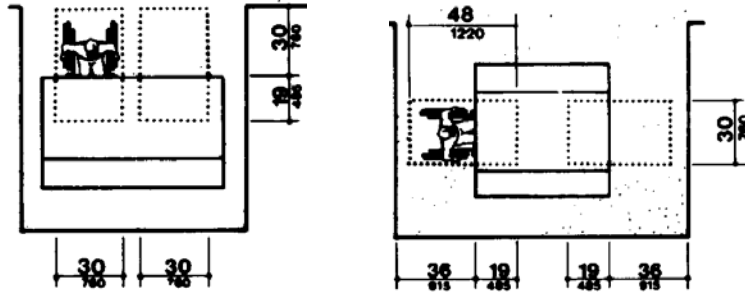


Item #9 Deficiency: Tables & Work Surfaces (2010 ADA 226, 902) The Office is identified as a common use facility and subject to ADA design requirements. The common use computer desk at the business center does not provide an accessible height working surface.



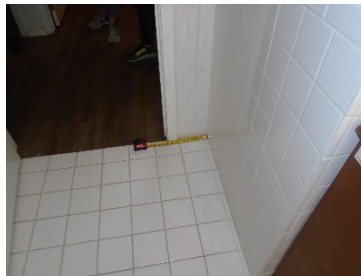
- **Corrective Action** –Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited. The certification must verify that at least 5% of all common use work surfaces on the property(ADA) and specifically verifies that the following design features are provided for each accessible work surfaces: 1) a minimum 30 inch by 48 inch clear floor or ground space provides one unobstructed side located adjacent to the accessible route for the property, and is positioned for a forward (front) approach; 2) top surface is 28 to 34 inches high; and 3) open space beneath accessible tables and work surfaces provides the required knee, leg and toe clearances.



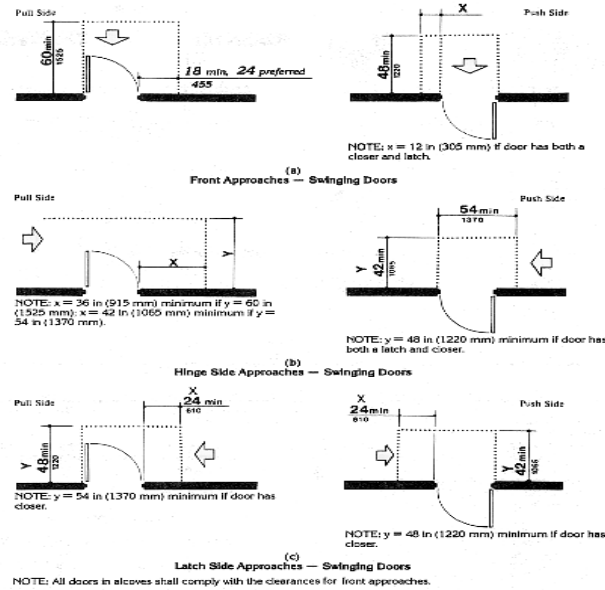


Dwelling Units The following item or items were found at the time of inspection to be in non-compliance or it was unclear if the item was in full compliance with applicable accessibility standard. As a reminder, only a selection of units were inspected, and some Corrective Action instructions below may require you to make corrections in the cited units, and also in units that were not inspected but are subject to the same requirement(s).

Item #10 Deficiency: Door Maneuvering Clearance (2010 ADA 404.2.4, 809.2) Unit 49 is designated as a mobility accessible dwelling unit and subject to ADA design requirements. The bathroom door does not provide an unobstructed landing or floor space for maneuvering on the interior side that is of the required dimensions for the approach conditions for a passage door on an accessible route. Additional mobility accessible dwelling units were not inspected but may also be affected.



- **Corrective Action** – Provide an owner’s certification with photographic evidence (one sample photo only) that the condition has been corrected in the cited units and all other mobility accessible dwelling units. Ensure that the door at this location and at all other interior and exterior passage doors on accessible routes provide a landing or floor surface area on both sides of the door that is unobstructed and level (max. 2% slope) within the perimeter dimensions illustrated below. This includes a clear floor area that extends 18 inches beyond the latch side of a door that must be pulled to open (see upper left diagram). This includes a 48 inches wide hallway at doors that swing into the hall if the approach is from the latch-side, and 54 inches wide if from the hinge-side (see middle and lower left diagrams).



