

ENFORCEMENT ACTION AGAINST	§	BEFORE THE
HHF EBAN VILLAGE 2021, LLC	§	TEXAS DEPARTMENT OF
WITH RESPECT TO	§	HOUSING AND COMMUNITY
EBAN VILLAGE I AND EBAN VILLAGE II	§	AFFAIRS
(HTC FILE # 95047 / CMTS # 1354 AND	§	
HTC FILE # 99022 / CMTS 2087)	§	

**AGREED FINAL ORDER**

**General Remarks and official action taken:**

On this 10<sup>th</sup> day of October, 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 **HHF EBAN VILLAGE 2021, LLC**, a Texas limited liability company (“Respondent”).

This Agreed Order is executed pursuant to the authority of the Administrative Procedure Act (“APA”), Tex. Gov’t Code §2001.056, which authorizes the informal disposition of contested cases. In a desire to conclude this matter without further delay and expense, the Board and Respondent agree to resolve this matter by this Agreed Final Order. The Respondent agrees to this Order for the purpose of resolving this proceeding only and without admitting or denying the findings of fact and conclusions of law set out in this Order.

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

**WAIVER**

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

**FINDINGS OF FACT (FOF)**

**Jurisdiction:**

1. During 1995, Eban Village I, Ltd. was awarded an allocation of Low Income Housing Tax Credits by the Board to rehabilitate and operate Eban Village I (“Eban I”) (HTC file No. 95047 / CMTS No. 1354).

2. During 1999, Eban Village II, Ltd. was awarded an allocation of Low Income Housing Tax Credits by the Board to build and operate Eban Village II (“Eban II”) (HTC file No. 99022 / CMTS No. 1354).
3. Eban Village I, Ltd. signed a Declaration of Land Use Restrictive Covenants for Low-Income Housing Credits (“Eban I LURA”) regarding the property. The Eban I LURA was effective December 1, 1997, and filed of record on December 24, 1997, at Document Number 199702490803 under Volume 97249, Page 5169 of the Official Public Records of Real Property of Dallas County, Texas (the “Records”), as amended by an Agreement to Comply with and First Amendment to Declaration of Land Use Restrictive Covenants for Low-Income Housing Credits executed on October 1, 2013, and filed in the Records at Document Number 201300325233 on October 17, 2023.
4. Eban Village II, Ltd. signed a Declaration of Land Use Restrictive Covenants for Low-Income Housing Credits (“Eban II LURA”) regarding the property. The Eban II LURA was dated March 12, 2002, and filed of record on July 10, 2002, at Document Number 200201902188 under Volume 2002133, Page 2903 of the Records, as amended by a Partial Release from Land Use Restriction Agreement executed on October 15, 2012, and filed in the Records under Document Number 201200315571 on October 23, 2012, as amended by an Agreement to Comply with and First Amendment to Declaration of Land Use Restrictive Covenants for Low-Income Housing Credits executed on October 1, 2013, and filed in the Records under Document Number 201300325234 on October 17, 2023, as further amended by a Second Amendment to Declaration of Land Use Restrictive Covenants for Low-Income Housing Credits executed on July 18, 2017, and filed in the Records under Document Number 201700208471 on July 25, 2017.
5. HHF Eban Village I & II, LLC, a Texas limited liability company, purchased Eban I and Eban II on October 10, 2013, and signed the above referenced Agreements to Comply, thereby binding the organization to the terms of the above referenced LURAs.
6. On January 10, 2022, ownership was transferred to Respondent as part of a refinancing transaction. Notice of the transfer was not provided to TDHCA as required by 10 TAC §10.406, however, transfer to an affiliate that does not include the addition of new individuals does not require TDHCA approval, and Hope Housing Foundation, a Texas nonprofit corporation, controls both HHF Eban Village I & II, LLC and Respondent. In accordance with Section 2 of the Eban I LURA and the Eban II LURA (collectively, the “LURAs”), the LURAs are restrictive covenants/deed restrictions encumbering Eban I and Eban II, and are binding on all successors and assigns for the full terms of the LURAs.
7. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations<sup>1</sup>:

