

ENFORCEMENT ACTION AGAINST	§	BEFORE THE
EVAN J. HUNDEN, DAVID B. RATLIFF,	§	TEXAS DEPARTMENT OF HOUSING
AND MICHAEL VOLZ	§	AND COMMUNITY AFFAIRS

FINAL ORDER OF DEBARMENT

General Remarks and official action taken:

On this 7th day of November, 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 Evan J. Hunden, David B. Ratliff, and Michael Volz (collectively, Respondents), for exceeding the 50% administrative penalty referral threshold identified at 10 TAC §2.401(e)(2)(a).

This Final Order is executed pursuant to the authority granted in Texas Government Code section 2306.0504, which requires the Board to adopt a policy providing for the debarment of a person from participation in Department programs because of a person’s past failure to comply with conditions imposed by the Department in the administration of its programs. A policy was adopted by the Board and is set forth at 10 TAC §2.401.

Upon recommendation of the Executive Director, the Board makes the following findings of fact and conclusions of law and enters this Order:

FINDINGS OF FACT

Jurisdiction:

1. Respondents are Persons in Control of the following Actively Monitored Developments, as those terms are defined by 10 TAC §2.102 and 10 TAC §11.1(29):

#	Property	David Ratliff	Michael Volz	Evan Hunden	Date Control Began
1	The Mondello (HTC 07053 / CMTS 4080)	Managing Member	Managing Member	No Control authority	November 3, 2021
2	Rosemont Ash Creek (HTC 23420 / HTC 03410 / Bond 03410B / CMTS 3399)	Managing Member	Managing Member	Managing Member	December 29, 2020
3	Rosemont Meadow Lane (HTC 03433 / CMTS 3421)	Managing Member	Managing Member	Managing Member	January 29, 2021
4	Rosemont Lancaster (HTC 02479 / Bond 20034 / CMTS 3279)	Managing Member	Managing Member	Managing Member	January 29, 2020

#	Property	David Ratliff	Michael Volz	Evan Hunden	Date Control Began
5	Park at Humble (HTC 23434 / HTC 03465 / 03465B / CMTS 4036)	Managing Member	Managing Member	Managing Member	August 2, 2021
6	Positano (HTC 23421 / HTC 04490 / CMTS 4184)	Managing Member	Managing Member	No Control authority	December 17, 2021
7	Tigoni Villas (HTC 23424 / HTC 03136 / CMTS 3353)	Managing Member of the Limited Partner, but has primary Control authority	Managing Member of the Limited Partner, but has primary Control authority	Managing Member of the Limited Partner, but has primary Control authority	January 7, 2022

- The following Actively Monitored Developments from the table above were referred for an administrative penalty during the last three years: The Mondello (HTC 07053 / CMTS 4080); Rosemont Ash Creek (HTC 23420 / HTC 03410 / Bond 03410B / CMTS 3399); Rosemont Meadow Lane (HTC 03433 / CMTS 3421); and Rosemont Lancaster (HTC 02479 / Bond 20034 / CMTS 3279).
- Each Actively Monitored Development listed above is subject to a TDHCA Land Use Restriction Agreement (LURA).
- Respondents are subject to the regulatory authority of TDHCA.

Repeated Violations Subject To Debarment:

- TDHCA analysis of the above ownership portfolio determined that Evan J. Hunden, David B. Ratliff, and Michael Volz, the Responsible Parties in Control, have exceeded the 50% administrative penalty referral threshold identified at 10 TAC §2.401(e)(2)(A), which states, “(e) *Repeated Violations of a LURA that shall be referred to the Committee for Debarment. [...] (2) Repeated violations in a portfolio. Persons who control five or more Actively Monitored Developments will be considered for Debarment based on repeated violations in a portfolio. A Person shall be referred to be committee if an inspection or referral, after April 1, 2021, indicates the following: (A) 50% or more of the Actively Monitored Developments in the portfolio have been referred to the Enforcement Committee within the last three years. The Enforcement Committee may increase this threshold at its discretion. For example, if three properties in a five-property portfolio are monitored in the same month, and then referred to the Enforcement Committee at the same time, it may be appropriate to increase the 50% threshold;*”

Evan J. Hunden controls five Actively Monitored Developments, three of which have been referred for an administrative penalty during the last three years, for a referral percentage of 60%.

David B. Ratliff controls seven Actively Monitored Developments, four of which have been referred for an administrative penalty during the last three years, for a referral percentage of 57%.

Michael Volz controls seven Actively Monitored Developments, four of which have been referred for an administrative penalty during the last three years for a referral percentage of 57%.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §2306.0504 and 10 TAC §2.401.
2. Respondents are Responsible Parties as defined by 10 TAC §2.102(12).
3. Respondents are in a position of Control as defined by 10 TAC §11.1(29).
4. Respondents Control more than five Actively Monitored Developments.
5. 50% or more of those Actively Monitored Developments have been referred for an administrative penalty during the past three years.
6. Pursuant to Tex. Gov't Code §2306.185, TDHCA is required to monitor to ensure compliance.
7. Respondents violated 10 TAC §2.401(e)(2)(A) in 2024 when they exceeded the 50% administrative penalty referral threshold.
8. Pursuant to Tex. Gov't. Code §2306.0504(b), the Department may debar a person from participation in a Department program on the basis of the person's past failure to comply with any condition imposed by the department in the administration of its programs.

Based upon the foregoing findings of fact and conclusions of law, and an assessment of material factors including those set forth in 10 TAC §2.401(j) to be considered for a recommended period of debarment, as applied specifically to the facts and circumstances present in this case, the Board of the TDHCA orders the following:

IT IS HEREBY ORDERED that Respondents are barred from future participation in all programs administered by the Department for a **two-year term ending November 7, 2026**. This debarment does not prohibit Respondents from participating in any existing engagements funded through the Department, nor does it affect any responsibilities or duties thereunder.

IT IS FURTHER ORDERED that during the term of the debarment, Respondent must keep all other Developments controlled by Respondent and monitored by The Department in compliance by timely submitting corrective action documentation via the Compliance Monitoring and Tracking System (CMTS) to fully resolve any future findings of noncompliance identified by TDHCA.

IT IS FURTHER ORDERED that timely correction of future findings of noncompliance shall be determined in accordance with 10 TAC §10.602 (Notice to Owners and Corrective Action Periods). Any corrective action documentation that is not submitted on or before a compliance monitoring deadline shall be considered untimely and shall constitute a violation of this Order, provided that Respondent did not timely request and receive an extension in accordance with the rule.

IT IS FURTHER ORDERED that full resolution of future findings of noncompliance shall be determined by whether or not a timely submission includes all documentation that was requested in a National Standards for the Physical Inspection of Real Estate (NSPIRE) inspection, an onsite or desk file monitoring review, an Affirmative Marketing Plan review, or a Written Policies and Procedures Review letter that is sent to Respondent by the TDHCA Compliance Division via CMTS. Any incomplete or late corrective action documentation submission shall constitute a violation of this Order.

IT IS FURTHER ORDERED that if Respondent timely and fully complies with the terms and conditions of this Final Order, correcting all future findings of noncompliance as required, and remaining in compliance for a period of one year from the date of this Order, Respondent may petition the board **after November 7, 2025** to reduce or terminate the remaining period of debarment.

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

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Approved by the Governing Board of TDHCA on November 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 §

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COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 7th day of November, 2024, personally appeared Leo Vasquez, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

/s/ Nancy Dennis

Notary Public, State of Texas

THE STATE OF TEXAS §

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COUNTY OF TRAVIS §

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