Item #11 Deficiency: Operable Parts (2010 ADA 205, 308-9) Units 49 and 51 are identified as mobility accessible dwelling units and subject to ADA design requirements. The unit breaker box switch is not within accessible reach ranges. Additional mobility accessible dwelling units were not inspected but may also be affected.



- **Corrective Action** – Provide an architect’s or accessibility specialist’s certification with photographic evidence that the breaker boxes at the cited unit and all other mobility accessible dwelling and units have been corrected or are already correct. The certification must verify that accessible breaker boxes and are on an accessible route, and, where the clear floor space is positioned for an (a)unobstructed front (forward) approach, the height of the switch is 15-48 inches above the floor (b)unobstructed side (parallel) approach, the height of the switch is 15-48 inches above the floor (an object that is less than or equal to 34 inches high and less than or equal to 10 inches deep is not considered an obstruction).

Item #12 Deficiency: Storage (2010 ADA 225.2) Units 51 and 49 are identified as mobility accessible dwelling units and subject to ADA design requirements. The bathroom towel bars are not within accessible reach ranges. Additional mobility accessible dwelling units were not inspected but may also be affected.

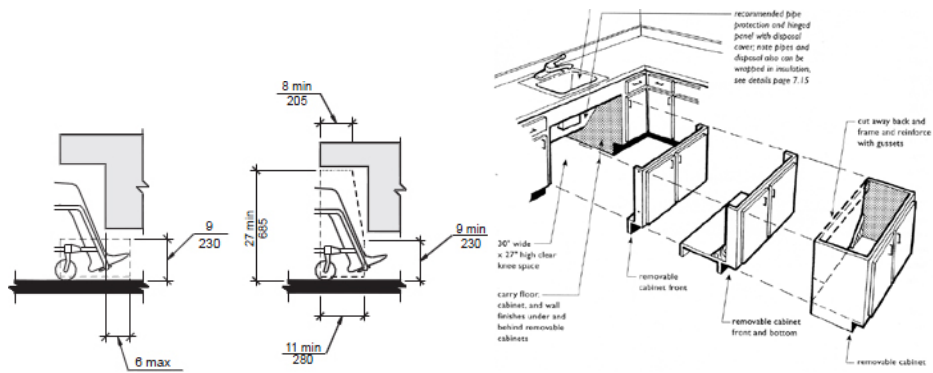


- **Corrective Action** – Provide an architect’s or accessibility specialist’s certification with photographic evidence that the bathroom towel bars at this location and at the cited unit and all other mobility accessible dwelling units have been corrected or are already correct. The certification must verify that all accessible towel bars are on an accessible route and, where the clear floor space is positioned for an **(a)**unobstructed front (forward) approach, the height of the towel bar is 15-48 inches above the floor surface **(b)**unobstructed side (parallel) approach, the height of the towel bar is 15-48 inches above the floor (an object that is less than or equal to 34 inches high and less than or equal to 10 inches deep is not considered an obstruction).

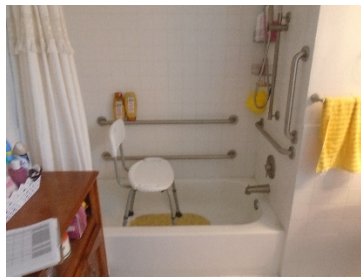
Item #13 Deficiency: Work Counter (2010 ADA 804.3, 804.6.5) Unit 49 is designated as a mobility accessible dwelling unit and subject to ADA design requirements. The kitchen does not provide an accessible work counter with a minimum 30” wide accessible open knee space or removable cabinet beneath. Additional mobility accessible dwelling units were not inspected but may also be affected.



- **Corrective Action** – Provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected in the cited unit and all other mobility accessible dwelling units. The certification must verify that all accessible work counters meet the following conditions: 1) the counter height is no more than 34 inches above the floor; 2) an unobstructed 30 inch by 48 inch floor space is positioned to provide a forward (perpendicular) approach, with the 48 inch dimension measured from a point under the counter that is no more than 19 inches back from the front edge of the counter; 3) the work surface is positioned adjacent to one side of the bottom-hinged oven; 4) the minimum clearance beneath the counter is: *(a)* knee space is 8 inches deep (measured horizontally from the front edge of the counter) at a point that is 27 inches above the floor; *(b)* leg clearance is 11 inches deep at a point 9 inches high; and *(c)* toe clearance is at least 17 inches deep at a point at least 9 inches high; 5) any base cabinetry that conceals the knee, leg, and toe clearance below the counter is quickly and easily removable without removal or replacement of the counter or surrounding structure, the walls behind and surrounding the cabinetry are finished, and the finish floor extends under the cabinetry.