8. The ownership group controlled by Hope Housing Foundation has a history of violations and has previously signed the following three Agreed Final Orders:
  - a. Agreed Final Order signed in 2017 for Eban I, agreeing to an administrative penalty of \$500.00 for uncorrectable noncompliance relating to failure to provide supportive services.
  - b. Agreed Final Order signed in 2017 for Ridge at Trinity (HTC 04608 / Bond 04608B / CMTS 4198), agreeing to an administrative penalty of \$5,000.00 relating to file monitoring noncompliance, with \$500.00 due at signing and the remainder to be forgivable provided that the owner complied with all requirements. The owner complied with this Order.
  - c. Agreed Final Order signed in 2018 for Ridge at Trinity (HTC 04608 / Bond 04608B / CMTS 4198), agreeing to an administrative penalty of \$10,000.00 relating to file monitoring noncompliance, with \$2,500.00 due at signing and the remainder to be forgivable provided that the owner complied with all requirements. The owner violated this Order.
9. The Department conducted a National Standards for the Physical Inspection of Real Estate (“NSPIRE”) inspection of Eban I on October 19, 2023. The inspection report at Exhibit 1 showed numerous property condition violations, a violation of 10 TAC § 10.621 (Property Condition Standards). The Department issued a notification of noncompliance setting a corrective action deadline of June 3, 2024, but Respondent failed to submit corrections and the TDHCA Compliance Division referred the noncompliance for an administrative penalty. Corrective documentation was received on July 29, 2024, after intervention by the Enforcement Committee.
10. The Department conducted a file monitoring review of Eban II on January 26, 2024, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the Eban II LURA and TDHCA rules. The Department issued a notification of noncompliance setting a corrective action deadline of April 28, 2024, however, the following violations were not resolved before the deadline:
  - a. Noncompliance with utility allowance requirements described in §10.614 of this subchapter and/or Treasury Regulation 1.42-10. Respondent failed to implement an updated utility allowance for the property by January 1, 2024, a violation of 10 TAC §10.614 (Utility Allowances), which requires all developments to establish a utility allowance and update it at least annually.

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<sup>1</sup> 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.

- b. Failure to provide special needs housing as required by Eban II LURA. Respondent failed to provide evidence that special needs housing is being provided, a violation of Appendix A of the Eban II LURA, which requires at least 10% of the units (22 total units) to be set aside for persons with physical or mental disabilities. At the time of the onsite review, no households were designated as special needs.
  - c. Program Unit not leased to Low-Income household/Household income above income limit upon initial occupancy affecting unit 0399. On August 30, 2023, Respondent occupied the unit with a household that exceeded prescribed income limits, a violation of 10 TAC §10.611 (Determination, Documentation and Certification of Annual Income) and Section 4 of the Eban II LURA, which restricts occupancy to qualified tenants.
  - d. Program Unit not leased to Low-Income household/Household income above income limit upon initial occupancy affecting unit 1113. On March 5, 2021, Respondent failed to collect documentation that household income was within prescribed limits upon initial occupancy, a violation of 10 TAC §10.611 (Determination, Documentation and Certification of Annual Income) and Section 4 of the LURA, which require screening of tenants to ensure qualification for the program.
11. The following violations remain outstanding at the time of this order:
- a. Utility allowance violation described in FOF #9a;
  - b. Special needs housing violation described in FOF #9b;
  - c. Household income violation described in FOF #9c; and
  - d. Household income violation described in FOF #9d.

### **CONCLUSIONS OF LAW**

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503 and 10 TAC Chapter 2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance.
4. Pursuant to Tex. Gov't Code Chapter 2306, Subchapter DD and Tex. Gov't Code §2306.185, TDHCA is authorized to make Housing Tax Credit Allocations for the State of Texas and is required to monitor to ensure compliance.

5. Pursuant to 10 TAC §10.621(a), TDHCA has adopted HUD's NSPIRE as the standard for its physical inspections.
6. Respondent violated 10 TAC §10.621 and I.R.C. §42, as amended, in 2024 by failing to comply with HUD's NSPIRE when major violations were discovered at Eban I and not timely corrected.
7. Respondent violated 10 TAC § 60.109 in 2023 by failing to implement an updated utility allowance by January 1, 2024.
8. Respondent violated Appendix A of the Eban II LURA in 2023 by failing to provide special needs housing.
9. Respondent violated 10 TAC §10.611 and Section 4 of the Eban II LURA in 2023, by occupying unit 0399 with a household that exceeded the income limits at initial occupancy;
10. Respondent violated 10 TAC §10.611 and Section 4 of the Eban II LURA in 2021, by failing to provide documentation that household income was within prescribed limits upon initial occupancy for units 1113;
11. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and Tex. Gov't Code §2306.267.
12. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
13. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code §2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.
14. An administrative penalty of \$23,125.00 is an appropriate penalty in accordance with 10 TAC Chapter 2.

