

Memorandum

Date: November 11, 2025

To: Bobby Wilkinson, Executive Director
Texas Department of Housing and Community Affairs

From: Cynthia L. Bast

Subject: Final Order of Debarment for Evan J. Hunden, David B. Ratliff, and Michael Volz

Introduction and Request

On November 7, 2024, TDHCA signed a Final Order of Debarment (the “**Order**”) for Evan J. Hunden, David B. Ratliff, and Michael Volz (the “**Principals**”), each of which is a principal of the DevCo Residential Group (“**DevCo**”). The Order called for a two-year debarment, ending November 7, 2026, provided that the debarment could be terminated early as follows:

“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.”

A copy of the Order is attached for your reference at Exhibit A.

As counsel to DevCo, we hereby request that the debarment imposed on each of the Principals be terminated effective as of November 7, 2025.

Background Information -- Debarment

In the last year, TDHCA’s Board has seen a record number of recommendations for debarment. Each time staff recommended debarment, the recommendation was almost always accompanied by a statement that debarment was not a punishment but, rather, an opportunity for the owner to regroup to ensure it could maintain compliance going forward. In response, the owner tried to explain that a debarment is more than a “time out.” The implications of a debarment could

affect a person's ability to do business for more than just a stated period of time and in more locations than just Texas. Hearing this testimony, at the March 6, 2025 Board meeting, Chair Vasquez stated "I'm open for this having a interim, a suspension versus debarment, but y'all can work on that and come with recommendations."¹

In response to the statement from Chair Vasquez, we submitted a memorandum on behalf of the Principals, describing the practical effect the debarment Order had imposed on DevCo. A copy of our memorandum is attached as Exhibit B (the "**Memo**"). Other parties engaged with TDHCA as well, and TDHCA ultimately adopted a change to its rules, allowing the remedy of a Voluntary Nonparticipation Agreement as an alternative to debarment.

Background Information – The Principals and DevCo

In business since 1995, DevCo develops newly constructed affordable housing communities and acquires aging properties, investing significantly in renovations to preserve long-term affordability. It currently owns approximately 12,000 units across the country. When DevCo acquires a property that is seriously struggling, the developer takes a risk that is far more unpredictable than the risk associated with a new construction property. DevCo and TDHCA are aligned in the commitment to ensure that troubled properties are brought into compliance and offering quality affordable housing to the residents. The Principals offered testimony, at the November 2024 Board meeting, highlighting the millions of dollars that had been recently invested in their Texas portfolio. However, when a property is particularly troubled, the time required to correct the conditions and fund the improvements may not align with TDHCA's corrective action periods. The State of Texas should not discourage companies like DevCo from acquiring properties like these, particularly if the alternative is for them to continue to deteriorate.

Although necessary corrections were underway or completed at the time the Order was signed in 2024 and the physical inspection score for Rosemont at Meadow Lane had already increased from 47 to 75.28, DevCo reinforced its commitment to TDHCA by engaging Novogradac & Co. to provide additional compliance support for its Texas portfolio. A copy of that engagement is attached as Exhibit C. Since the Order, DevCo has continued to show a strong compliance record. In the past year, two properties have completed physical inspections and one property had its final development inspection; all received their close out letters, indicating that documentation for corrective action was submitted timely and resolved all issues identified. Two properties were the subject of a resident complaint, with DevCo responding immediately and TDHCA finding no violations. One property had a file inspection on September 24 with no findings of non-compliance. Two more properties had both final development and NSPIRE inspections completed at the end of October. Responses to all 24-hour findings were submitted on time following the NSPIRE inspections. The final results from all four inspections are pending.

¹ See TDHCA Board Transcript, lines 2916-2919 from March 6, 2025.

In short, DevCo has remained in compliance for the last year and, more importantly, it has made meaningful improvements to its actively monitored portfolio, as shown on Exhibit D. This exhibit provides thorough and current information about DevCo's actively monitored portfolio, including nine properties, seven of which have been through LIHTC resyndication and two of which have not. ***In addition to the capital investments described in Exhibit D, DevCo has funded \$7,779,000 of its own funds for operational expenses on this portfolio from January through November 2025.***

Impact of Debarment

The impact of this debarment on DevCo has been profound. As described in more detail in the Memo:

- Five transactions in other states, in which they had invested approximately \$11 million, were unable to proceed.
- Employees lost their jobs because the business could not sustain them.