Item #14 Deficiency: Bathtub Controls (2010 ADA 607.5) Unit 49 is designated as a mobility accessible dwelling unit and subject to ADA design requirements. The bathtub controls in the accessible bathroom are not located offset from the bathtub centerline on the open side of the bathtub. Additional mobility accessible dwelling units were not inspected but may also be affected.



- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected in the cited unit and all other mobility accessible dwelling units. The certification must verify that the bathtub controls meet all of the following conditions: 1) located on an end wall; 2) offset from the bathtub centerline on the open side of the bathtub; 3) located between the bathtub rim and the existing grab bar or the correct mounting location for a grab bar; 3) at least 1½ inches of clearance is provided between the controls and adjacent objects; and 4) requires one hand to operate with no tight grasping, pinching or twisting of the wrist.

Item #15 Deficiency: Roll-in Shower Grab Bars (2010 ADA 608.3.2) Unit 51 is designated as a mobility accessible dwelling unit and subject to ADA design requirements. The grab bar wall reinforcement located at the back wall of the shower is not positioned correctly in relation to the corner. Additional mobility accessible dwelling units were not inspected but may also be affected.



- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected in the cited unit and all other mobility accessible dwelling units. The certification must verify that all of the following installation

requirements have been met for roll-in shower grab bars that are currently installed, or, if not installed, that wall reinforcement has been installed in walls and located so as to permit the installation of accessible grab bars that meet all of the following features: 1) grab bars are installed no more than 6 inches from the corner of adjacent walls.

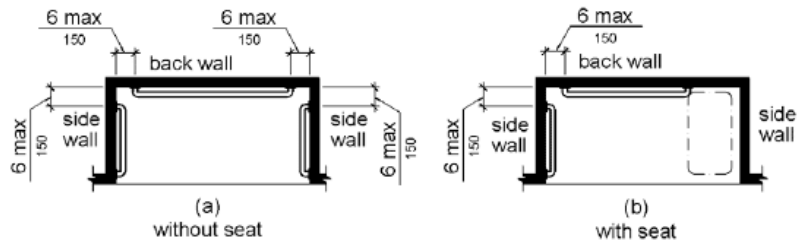


Exhibit 3 Las Palmas UPCS Deficiency Report

Site	Area	Bldg Name	Unit Name	Inspectable Item	Deficiency	Level	Note	Date Completed:	Completed By:
Las Palmas Apartments	Site	N/A	N/A	Walkways/Steps	Spalling	L1	Near Entry Way to Bldg F	3/14/2023	Adrian Tillary
Las Palmas Apartments	Unit	Bldg A	Unit 07	Kitchen	Range/Stove - Missing/Damaged/Inoperable	L2	Right Front Burner Inoperable	11/30/2022	Adrian Tillary
Las Palmas Apartments	Unit	Bldg C	Unit 09	Doors	Deteriorated/Missing Seals (Entry Only)	L3	Weatherstrip Damaged at Main Entry	11/30/2022	Adrian Tillary
Las Palmas Apartments	Unit	Bldg C	Unit 09	Kitchen	Refrigerator-Missing/Damaged/Inoperable	L1	Gasket Damaged	12/14/2022	Adrian Tillary
Las Palmas Apartments	Unit	Bldg E	Unit 03	Doors	Damaged Hardware/Locks	L3	Master Bathroom Door Lock Inoperable	12/14/2022	Adrian Tillary
Las Palmas Apartments	Unit	Bldg E	Unit 07	Kitchen	Refrigerator-Missing/Damaged/Inoperable	L1	Gasket Damaged	3/9/2023	Adrian Tillary
Las Palmas Apartments	Unit	Bldg E	Unit 15	Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	L3	Blocked Egress Living Room Window	11/30/2022	Adrian Tillary
Las Palmas Apartments	Unit	Bldg F	Unit 04	Bathroom	Cabinets - Damaged/Missing	L1	Damaged Vanity in Master Bathroom (at Bottom Front Corner)	3/16/2023	Adrian Tillary
Las Palmas Apartments	Unit	Bldg F	Unit 04	Walls	Damaged/Deteriorated Trim	L1	Baseboard Trim Missing Behind Toilet	3/16/2023	Adrian Tillary
Las Palmas Apartments	Unit	Bldg F	Unit 04	Walls	Peeling/Needs Paint	L1	Paint Peel at Master Bathroom Shower Wall	3/28/2023	Adrian Tillary

Exhibit 4:
Texas Administrative Code

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

(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice and a completed Ownership Transfer packet, if applicable, to the Department at least 45 calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Except as otherwise provided herein, the Executive Director's prior written approval of any such transfer is required. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section.