Based upon the foregoing findings of fact and conclusions of law, and an assessment of the factors set forth in Tex. Gov't Code §2306.042 to be considered in assessing such penalties as applied specifically to the facts and circumstances present in this case, the Governing Board of the Texas Department of Housing and Community Affairs orders the following:

**IT IS HEREBY ORDERED** that Respondent is assessed an administrative penalty in the amount of \$23,125.00, subject to deferral as further ordered below.

**IT IS FURTHER ORDERED** that Respondent shall pay and is hereby directed to pay fifty percent of the assessed administrative penalty, in the amount of \$11,562.50, by check payable to the “Texas Department of Housing and Community Affairs” within thirty days of the date this Agreed Final Order is approved by the Board.

**IT IS FURTHER ORDERED** that Respondent shall fully correct the file monitoring violations as indicated in the exhibits and submit full documentation of the corrections to TDHCA on or before November 12, 2024.

**IT IS FURTHER ORDERED** that if Respondent timely and fully complies with the terms and conditions of this Agreed Final Order, correcting all violations as required, the satisfactory performance under this order will be accepted in lieu of the remaining administrative penalty in the amount of \$11,562.50, and that remaining amount of the administrative penalty will be deferred and forgiven.

**IT IS FURTHER ORDERED** that if Respondent fails to satisfy any conditions or otherwise violates any provision of this order, or the property is sold before the terms and conditions of this Agreed Final Order have been fully satisfied, then the remaining administrative penalty in the amount of \$11,562.50 shall be immediately due and payable to the Department. Such payment shall be made by check payable to the “Texas Department of Housing and Community Affairs” upon the earlier of (1) within thirty days of the date the Department sends written notice to Respondent that it has violated a provision of this Order, or (2) the property closing date if sold before the terms and conditions of this Agreed Final Order have been fully satisfied.

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

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

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

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

*[Remainder of page intentionally blank]*

Approved by the Governing Board of TDHCA on October 10, 2024.

By: \_\_\_\_\_

Name: Leo Vasquez

Title: Chair of the Board of TDHCA

By: \_\_\_\_\_

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 10th day of October, 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)

\_\_\_\_\_  
Notary Public, State of Texas

THE STATE OF TEXAS §

§

COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 10th day of October, 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)

\_\_\_\_\_  
Notary Public, State of Texas



STATE OF TEXAS §  
§  
COUNTY OF \_\_\_\_\_ §

BEFORE ME, \_\_\_\_\_ (*notary name*), a notary public in and for the State of Texas, on this day personally appeared Alvin Johnson, 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 Alvin Johnson, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of President for Respondent. I am the authorized representative of Respondent, owner of the Property, which is subject to a Land Use Restriction Agreement monitored by the TDHCA in the State of Texas, and I am duly authorized by Respondent to execute this document.
3. The Taxpayer ID for Respondent is 32051659566.
4. The mailing address for Respondent is \_\_\_\_\_.
5. Respondent knowingly and voluntarily enters into this Agreed Final Order, and agrees with and consents to the issuance and service of the foregoing Agreed Order by the Governing Board of the Texas Department of Housing and Community Affairs."

**RESPONDENT:**

**HHF EBAN VILLAGE I & II, LLC**, a Texas limited liability company

**HOPE HOUSING FOUNDATION**, a Texas nonprofit corporation, its managing member

By: \_\_\_\_\_

Name: Alvin Johnson

Title: President

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

## Exhibit 1

### File Monitoring Violation Resources and Instructions

#### Resources:

1. Refer to the following link for all references to the rules at 10 TAC §10:  
[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y)
2. Refer to the following link for copies of forms that are referenced below:  
<https://www.tdhca.texas.gov/compliance-forms>
3. Technical support and training presentations are available at the following links:  
Income and Rent Limits: <https://www.tdhca.texas.gov/income-and-rent-limits>  
Utility Allowance: <https://www.tdhca.texas.gov/compliance-utility-allowance-information>  
FAQ's: <https://www.tdhca.texas.gov/compliance-frequently-asked-questions-faqs>
4. **All corrections must be submitted via CMTS:** See link for steps to upload documents  
<https://www.tdhca.texas.gov/sites/default/files/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>
5. **Important notes -**
  - i. Do not backdate any documents listed below.
  - ii. A transfer of a qualified household from another unit is not sufficient to correct any findings, and will simply cause the finding to transfer to the new unit.