Moreover, even when the debarment is lifted, DevCo's ability to seek funding in other states where it does business will continue to be impaired:

- Missouri – DevCo may be subject to ineligibility for up to 5 total years because of the debarment in Texas.
- Georgia and Utah – DevCo may be subject to ineligibility for up to 10 total years because of the debarment in Texas.
- North Dakota, South Dakota and Oregon – DevCo may be subject to disqualification at any time in the future because of the debarment in Texas.

Request for Relief

Without diminishing DevCo's commitment to compliance, the Principals continue to believe that the punishment of debarment never fit the facts of this situation, and was not commensurate with the staff's statement: "The point of debarment is to make sure that they are regrouping, making sure they're in control and managing their properties well." On the day the Order was approved, following public testimony as to the nature of the violations and investments DevCo was making to restore Rosemont at Meadow Lane, Chair Vasquez noted, "If they are indeed investing the funds to fix everything, I could be persuaded to not do an immediate debarment."² Just a few months after the Order was issued, the Board requested the staff to create alternatives to debarment and staff originated the concept of voluntary non-participation. This alternative

² TDHCA Board Meeting Transcript, November 7, 2024, Page 74.

was immediately applied to a pending debarment recommendation. In short, the remedy of debarment has evolved in this last year. DevCo's story was part of this evolution and, had there been another remedial alternative at the time, the result very well could have been different.

For all these reasons, we respectfully request that the Order debarring the Principals be terminated, effective November 7, 2025, and further that the Board ask the staff to convert the record of debarment to a record of voluntary non-participation, to mitigate the long-lasting impact DevCo will otherwise face, due to the debarment. To the extent TDHCA rules are viewed as presenting an impediment to this relief, we ask you to direct the staff to modify the rules, as done earlier this year, when the Board felt that the rules needed to evolve to provide the Board with more tools and remedies to achieve the Department's compliance goals.

Thank you very much, and if you need additional information, please feel free to contact us or the owner.

Exhibit A – Debarment Order

Exhibit B – Memorandum from BakerHostetler

Exhibit C – Engagement of Novogradac & Co.

Exhibit D – Detailed Compliance Information

EXHIBIT A

Debarment Order

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

Page 1 of 5

#	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.

[remainder of page intentionally blank]

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 §
§
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 §
§
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

EXHIBIT B

Memorandum from BakerHostetler

BakerHostetler

Memorandum

Date: August 26, 2025

To: Bobby Wilkinson, Executive Director
Texas Department of Housing and Community Affairs

From: Cynthia L. Bast

Subject: Debarment Issues and Recommendations

Introduction

In recent months, TDHCA's Board has reviewed multiple recommendations for debarment of Responsible Parties¹. In each instance, staff's recommendation has been accompanied by a statement that debarment is not a punishment. Rather, its purpose is to give Responsible Parties the opportunity to address their internal affairs to improve their ability to comply with TDHCA's requirements.² However, the practical reality of debarment is that it is not only a punishment, but a consequence so devastating that it can put a Responsible Party out of business. At the March 6, 2025 Board meeting, I requested that TDHCA review its debarment policies and consider alternatives for appropriate circumstances. Chair Vasquez responded "I'm open for this having a interim, a suspension versus debarment, but y'all can work on that and come with recommendations."³ The purpose of this memorandum is to relay ideas to start that process.

Statutory Requirements

Debarment

Section 2306.0504 of the Texas Government Code (the "Code") states:

Sec. 2306.0504. DEBARMENT FROM PROGRAM PARTICIPATION. (a) The department shall develop, and the board by rule shall adopt, a policy providing for the debarment of a person from participation in programs administered by the department.

¹ Capitalized terms used but not defined in this memo shall have the meanings given them in the Texas Administrative Code.

² See TDHCA Board Transcript, lines 167-171 from December 12, 2024; TDHCA Board Action Request Agenda Item #20 from January 16, 2025; and TDHCA Board Transcript, lines 2774-2779 from March 6, 2025.

³ See TDHCA Board Transcript, lines 2916-2919 from March 6, 2025.

133946.000001\4933-2663-7138.3

(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.

(c) The department shall debar a person from participation in a department program if the person:

(1) materially or repeatedly violates any condition imposed by the department in connection with the administration of a department program, including a material or repeated violation of a land use restriction agreement regarding a development supported with a housing tax credit allocation; or

(2) is debarred from participation in federal housing programs by the United States Department of Housing and Urban Development.

(d) A person debarred by the department from participation in a department program may appeal the person's debarment to the board.

