

ENFORCEMENT ACTION AGAINST  
WESTERN BURGUNDY, LTD. WITH  
RESPECT TO WESTERN  
BURGUNDY, LTD. (HTC FILE # 97088  
/ CMTS # 1742), ET AL

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BEFORE THE  
TEXAS DEPARTMENT OF  
HOUSING AND  
COMMUNITY AFFAIRS

### **AGREED FINAL ORDER**

#### **General Remarks and official action taken:**

On this 8<sup>th</sup> day of November, 2018, 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 the following related entities (collectively, “Respondent”):

1. **WESTERN BURGUNDY, LTD.**, a Texas limited partnership, owner of Western Burgundy (HTC 97088 / CMTS 1742);
2. **LEE SENIORS, LTD.**, a Texas limited partnership, owner of Lee Seniors (HTC 98093 / CMTS 1950);
3. **HAYMON KRUPP, LP**, a Texas limited partnership, owner of Haymon Krupp (HTC 14127 / CMTS 5003);
4. **EL PASO TAYS, LP**, a Texas limited partnership, owner of Tays (HTC 14130 / CMTS 5005); and
5. **EL PASO RAD I, LTD.**, a Texas limited partnership, owner of:
  - a. Raymond Telles Manor (HTC 14419 / CMTS 5063);
  - b. Lt. Palmer Baird (HTC 14420 / CMTS 5064);
  - c. J.E. Anderson Apartments (HTC 14421 / CMTS 5066);
  - d. Everett Alvarez Apartments (HTC 14423 / CMTS 5067);
  - e. Harry S. Truman Apartments (HTC 14424 / CMTS 5068);
  - f. Dwight D. Eisenhower Memorial Apartments (HTC 14425 / CMTS 5069);
  - g. Kennedy Brothers Communities (HTC 14427 / CMTS 5071);
  - h. Aloysius A. Ochoa Apartments (HTC 14428 / CMTS 5072);
  - i. Lyndon B Johnson Memorial Apartments (HTC 14429 / CMTS 5073);
  - j. Rafael Marmolejo Jr Memorial Apartments (HTC 14430 / CMTS 5074); and
  - k. Juan Hart Memorial Apartments (HTC 14431 / CMTS 5075).

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:

- Respondent was awarded the following allocations of Low Income Housing Tax Credits by the Board, to acquire, build and/or rehabilitate, and operate fifteen multifamily apartment complexes located in El Paso County. A land use restriction agreement (“LURA”) was signed regarding each Property:

#	Property Name	Annual HTC Allocation	LURA Details	# of Units	Activity Type
1	Western Burgundy	Annual HTC allocation of \$349,498	Effective 12/1/1999. Recorded at Document No. 99094603 of the Official Public Records of Real Property of El Paso County, Texas (the “Records”), as amended by a First Amendment executed on 4/8/2013, and filed in the Records at Document No. 20130025465	64	New construction
2	Lee Seniors	Annual HTC allocation of \$74,001	Effective 12/1/1999. Recorded at Document No.99094604 of the Records, as amended by a First Amendment executed on 4/8/2013, and filed in the Records at Document No 20130025344.	19	New construction
3	Haymon Krupp	Annual HTC allocation of \$800,000	Effective 11/17/2016. Recorded at Document No. 20160091312 of the Records.	96	New construction