#### Instructions:

6. **Utility Allowance.** A utility allowance is not an amount that you will charge to tenants; it is an estimate of how much the households pay toward utilities, to ensure that their total housing expenses are appropriately restricted. Details are at: <https://www.tdhca.texas.gov/compliance-utility-allowance-information>, and information regarding how TDHCA monitors for the utility allowance are at: [https://www.tdhca.texas.gov/sites/default/files/pmcdocs/Monitoring%20Forms%20\(XLSX\).xlsx](https://www.tdhca.texas.gov/sites/default/files/pmcdocs/Monitoring%20Forms%20(XLSX).xlsx).

Violation: At the time of the monitoring review, the development was using an outdated utility allowance schedule from the Dallas Housing Authority (DHA) to calculate the utility allowance. The schedule was effective 10/1/2022, but the DHA had released an updated schedule 10/1/2023, which should have been implemented by 1/1/2024. It was not. Respondent uploaded the new utility allowance schedule on 7/30/2024, but did not complete any calculations on that page, and did not update the unit status report in CMTS.

What to submit: Fill out the current DHA utility allowance schedule form to calculate the applicable utility allowance, and upload the completed form to CMTS. Then update the utility allowances in CMTS for each household, and submit an updated Unit Status Report via CMTS to demonstrate that the newly calculated utility allowance has been implemented for all units. TDHCA will test rents development-wide once the proper allowance is implemented, and any resulting noncompliance will be cited at that time and provided a separate corrective action period of 90 days.

- b. **Special needs housing.** Appendix A of the LURA requires at least 10% of the units (22 total units) to be set aside for persons with physical or mental disabilities.

Violation: The Unit Status Report in CMTS does not currently designate any households as special needs. On July 30, 2024, the property submitted two un-dated comment screen shots in the “contact us” sections of two websites, advising that housing is available. Both were undated, provided no information about the property, and one did not show the intended recipient. Additionally, no updated wait list was provided by property.

What to submit: Submit an updated Unit Status Report (USR) in CMTS showing which households are special needs. If at least 22 special needs households are designated in the USR, then no further action is required for this violation, but remember to maintain Special Needs Certification forms in tenant files going forward. If there are not at least 22 special needs households designated in the USR, then you must also upload the following via CMTS: (1) evidence of outreach to special needs providers in the area and (2) a copy of the property’s waiting list of persons with disabilities. Outreach letters to special needs providers in the area must be dated and signed, and must provide information about the property.

- c. **Program Unit not leased to Low-Income household/Household income above limit upon initial occupancy for units 0399 and 1113:**

Violation for unit 0399: The household that occupied unit 0399 on 8/30/2023 has an annual income of \$77,480, exceeding the 4-person limit of \$65,040. Respondent was advised not to renew the lease and to occupy the unit with a qualified household when it becomes available, or to certify the existing household under their current circumstances if their income has changed. On 7/30/2024, Respondent instead uploaded the same move-in documents that TDHCA already reviewed for the current household minus income/asset verifications.

Violation for unit 1113: The household that occupied unit 2111 on 3/5/2021 had an incomplete tenant file. The initial income certification showed zero income, but the file contained no application, verifications, or Zero income certification. On 8/1/2022, the household transferred to unit 1113. An application was completed on 7/26/2023 that showed social security income, but income was not verified. A partial recertification was uploaded on 7/30/2024, but the Tenant Income Certification form was omitted.

*[continues on next page]*

What to submit: Follow the instructions below with respect to units 0399 and 1113, and submit complete documentation meeting all requirements below.