The use of the words "shall" and "may" is instructive as to the Legislature's mandate for the Department. Subchapter J of the Code prohibits the Department from making a loan to a housing sponsor that is on the Department's debarred list⁴. Subchapter DD of the Code related to the Housing Tax Credit program requires the Department to monitor the compliance of Developments with respect to their programmatic conditions and to consider recurring violations of a condition or law when administering the Department's debarment policy.⁵

Compliance Monitoring and Enforcement

In addition to the requirement for a debarment policy, the Code generally requires the Department to monitor compliance with applicable laws and agreements. The Code gives the Department broad power to enforce compliance:

Sec. 2306.267. COMPLIANCE WITH APPLICABLE LAWS, RULES, AND CONTRACT TERMS. The department may order a housing sponsor to perform or refrain from performing certain acts in order to comply with the law, department rules, or terms of a contract or agreement to which the housing sponsor is a party.

The Department's authority includes the ability to assess a financial administrative penalty for non-compliance.⁶

Specifically for the Housing Tax Credit program, the Department is required to monitor compliance with conditions imposed in connection with the allocation of Housing Tax Credits, in addition to appropriate state and federal law.⁷

⁴ Code Section 2306.223(4)(A).

⁵ Code Section 2306.6719.(f)(2).

⁶ Code Sections 2306.041 and 2306.042.

⁷ Code Section 2306.6719(a).

Previous Participation

Connected to the compliance monitoring function is the previous participation function, by which the Department must assess compliance matters in connection with every application and award made by the Board.⁸

The Department's Current Rules for Compliance Monitoring and Enforcement

Enforcement

In 2021, the Department significantly revised its enforcement rules with regard to administrative penalties and debarment. Section 2.104 states that the Department's enforcement mechanisms include but are not limited to implementation of a corrective plan, issuance of a warning letter, a financial administrative penalty, and debarment. When a matter is referred to the Enforcement Committee, Section 2.302(f) provides a list of potential recommendations, including corrective action, assessment of a financial administrative penalty, and "other action as the Committee deems appropriate,"⁹ which can be implemented through an Agreed Order.

Previous Participation

The rules promulgated for the Department's previous participation function allow it to impose meaningful requirements for a Responsible Party to improve its performance or prohibit the Responsible Party from participating in new awards, because there is not sufficient confidence in a Responsible Party's ability to perform.¹⁰ A Responsible Party can be required to take certain actions intended to improve its compliance functions, such as changing internal procedures or attending training programs. It can also be prohibited from obtaining Department assistance in the form of funding or ownership transfer.

Debarment as an Enforcement Action

Debarment Rule

Implementing Section 2306.0504 of the Code, the Department's debarment rule distinguishes between conditions for which the Department may debar a participant,¹¹ and conditions for which the Department shall issue debarment, with the latter being (1) material or repeated violations,¹² and (2) debarment by HUD.¹³ Section 2.401(a) starts with a list of 30 infractions for which a party may be referred for debarment. Section 2.401(b) implements Code Section 2306.0504(c)(2), requiring debarment when a party has been debarred by the United States Government.¹⁴ Sections 2.401(c)-(e) implement Code Section 2306.0504(c)(1), to define "material or repeated" violations that require debarment.

An analysis of the debarment rule generates observations that may help the Department clarify both substance and process:

⁸ Code Section 2306.057.

⁹ 10 TAC § 2.302(f)(6).

¹⁰ 10 TAC § 1.303.

¹¹ Code Section 2306.0504(b).

¹² Code Section 2306.0504(c)(1).

¹³ Code Section 2306.0504(c)(2).

¹⁴ Note the rule is more extensive than the Code, which only refers to debarment by HUD.

- In the list of items for which a participant may be debarred in Section 2.401(a), many items hinge on the verbs “refusing” and “failing.” Refusing implies an intent to violate or disregard a rule. Failing connotes a circumstance that may or may not be intended or within the party’s control. The severity of these two actions is different, and the Department should carefully consider the verbs that are utilized in this list in light of the outcomes they are trying to achieve.
- Also in Section 2.401(a), some items refer to “failure” while other items refer to “repeated failure.” This distinction should also be noted. The Code imposes mandatory debarment for “material or repeated” violations. Using the word “repeated” in Section 2.401(a) could imply that the item listed requires debarment. This may not be the Department’s intent and should be reviewed carefully for consistency with Sections 2.401(d)-(f). If some of the items referring to “repeated failure” are not intended for mandatory debarment and could be considered for a different level of enforcement, they should be revised accordingly.
- Section 2.401(d) regarding “material” violations is clear that the infractions require mandatory debarment.
- However, Section 2.401(e) regarding “repeated” violations is less clear. Like Section 2.401(d), Section 2.401(e) should unambiguously identify which repeated violations require mandatory debarment. It does not do so. The violations in subsection (1) specifically reference mandatory debarment. However, subsection (2) refers to violations for which a party “will be considered” for debarment without identifying whether it is a mandatory debarment.
- The purpose of the debarment rule is to implement Code Section 2306.0504 with both substance and process. From a substance standpoint, the rule needs to clearly (1) identify the kinds of violations that can be recommended for debarment and (2) establish the meaning of “material or repeated.” From a process standpoint, the rule should clearly (1) describe how the debarment process moves through the Enforcement Committee, Executive Director and Board and (2) distinguish between debarment actions that are mandatory and discretionary.