(b) Exceptions. The exceptions to the ownership transfer process in this subsection are applicable.

(1) 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 Principals or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(2) Transfers that are the result of an involuntary removal of the general partner by the investment limited partner do not require advance approval but must be reported to the Department as soon as possible due to the sensitive timing and nature of this decision. In the event the investment limited partner has proposed a new general partner or will permanently replace the general partner, a full Ownership Transfer packet must be submitted.

(3) Changes to the investment limited partner, non-Controlling limited partner, or other non-Controlling partners affiliated with the investment limited partner do not require Executive Director approval. A General Partner's acquisition of the interest of the investment limited partner does not require Executive Director approval, unless some other change in ownership is occurring as part of the same overall transaction.

(4) Changes resulting from foreclosure do not require advance approval but acquiring parties must notify the Department as soon as possible of the revised ownership structure and ownership contact information.

(5) Changes resulting from a deed-in-lieu of foreclosure do not require Executive Director approval. However, advance notification must be provided to both the Department and to the tenants at least 30 days prior to finalizing the transfer. This notification must include information regarding the applicable rent/income requirements post deed in lieu of foreclosure.

(c) General Requirements.

(1) Any new Principal in the ownership of a Development must be eligible under §11.202 of Subchapter C (relating to Ineligible Applicants and Applications). In addition, Persons and Principals will be reviewed in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee).

(2) Changes in Developers or Guarantors must be addressed as non-material amendments to the application under §10.405 of this Subchapter.

(3) To the extent an investment limited partner or its Affiliate assumes a Controlling interest in a Development Owner, such acquisition shall be subject to the Ownership Transfer requirements set forth herein. Principals of the investment limited partner or Affiliate will be considered new Principals and will be reviewed as stated under paragraph (1) of this subsection.

(4) Simultaneous transfer or concurrent offering for sale of the General Partner's and Limited Partner's control and interest will be subject to the Ownership Transfer requirements set forth herein and will trigger a Right of First Refusal, if applicable.

(5) Any initial operating, capitalized operating, or replacement reserves funded with an allocation from the HOME American Rescue Plan (HOME-ARP) and Special Reserves required by the Department must remain with the Development.

(d) Transfer Actions Warranting Debarment. 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 or the Department at risk for financial exposure as a result of non-compliance, staff will refer the matter to the Enforcement Committee for debarment consideration pursuant to §2.401 of this title (relating to Enforcement, Debarment from Participation in Programs Administered by the Department). In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), prior to recommending any new financing or allocation of credits.

(e) Transfers Prior to 8609 Issuance or Construction Completion. 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), an Applicant may request an amendment to its ownership structure to add Principals. The party(ies) reflected in the Application as having Control must remain in the ownership structure and retain Control, unless approved otherwise by the Executive Director. A development sponsor, General Partner or Development Owner may not sell the Development in whole or voluntarily end their Control prior to the issuance of 8609s.

(f) Nonprofit Organizations. If the ownership transfer request is to replace a nonprofit organization within the Development ownership entity, the replacement nonprofit 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 Nonprofit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Nonprofit Organization that meets the requirements of §42(h)(5) of the Code and Tex. Gov't Code §2306.6706, if applicable, and can demonstrate planned participation in the operation of the Development on a regular, continuous, and substantial basis.

(2) If the LURA requires ownership or material participation in ownership by a nonprofit organization or CHDO, the Development Owner must show that the transferee is a nonprofit organization or CHDO, as applicable, that complies with the LURA. If the transferee has been certified as a CHDO by TDHCA prior to 2016 or has not previously been certified as a CHDO by TDHCA, a new CHDO certification package must be submitted for review. If the transferee was certified as a CHDO by TDHCA after 2016, provided no new federal guidance or rules concerning CHDO have been released and the proposed ownership structure at the time of review meets the requirements in 24 CFR Part 92, the CHDO may instead submit a CHDO Self-Certification form with the Ownership Transfer package.