<b>Circumstance with respect to units listed above</b>	<b>Instruction</b>
I. If unit is occupied by a qualified household	<p>Certify the household using current circumstances, and submit all of the following:</p> <ol style="list-style-type: none"> <li>1. New application using current circumstances;</li> <li>2. New verifications of each source of income and assets; and</li> <li>3. New Income Certification form;</li> </ol> <p>Remember that items 1-3 above must all be dated within 120 days of one another.</p> <p>If the unit is vacant or the tenant does not qualify, follow alternate instructions below.</p>
II. If unit is occupied by a new qualified household	To correct, submit the full tenant file*.
III. If unit is occupied by a nonqualified household on a month-to-month lease	<p>To correct, perform all of the following:</p> <ol style="list-style-type: none"> <li>1. Follow your normal procedures for terminating residency and provide a copy of documentation to TDHCA.**</li> <li>2. Afterward, once the unit becomes available, occupy the unit by a qualified household, and submit the full new tenant file within 30 days of occupancy*. Receipt of the full tenant file after November 12, 2024 is acceptable for this circumstance provided that Requirement 1 above is fulfilled by that deadline.</li> </ol>
IV. If unit is occupied by a nonqualified household with a non-expired lease	<p>To correct, perform all of the following:</p> <ol style="list-style-type: none"> <li>1. Issue a nonrenewal notice** to tenant and provide a copy to TDHCA, along with a letter committing to occupying the unit with a new qualified household and submitting a full tenant file* as soon as the unit becomes available. If the tenant is protected by another program such as Section 8 or USDA-RD and the property cannot issue a nonrenewal notice as a result, submit a letter stating which program protects the household and committing to occupying the unit with a new qualified household and submitting a full tenant file* as soon as the unit becomes available; and</li> <li>2. Afterward, once the unit becomes available, occupy the unit by a qualified household, and submit the full new tenant file within 30 days of occupancy*. Receipt of the full tenant file after November 12, 2024 is acceptable for this circumstance provided that Requirement 1 above is fulfilled by that deadline.</li> </ol>

<p>V. If unit has been vacant <i>more than 30</i> days</p>	<p>To correct, perform all of the following:</p> <ol style="list-style-type: none"> <li>1. Unit must be made ready for occupancy and a letter certifying to that effect must be submitted to TDHCA by November 12, 2024; and</li> <li>2. Occupy the unit by a qualified household, and submit the full new tenant file within 30 days of occupancy*. Receipt of the full tenant file after November 12, 2024 is acceptable for this circumstance provided that Requirement 1 above is fulfilled by that deadline.</li> </ol>
<p>VI. If unit has been vacant <i>less than 30</i> days</p>	<p>To correct, perform all of the following:</p> <ol style="list-style-type: none"> <li>1. If unit is ready for occupancy, a letter certifying to that effect must be submitted to TDHCA; and</li> <li>2. If unit is not ready for occupancy, submit a letter to TDHCA including details regarding work that is incomplete and when the unit will be ready for occupancy (no more than 30 days from the date of vacancy); and</li> <li>3. Occupy the unit by a qualified household, and submit the full new tenant file within 30 days of occupancy*. Receipt of the full tenant file after November 12, 2024 is acceptable for this circumstance provided that Requirements 1 and 2 above are fulfilled by the that deadline.</li> </ol>

*\*A full tenant file must include all of the following:*

- A. Tenant application;*
- B. Verifications of all sources of income and assets;*
- C. Tenant income certification form;*
- D. Lease and lease addendum;*
- E. Tenant Rights and Resources Guide Acknowledgment; and*
- F. A copy of the tenant selection criteria under which the household was screened.*

*Remember that items A-C above must all be dated within 120 days of one another.*

*\*\* If a notice of nonrenewal or notice of termination is sent to tenant, ensure that it complies with requirements of the rule at 10 TAC §10.802(g)*

## Exhibit 2

### Tenant File Guidelines

The following technical support does not represent a complete list of all file requirements and is intended only as basic technical support. TDHCA staff recommends that all onsite staff responsible for accepting and processing applications sign up for Income Determination Training in order to get a full overview of the process. Forms discussed below are available at: <https://www.tdhca.texas.gov/compliance-forms>.

A suggested tenant file checklist is available at this link: <https://www.tdhca.texas.gov/sites/default/files/pmcdocs/Suggested-File-Checklist.docx>.