As the Department considers revision to its debarment rule, we hope these notations are helpful to identifying areas for change that may make the administration of the rule easier.

Current Debarments

The chart below identifies all current debarments posted on the Department’s website and has been organized loosely by violation type.

TDHCA Board Meeting Date	Violation(s)	Debarment Term (from date of Board Meeting)	Is Debarment Mandatory Under the 2021 Rule?
February 2016	Physical violations – property scored 50 or less on 2 consecutive UPCS inspections	20 years	N/A
May 2017	Physical violations – scored 50 or less on 2 consecutive UPCS inspections	10 years	N/A
December 2023	Physical violations – scored 50 or less on 2 consecutive UPCS inspections	5 years	Yes

TDHCA Board Meeting Date	Violation(s)	Debarment Term (from date of Board Meeting)	Is Debarment Mandatory Under the 2021 Rule?
December 2023	Physical violations – scored 50 or less on 2 consecutive UPCS inspections	5 years, can terminate after 2	Yes
December 2018	Owner refused to allow TDHCA access for monitoring	15 years	N/A
July 2023	Owner refused to allow TDHCA access for file and physical inspections; Owner misrepresented that noncompliance had been corrected	10 years, can terminate after 5	Yes
January 2017	Failure to repay disallowed costs of approximately \$73,000 under HOME program	10 years	N/A
December 2024	Foreclosure on one property	3 years	No
January 2025	Foreclosure on three properties	10 years	No
March 2025	Foreclosure on two properties	3 years, 9 months	No
October 2024	Failed to correct non-compliance within 6 months of agreed order; one over-income unit	10 years	No
November 2024	Exceeded 50% threshold; 4 of 7 properties were referred for administrative penalties during a 3-year period	2 years, can terminate after 1	No

Concerns about Debarment

When debarment has been considered at recent Board meetings, public testimony has indicated that debarment results in more than a Responsible Party just sitting on the sidelines in Texas. It impacts the Responsible Party's ability to work across the country, both during and after the debarment period. For example:

- The Minnesota QAP prohibits an award for any party that is currently debarred by any state housing program.
- The Montana QAP prohibits an award for any party that is prohibited from applying for an award in any other state due to disciplinary reasons.
- In New Mexico, an applicant that is not in good standing with another state housing agency may be rejected from receiving an award.

- In Missouri, an applicant is subject to suspension or debarment during the time it is debarred by any other state agency and for five years thereafter.
- Georgia and Utah may declare an applicant ineligible if it has been debarred by another state agency any time in the last ten years.
- North Dakota and South Dakota disqualify an applicant that has been debarred by another state agency at any time.
- Oregon may disqualify an applicant that has been debarred by another state agency at any time.

Quite simply, the use of the word “debar” can prevent a Responsible Party from doing business in perpetuity. It should be used only in the most extreme circumstances where the State of Texas has good cause for wanting a violator to be removed from its programs entirely.

Practical Example

When the Department issued a debarment penalty for Evan J. Hunden, David B. Ratliff, and Michael Volz in November 2024, their company, DevCo, had three projects in various stages of development and application in Arizona. It had expended more than \$9.5 million on hard acquisition and predevelopment costs. On December 31, 2024, the Arizona Department of Housing disqualified DevCo from making tax credit applications on December 31, 2024.

This same group had received an allocation of private activity bonds in Minnesota and paid a good faith deposit in the amount of \$801,000 in January 2025. Because of the Texas debarment, they were subsequently considered ineligible in Minnesota and lost one-half of the good faith deposit, along with hard predevelopment costs of \$673,000, for a total of \$1,073,500.

Another project in Minnesota was pending at the top of the priority list for private activity bonds with a sub-allocator in February 2025. In Minnesota, a sub-allocator can deviate from the Minnesota QAP, so DevCo requested accommodations to move forward with the transaction. The request was denied, and DevCo lost approximately \$461,000 of predevelopment costs for this development.