(3) Exceptions to paragraphs (1) and (2) of this subsection may be made on a case by case basis if the Development (for MFDL) is past its Federal Affordability Period or (for HTC Developments) is past its Compliance Period, was not reported to the IRS as part of the Department's Nonprofit Set Aside in any HTC Award year, and follows the procedures outlined in §10.405(b)(1) - (5) of this subchapter. The Board must find that:

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

(B) The participation by the nonprofit was substantive and meaningful during the full term of the Compliance Period but is no longer substantive or meaningful to the operations of the Development; and

(C) The proposed purchaser is an affiliate of the current Owner or otherwise meets the Department's standards for ownership transfers.

(g) Historically Underutilized Business (HUB) Organizations. If a HUB is the general partner or special limited partner of a Development Owner and it determines to sell its ownership interest, after the issuance of IRS Form(s) 8609, the purchaser of that partnership interest or the general or special limited partner is not required to be a HUB as long as the LURA does not require it or the procedure described in §10.405(b)(1) of

this chapter (relating to Non-Material LURA Amendments) has been followed and approved. The removal of a HUB requirement prior to filing of IRS Form(s) 8609 is subject to the procedure described in §10.405(b)(2) of this Chapter (relating to Material LURA Amendments).

(h) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances pertaining to the transfer and the effects of approval or denial. Documentation must be submitted as directed in the Post Award Activities Manual, which includes but is not limited to:

- (1) A written explanation outlining the reason for the request;
- (2) Ownership transfer information, including but not limited to the type of sale, terms of any new financing introduced as a result of the transfer, amount of Development reserves to transfer in the event of a property sale, and the prospective closing date;
- (3) Pre and post transfer organizational charts with TINs of each organization down to the level of natural persons in the ownership structure as described in §11.204(13)(B) of Subchapter C of this title (relating to Required Documentation for Application Submission);
- (4) A list of the names and contact information for transferees and Related Parties;
- (5) Previous Participation information for any new Principal as described in §11.204(13)(C) of this title (relating to Required Documentation for Application Submission);
- (6) Agreements among parties associated with the transfer;
- (7) Owners Certifications with regard to materials submitted as further described in the Post Award Activities Manual;
- (8) Detailed information describing the organizational structure, experience, and financial capacity of any party holding a controlling interest in any Principal or Controlling entity of the prospective Development Owner;
- (9) Evidence and certification that the tenants in the Development have been notified in writing of the proposed transfer at least 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; and
- (10) Any required exhibits and the list of exhibits related to specific circumstances of transfer or Ownership as detailed in the Post Award Activities Manual.

(i) Once the Department receives all necessary information under this section and as required under the Post Award Activities Manual, staff shall initiate a qualifications review of a transferee, in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter and §11.202 of this title (relating to Ineligible Applicants and Applications).

(j) 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 years prior to the transfer request date.

(k) Penalties, Past Due Fees and Underfunded Reserves. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring) and Subchapter G of this chapter (relating to Affirmative Marketing Requirements and Written Policies and Procedures). The Development Owner on record with the Department will be liable for any penalties or fees imposed by the Department (even if such penalty can be attributable to the new Development Owner) unless an ownership transfer has been approved by the Department. In the event a transferring Development has a history of uncorrected UPCS violations, ongoing issues related to keeping housing sanitary, safe, and decent, an account balance below the annual reserve deposit amount as specified in §10.404(a) (relating to Replacement Reserve Accounts), or that appears insufficient to meet capital

expenditure needs as indicated by the number or cost of repairs included in a PNA or SCR, the prospective Development Owner may be required to establish and maintain a replacement reserve account or increase the amount of regular deposits to the replacement reserve account by entering into a Reserve Agreement with the Department. The Department may also request a plan and timeline relating to needed repairs or renovations that will be completed by the departing and/or incoming Owner as a condition to approving the Transfer. A PNA or SCR may be requested if one has not already been received under §10.404 of this section (relating to Reserve Accounts).

(l) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by the corresponding ownership transfer fee as outlined in §11.901 of this title (relating to Fee Schedule).

Source Note: The provisions of this §10.406 adopted to be effective February 3, 2022, 47 TexReg 266; amended to be effective February 1, 2023, 48 TexReg 348