*\*Important Note\* The application, verifications of income and assets, and Tenant Income Certification (1 – 5 below) must be signed within 120 days of one another. If one component is outside of that time frame, you must recertify.*

1. **Intake Application:** Each adult household member must complete their own application in order to be properly screened at initial certification. A married couple can complete a joint application. The Department does not have a required form to screen households, but we make a sample form available for that purpose. All households must be screened for household composition, income and assets, and student status. Applicants must complete all blanks on the application and answer all questions. Any lines left intentionally blank should be marked with “none” or “n/a.” Applications must be signed and dated using the date that the form is actually completed. If you use the Texas Apartment Association (TAA) Rental Application, be aware that it does not include all requirements, but they have a “Supplemental Rental Application for Units Under Government Regulated Affordable Housing Programs” that includes the additional requirements. TDHCA also has an application form that you can use; using our form is not required for the application, but it does screen for all requirements.
2. **Release and Consent:** Have tenant sign TDHCA’s Release and Consent form so that verifications may be collected by the property.
3. **Verify Income:** Each source of income and asset must be documented for every adult household member based upon the information disclosed on the application. There are multiple methods:
  - a. **Income Verification for Households with Section 8 Certificates:** If you use this form, you do not need to verify income further, but you do need to collect all other components of the tenant file. The Public Housing Authority, verifying that the household is eligible at initial occupancy or at recertification, signs this form. Since the housing authority performed the necessary verifications. The form must include the following information: a certification date from the housing authority that is within 120 days of that effective date, either at initial move-in or at recertification, number of household members and the gross annual income before any adjustments. This form must also be dated within 120 days of the application and Income Certification that you collect. If the housing authority certification is outside of that period, you must verify income yourself. A housing authority may not use this form to verify income for a property in which they hold an ownership interest.
  - b. **First hand verifications:** Paystubs or payroll printouts that show gross income. If you choose this method, ensure that you consistently collect a specified number of

consecutive check stubs as defined in your management plan (*at least two months' (60 days) worth of check stubs for MFDL<sup>2</sup> programs is required*);

- c. **Employment Verification Form:** Part 1 must be completed by you and signed by the tenant. Part 2 must be completed by the employer. To prevent fraud, you must submit the form directly to the employer and must not allow the tenant to handle it. You should ensure that the person completing the employer portion has authority to do so and has access to all applicable information in order to verify the employment income. If you receive the verification via mail, retain the envelope. If you receive it via fax, ensure that the fax stamp is on it. If received by email, ensure the email address is was received from is evidenced and from the employer;
  - d. **Verification of non-employment income:** You must obtain verifications for all other income sources, such as child support, social security, and/or unemployment benefits. Self-certification by the household is not acceptable. Examples: benefit verification letter(s) are acceptable for social security and/or unemployment benefits. Acceptable verifications for child support could include documents such as divorce decree(s), court order(s), or a written statement from the court or attorney general regarding the monthly awarded amount;
  - e. **Telephone Verifications:** These are acceptable *only* for clarifying discrepancies and cannot be used as primary form of verification. Include your name, the date, the name of the person with whom you spoke, and your signature. These are appropriate if there is an unusual circumstance relating to the tenant file;
  - f. **Certification of Zero Income:** If an adult household member does not report any sources of income on the application, this form can be used to document thorough screening and to document the source of funds used to pay for rent, utilities, and/or other necessities.
4. **Verify Assets:** Regardless of their balances, applicants must report all assets, including assets such as checking or savings accounts. Accounts are typically disclosed on the application form, but you must review all documentation from the tenant to ensure proper documentation of the household's income and assets. For instance, review the credit report (if you pull one), application, pay stubs, and other documents to ensure that all information is consistent. Examples of ways to find assets that are frequently overlooked: Review pay stubs for assets such as checking and retirement accounts that the household may have forgotten to include in the application. These accounts must also be verified. Format of verifications:
- a. **Under \$50,000 Asset Certification Form (HTC, Exchange, TCAP, THTF only):** If the total cash value of the assets owned by members of the household is less than \$50,000, as reported on the Intake Application, the TDHCA Under \$50,000 Asset Certification form may be used to verify assets. If applicable, follow the instructions to complete one form per household that includes everyone's assets, even minors, and have all adults sign and date using the date that the form is actually completed.
  - b. **First hand verifications**, such as bank statements to verify a checking account. If using this method, the most current statement will be needed for both checking and savings accounts. MFDL programs require two months of source documentation.
  - c. **3<sup>rd</sup> party verifications** using the TDHCA Asset Verification form. As with the "Employment Verification Form" discussed above, Part 1 must be completed

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<sup>2</sup> *Multifamily Direct Loan Programs include HOME, National Housing Trust Fund, TCAP, TCAP RF, and NSP.*

by you and signed by the tenant. Part 2 must be completed by the financial institution. To prevent fraud, you must submit the form directly to the employer and must not allow the tenant to handle it. You should ensure that the person completing the financial institution's portion has authority to do so and has access to all applicable information in order to verify the asset(s). If you receive the verification via mail, retain the envelope. If you receive it via fax, ensure that the fax stamp is on it, If received by email, ensure the email address it was received from is evidenced and from the financial institution.