Beyond the economic consequences to the company itself, its employees have been impacted by a reduction in force, implemented in January. As described above, the debarment had an immediate adverse impact on DevCo’s ability to pursue its pipeline of transactions in multiple markets outside of Texas. While the debarment is in place, DevCo is unable to grow its business at the pace it anticipated when these employees were hired. Development and construction staff, along with support services for those functions, were all affected.

At the November 2024 Board meeting, staff said “The point of debarment is to make sure that they are regrouping, making sure they’re in control and managing their properties well. And so they felt like a two-year period was enough time for them to kind of regroup, get their affairs in order before they would be allowed to apply for additional funds with the Department.”¹⁵

¹⁵ TDHCA Board Meeting Transcript, November 7, 2024, Page 40.

Following public testimony as to the nature of the violations and investments DevCo was making to restore the property, Chair Vasquez noted, "If they are indeed investing the funds to fix everything, I could be persuaded to not do an immediate debarment."¹⁶

Proposal for Change

The Code gives the Department sufficient flexibility to implement an enforcement mechanism less onerous than debarment, while still meeting the goal of giving Responsible Parties the time to regroup without permanently affecting the business or its principals. The word "debar" carries an unparalleled stain. With that in mind, we recommend the following:

Rule Revision

As noted above, the Department's Board has expressed an interest in implementing a category of enforcement that allows an owner to address deficiencies without the punitive moniker of "debarment." 10 TAC § 2.104(b) provides the following:

(b) Enforcement mechanisms available to the Department include but are not limited to:

- (1) Enforcement of contractual provisions in the Program Agreements including, but not limited to, options to place a Development into receivership, and rights of suspension or termination, and placement on a cost reimbursement status as described in Subchapter B of this chapter (relating to Enforcement for Noncompliance with Program Requirements of Chapters 6 and 7);
- (2) Consideration of a reasonable plan for correction, warning letter, informal conference, and assessment of administrative penalties, as further described in Subchapter C of this chapter (relating to Administrative Penalties); or
- (3) Debarment, as described in Subchapter D of this chapter (relating to Debarment from Participation in Programs Administered by the Department).

The mechanisms in subsection (2) for Corrective Action, a warning letter, or financial administrative penalties all work through the Department's Enforcement Committee and can be implemented through an Agreed Order. What subsection (2) does not currently contemplate is a voluntary abstention period in which a person commits to refrain from receiving new funding awards or acquiring new properties. This concept could be added to 10 TAC § 2.104(b) and carried through both 10 TAC § 2.302 (with regard to administrative penalties) and 10 TAC Part 1, Chapter 1, Subchapter C (with regard to previous participation). It could be used in concert with other enforcement mechanisms, including a plan for corrections or payment of financial penalties, and memorialized with an Agreed Order.

With this proposal, debarment could be reserved for the extreme or egregious circumstances. Combined with revisions to clarify the debarment rule, the Department would have a flexible tool kit to implement more effective and compatible enforcement mechanisms.

¹⁶ TDHCA Board Meeting Transcript, November 7, 2024, Page 74.

Review Current Debarments

The Department should review current debarment orders and determine whether any of them would be better-suited for the newly created enforcement category, converting the debarment to a voluntary abstention either standing alone or combined with other penalties. Further, the Department should consider expunging any debarments that may have been overly punitive for the circumstances presented to clear the public records for the party's future business operations.

Conclusion

We hope the Department will review the consequences of debarment and seriously consider other mechanisms to achieve compliance. From time to time, owners do need to revisit their internal systems and adjust their paths. Allowing for this without the burden of debarment is more likely to achieve the desired outcome of long-term compliance, which is in the best interest of the State and its affordable housing residents. We are prepared to participate in a round table and rulemaking process to implement this much-needed change.

EXHIBIT C

Engagement of Novogradac & Co.

Docusign Envelope ID: 02BF823A-B61D-4245-92D2-C19671BC728A



Statement of Work:

This Statement of Work ("SOW") dated **February 5, 2025** ("Statement of Work Effective Date"), is entered into by and between DevCo Management Company, LLC ("Client") and Novogradac & Company LLP ("Novogradac") pursuant to the terms and conditions of those parties' consulting services Engagement Letter dated October 28, 2024. Unless otherwise expressly provided in this a SOW, all terms of the Engagement Letter shall govern the Parties' relationship.

The following services will be performed under this SOW and are intended to provide oversight of the below portfolio with the Texas Department of Housing and Community Affairs ("TDHCA") to ensure ongoing compliance to avoid additional events of noncompliance that would result in an referral under the Texas Administrative Code, Title 10, Part 1, Chapter 2 related to enforcement, administrative penalties and debarment that would impact a future Previous Participation Review ("PPR") under Texas Administrative Code, Title 10, Part 1, Chapter 1, Subchapter C.

CMTS ID	Development Name
4160	Brookside Gardens
4429	Costa Almadena
4036	Park at Humble
3399	Rosemont at Ash Creek
3421	Rosemont at Meadow Lane
3279	Rosemont of Lancaster
4080	The Mondello
4184	The Positano
3353	Tigoni Villas

1. TDHCA communicates notifications using the Compliance Monitoring and Tracking System (CMTS). A distribution email has been created and added to CMTS as the management company email contact. A Novogradac representative will be included in that distribution email so that we receive notifications from CMTS related to a tenant file review or physical inspection (the "inspection").
2. Support to ensure that deadlines are met will be tracked is thru a Smartsheet where the following types of communication will be associated in each phase:
 - Phase 1: Pre-onsite Documentation Request:
 - The notice of inspection will be added to the Smartsheet, and a notice will be sent to you thru the system with details on specifics that are needed to complete the request.
 - An automatic reminder will be sent out thru the Smartsheet on the date due to TDHCA
 - Phase 2: Inspection Letter:
 - The Inspection Letter will be added to the Smartsheet, and a notice will be sent to you thru the system with details on corrective action needed to address the noncompliance. A deadline of the 60th day of the 90-day correction period will be provided to allow time for Novogradac staff to review, prepare and submit the corrective action response to THDCA.

CERTIFIED PUBLIC ACCOUNTANTS ♦ WWW.NOVOCO.COM

Michale Volz
February 5, 2025
Page 2 of 2

- The following automatic reminders will be sent out thru the Smartsheet:
 - 1) 30-day reminder of the deadline;
 - 2) 60-day reminder of the deadline; and,
 - 3) 90-day reminder of the end of the corrective action period and the final due date to TDHCA.
- Phase 3: Close Out Letter:
 - The Close Out Letter will be added to the Smartsheet. The review will be considered closed if no further action is needed. If additional action is needed, a notice will be sent to you thru the system with details on documentation needed to address the events that remain outstanding. In general, TDHCA will only provide a 10-day notice to cure once for these types of events.
 - An automatic reminder will be sent out thru the Smartsheet on the date due to TDHCA.

As described in the Engagement Letter, our fees for the services will be based on time incurred at our then-current hourly rates.

By the signatures of their duly authorized representatives below, Client and Novogradac, intending to be legally bound, agree to all of the provisions of the Engagement Letter and this Statement of Work.

AGREED TO AND ACKNOWLEDGED BY:

Novogradac & Company LLP

Thomas Stagg
Thomas Stagg (Feb 7, 2025 09:14 PST)

Signature
Thomas Stagg

Name: (Print)
Partner

Title:
02/07/2025

Date:

DevCo Management Company, LLC

DocuSigned by:
MICHAEL VOLZ
YAS3FCTD4FE846E...

Signature
MICHAEL VOLZ

Name: (Print)
Authorized
Signatory

Title:
2/6/2025

Date:

EXHIBIT D

Detailed Compliance Information

Texas Department of Housing and Community Affairs: Disciplinary Assessment

December 11th, 2025



Request to Modify Debarment:

*Notable Action Items
Since November 7, 2024*

1. Tax Credit and NSPIRE Compliance for Actively Monitored Portfolio
2. Property Management Change: Replaced Avenue5 with Asset Living
3. Building Renovations for Actively Monitored Portfolio



TDHCA Compliance Records (Nov. 2024 – Nov. 2025)