- d. *Note: HOME, National Housing Trust Fund, TCAP, TCAP RF, NSP, and Bond developments must fully verify assets at initial occupancy, using method b or c above.*
5. **Verify Student Status:** Must screen for student status; can be collected on the Annual Eligibility Certification, the Certification of Student Eligibility Form, or the income Certification Form. If the household indicates they are students, there are two forms that *must* be used: the Certification of Student Eligibility form must be completed by the household, and the Student Verification form is used to verify and document their student status.
  - a. With the changes from HOTMA, student income from financial assistance must be evaluated for inclusion/exclusion. A detailed training on this topic is available online: <https://www.tdhca.texas.gov/compliance-program-training-presentations>.
6. **Verify Special Needs:** This form is generally optional, but is a great way to screen households for special needs. It is required if there is a Special Needs occupancy requirement under your LURA, unless there is another form of special needs verification in the file.
7. **Tenant Income Certification Form:** Upon verification of all income and asset sources disclosed on the application and any additional information found in the documentation submitted by the tenant, the next step is to annualize the sources on the Income Certification Form, add them together, and compare to the applicable income limit for household size which can be found at <https://www.tdhca.texas.gov/income-and-rent-limits>. Be sure to include any income derived from assets. The form must include all household members, and be signed by each adult household member.
8. **Lease:** Must conform with your LURA and TDHCA requirements and indicate a rent below the maximum rent limits, which can be found at <https://www.tdhca.texas.gov/income-and-rent-limits>. Generally speaking, when determining the rent for MFDL programs, you must ensure that the tenant-paid rent, plus the utility allowance, plus any housing subsidies, plus any mandatory fees, are below the maximum limit set by TDHCA. For HTC, BOND, TCEP and TCAP programs, the tenant-paid rent, plus the utility allowance, plus any mandatory fees, must be below the maximum limit set by TDHCA. [10 TAC §10.613\(a\)](#) prohibits the eviction or termination of tenancy of low income households for reasons other than good cause throughout the affordability period in accordance with Revenue Ruling 2004-82. In addition, [10 TAC §10.613\(e\)](#) prohibits HTC developments from locking out or threatening to lock out any development resident, or seizing or threatening to seize personal property of a resident, except by judicial process, for purposes of performing necessary repairs or construction work, or in case of emergency. The prohibitions must be included in the lease or lease addendum. Additionally, certain programs must include a Lead Warning Statement and the TDHCA VAWA lease addendum, per [10 TAC 10.613\(f\) and \(h\)](#). TAA has an affordable housing lease addendum that has incorporated this required language. If you are not a TAA member, you can draft a lease addendum using the requirements outlined above. For Section 811 units, you must use the HUD Model Lease, HUD form 92236-PRA.



9. **Written Policies and Procedures / Tenant Selection Criteria:** Written policies and procedures requirements are at [10 TAC §10.802](#).
10. **Violence Against Women Act of 2013 (VAWA):** The property is required to provide all prospective tenants the VAWA forms 5380 and 5382 at the time of application, at the time they are approved, at the time of denial, and at the time the household is given a notice to vacate or non-renewal. Forms are available at the Forms link above.
11. **Tenant Rights and Resources Guide:** In accordance with [10 TAC §10.613\(l\)](#), you must customize the Guide for your property and post a laminated copy in a common area of the leasing office. Development must also provide a copy of the guide to each household during the application process and upon any subsequent changes to the items described at paragraph b) below. The guide includes:
  - a. Information about Fair Housing and tenant choice; and
  - b. Information regarding common amenities, unit amenities, and services.

Additionally, a representative of each household must receive a copy of the guide and sign an acknowledgment of receipt of the brochure prior to, but no more than 120 days prior to, the initial lease execution date. A copy of the signed acknowledgment must be maintained in the tenant file.