Property	CMTS No.	Inspection	Date	Results
Park at Humble	4036	Final Development Inspection	January 9-10, 2025	Documentation submitted timely resolved all noted deficiencies. TDHCA close out letter received May 16, 2025
Park at Humble	4036	Physical Inspection	January 9-10, 2025	Documentation submitted timely resolved all noted deficiencies. TDHCA close out letter received May 13, 2025
Rosemont at Meadow Lane	3421	Tenant Complaint	February 10, 2025	Response provided February 11, 2025 TDHCA finds no violation February 13, 2025
Rosemont of Lancaster	3279	Physical Inspection	February 13, 2025	Documentation submitted timely resolved all noted deficiencies. TDHCA close out letter received July 19, 2025
Tigoni Villas	3353	Tenant Complaint	April 30, 2025	Response provided May 5, 2025 TDHCA finds no violation May 15, 2025
Brookside Gardens	4160	File Inspection	September 24, 2025	TDHCA finds no violation October 10, 2025
Ash Creek	3399	Physical Inspection	October 21, 2025	Inspection report pending receipt from TDHCA. All 24 hour findings were uploaded to CMTS.
Ash Creek	3399	Final Development Inspection	October 22, 2025	Inspection report pending receipt from TDHCA.
Positano	4184	Physical Inspection	October 23, 2025	Inspection report pending receipt from TDHCA. All 24 hour findings were uploaded to CMTS.
Positano	4184	Final Development Inspection	October 24, 2025	Inspection report pending receipt from TDHCA.
The Mondello	4080	File Inspection	Scheduled December 2, 2025	TBD
Costa Almadena	4429	None in 2025	None in 2025	N/A

**Texas Department of Housing
and Community Affairs:**
Current Information on DevCo's
Actively Monitored Portfolio

ASH CREEK

280 UNITS | DALLAS, TX

ACQUISITION DATE: 12/29/2020

LIHTC RESYNDICATION

Capital Investment: \$24.58MM Hard Cost Rehabilitation Budget

Major Improvements:

- ADA Concrete Path of Travel and Ramps
- New Roof
- Flashing and Gutters
- New Kitchen and Bathroom Cabinets in 100% of Units
- New Cultured Marble Countertops in 100% of Units
- New Fiberglass Entry Doors and Door Hardware in 100% of Units
- New LFP Flooring in 100% of Units
- Bathtub Refinishing in 100% of Units
- New Condensing Units and Ceiling Mounted Air Handles in 100% of Units
- New Interior and Exterior LED Lighting and Ceiling Fans in 100% of Units
- Installation of Stealth Security Cameras

ASH CREEK PROPERTY PHOTOS



BROOKSIDE GARDENS

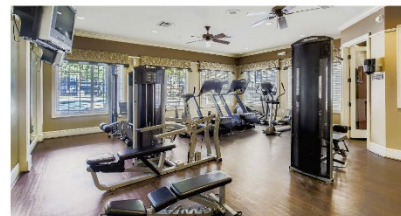
240 UNITS | HOUSTON, TX
ACQUISITION DATE: 6/21/2022
LIHTC RESYNDICATION

Capital Investment: \$13.38MM Hard Cost Rehabilitation Budget

Major Improvements:

- New Cabinets
- Roof Repairs
- Replacement of Doors
- New LVP Flooring and Carpet, Interior Unit Painting
- New Appliances
- Hot Water Heater Replacements
- HVAC Upgrades
- Path of Travel Improvements and Landscaping
- Installation of Stealth Security Cameras

BROOKSIDE GARDENS PROPERTY PHOTOS



COSTA ALMADENA

176 UNITS | SAN ANTONIO, TX

ACQUISITION DATE: 12/1/2021

LIHTC RESYNDICATION

Capital Investment: \$10.98MM Hard Cost Rehabilitation Budget

Major Improvements:

- Flooring and Appliance Replacement in Units
- Exterior Painting
- Roof Repairs and Gutter Replacement
- Exterior Lighting Upgrades
- Fencing Repairs
- Exterior Siding Replacement
- Hot Water Heater Replacement in 75% of Units
- HVAC Replacement in 50% of Units, Landscaping Enhancements
- Swimming Pool Repairs
- ADA Concrete Path of Travel and Ramps
- Retainage Wall Repairs
- Installation of Stealth Security Cameras

COSTA ALMADENA PROPERTY PHOTOS



THE MONDELLO

150 UNITS | DALLAS, TX
ACQUISITION DATE: 11/3/2021
LIHTC RESYNDICATION

Capital Investment: \$9.51MM Hard Cost Rehabilitation Budget

Major Improvements:

- 100% Window Replacement
- Flooring and Appliance Replacement in Units
- New LED Lighting and Ceiling Fans in Units
- HVAC Replacement in Units
- Landscaping Enhancements
- Roof Replacement
- Modernization of 4 Elevators
- Installation of Stealth Security Cameras

THE MONDELLO PROPERTY PHOTOS

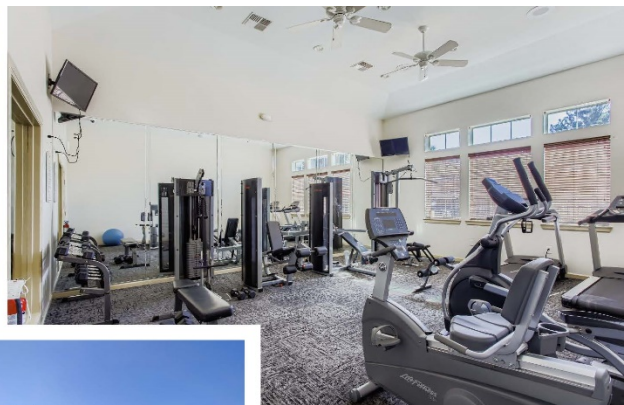


PARK AT HUMBLE
216 UNITS | HUMBLE, TX
ACQUISITION DATE: 8/2/2021
LIHTC RESYNDICATION

Capital Investment: \$12.67MM Hard Cost Rehabilitation Budget

Major Improvements:

- Flooring and Appliance Replacement in Units in 90% of Units
- Hot Water Heater Replacement in 100% of Units
- Bathtub Refinishing
- ADA Concrete Path of Travel and Parking
- Carport Repairs
- Exterior Lighting Enhancements
- Perimeter Fencing Repairs
- New Mailboxes
- Landscaping and Drainage Enhancements
- Swimming Pool Repairs
- Exterior and Leasing Office Painting
- Replacement of BBQ Grills and Picnic Tables
- Installation of Stealth Security Cameras



POSITANO

232 UNITS | DALLAS, TX

ACQUISITION DATE: 12/17/2021

LIHTC RESYNDICATION

Capital Investment: \$16.45MM Hard Cost Rehabilitation Budget

Major Improvements:

- ADA Concrete Path of Travel
- Parking Enhancements and Ramps
- Landscaping and Irrigation Repairs
- Perimeter Fencing Repairs and Concrete Enclosures
- New Roof
- Flashing and Gutters
- New Kitchen Cabinets in 75% of Units
- New Cultured Marble Countertops in 100% of Bathrooms
- New PLAM Countertops in 100% of Kitchens
- Interior Door Replacement
- New LVP Flooring in 75% of Units
- Interior Painting and Exterior Painting
- Appliance Replacement in 75% of Units
- Blind Replacement in 50% of Units
- Installation of Radon Remediation System
- New Energy Efficient Toilets and Shower Heads in 100% of Units
- New Condensing Units and Air Handlers in 75% of Units
- New Interior and Exterior LED Lighting
- Installation of Stealth Security Cameras

POSITANO PROPERTY PHOTOS



ROSEMONT LANCASTER

280 UNITS | LANCASTER, TX
ACQUISITION DATE: 12/28/2020
NO LIHTC RESYNDICATION

Capital Investment: Approximately \$2.5MM Developer Contribution

Major Improvements:

- Unit Renovations
- Roof Replacement
- Exterior Power Washing and Handrail Painting
- Landscaping Enhancements
- Swimming Pool Repairs

ROSEMONT LANCASTER PROPERTY PHOTOS



ROSEMONT MEADOW LANE

264 UNITS | DALLAS, TX

ACQUISITION DATE: 1/21/2021

NO LIHTC RESYNDICATION

Capital Investment: Approximately \$7MM Developer Contribution

Major Improvements:

- Roof Replacement
- Exterior Building Painting
- Swimming Pool Repairs
- Landscaping Enhancements and Tree Trimming
- Irrigation Repairs
- Speed Bump Replacement and Parking Lot Striping
- Perimeter Fencing Repairs and Painting
- 120+ Unit Renovations
- Replacement of HVAC Equipment and Condensers
- Window Replacement in Select Units
- Installation of Unit Water Meters
- Installation of Stealth Security Cameras

ROSEMONT MEADOW LANE PROPERTY PHOTOS



TIGONI VILLAS

140 UNITS | SAN ANTONIO, TX

ACQUISITION DATE: 1/7/2022

LIHTC RESYNDICATION

Capital Investment: \$6.61MM Hard Cost Rehabilitation Budget

Major Improvements:

- ADA Concrete Path of Travel,
- Parking Enhancements and Ramps,
- Landscaping Enhancements,
- Radon Mitigation System Installation,
- Roof Replacement,
- Exterior Entry Door and Building Painting,
- Exterior Stair Tread Replacement,
- Window Blind Replacement in Units,
- Flooring and Appliance Replacement in Units,
- New Cabinet Installation in Units,
- Door Replacement in Units,
- Hot Water Heater Replacements,
- Exterior LED Lighting,
- Installation of Stealth Security Cameras

TIGONI VILLAS PROPERTY PHOTOS