4	Tays	Annual HTC allocation of \$1,352,756	Effective 11/27/2017. Recorded at Document No. 20170095024 of the Records, as amended by a First Amendment, Executed on July 12, 2018, and filed in the Records at Document No. 20180055606	198	New construction
5	Raymond Telles Manor	Annual HTC allocation of \$393,686	Effective 12/27/2017. Recorded at Document No. 20170096930 of the Records	68	Acquisition / Rehabilitation
6	Lt. Palmer Baird	Annual HTC allocation of \$301,785	Effective 12/27/2017. Recorded at Document No. 20170096931 of the Records	55	Acquisition / Rehabilitation
7	J.E. Anderson Apts	Annual HTC allocation of \$320,245	Effective 12/27/2017. Recorded at Document No. 20170096927 of the Records	58	Acquisition / Rehabilitation
8	Everett Alvarez Apts	Annual HTC allocation of \$383,011	Effective 11/28/2016. Recorded at Document No. 20160091317 of the Records	96	Acquisition / Rehabilitation
9	Harry S. Truman Apts	Annual HTC allocation of \$504,234	Effective 12/27/2017. Recorded at Document No. 20170096929 of the Records	90	Acquisition / Rehabilitation
10	Dwight D. Eisenhower Memorial Apts	Annual HTC allocation of \$1,014,282	Effective 12/29/2016. Recorded at Document No. 20160091320 of the Records	194	Acquisition / Rehabilitation
11	Kennedy Brothers Communities	Annual HTC allocation of \$2,037,920	Effective 12/19/2016. Recorded at Document No. 20160091318 of the Records	364	Acquisition / Rehabilitation
12	Aloysius A. Ochoa Apts	Annual HTC allocation of \$266,331	Effective 12/1/2016. Recorded at Document No. 20160091314 of the Records	70	Acquisition / Rehabilitation
13	Lyndon B Johnson Memorial Apts	Annual HTC allocation of \$646,186	Effective 12/19/2016. Recorded at Document No. 20160091319 of the Records	126	Acquisition / Rehabilitation
14	Rafael Marmolejo Jr Memorial Apts	Annual HTC allocation of \$1,506,875	Effective 12/19/2016. Recorded at Document No. 20160091316 of the Records	292	Acquisition / Rehabilitation

15	Juan Hart Memorial Apts	Annual HTC allocation of \$257,080	Effective 11/29/2016. Recorded at Document No. 20160091313 of the Records	48	Acquisition / Rehabilitation
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2. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations<sup>1</sup>:

3. An on-site monitoring review was conducted at Western Burgundy on November 16, 2017, to determine whether it 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 LURA and TDHCA rules. Notifications of noncompliance were sent and a May 8, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.
4. An on-site monitoring review was conducted at Lee Seniors on November 16, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 8, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.
5. An on-site monitoring review was conducted at Haymon Krupp on November 30, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 22, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.

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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.

6. An on-site monitoring review was conducted at Tays on November 29, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 22, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements;
  - b. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing), which requires developments to maintain an affirmative marketing plan that meets minimum requirements and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to persons with disabilities;
  - c. Respondent failed to execute required lease provisions or exclude prohibited lease language, a violation of 10 TAC §10.613 (Lease Requirements), which requires leases to include specific language protecting tenants from eviction without good cause and prohibiting owners from taking certain actions such as locking out or seizing property, or threatening to do so, except by judicial process; and
  - d. Respondent failed to provide complete documentation that household incomes were within prescribed limits upon initial occupancy for units 4305 and 4318, 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.
7. An on-site monitoring review was conducted at Raymond Telles Manor on December 14, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.
8. An on-site monitoring review was conducted at Lt. Palmer Baird on November 30, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:

- b. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.
9. An on-site monitoring review was conducted at J.E. Anderson Apartments on December 12, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements;
  - b. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing), which requires developments to maintain an affirmative marketing plan that meets minimum requirements and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to persons with disabilities; and
  - c. Respondent failed to post a copy of the Tenant Rights and Resources Guide in a common area of the leasing office, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a common area of the leasing office and provide a copy to each household during the application process and upon any subsequent change to common amenities, unit amenities, or services.
10. An on-site monitoring review was conducted at Everet Alvarez Apartments on December 15, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.
11. An on-site monitoring review was conducted at Harry S. Truman Apartments on December 13, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:

- a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements; and
  - b. Respondent failed to post a copy of the Tenant Rights and Resources Guide in a common area of the leasing office, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a common area of the leasing office and provide a copy to each household during the application process and upon any subsequent change to common amenities, unit amenities, or services.
12. An on-site monitoring review was conducted at Dwight D. Eisenhower Memorial Apartments on November 28, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.
13. An on-site monitoring review was conducted at Kennedy Brothers Communities on November 17, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements; and
  - b. Respondent collected gross rents that exceeded income limits for unit 208113. The total gross rent totaled \$889, including tenant paid rent of \$690 plus a \$199 utility allowance, exceeding the gross rent limit of \$882. TDHCA publishes maximum rent limits for the tax credit program annually and owners are responsible for ensuring that the maximum rents that they charge include the amount of rent paid by the household, plus an allowance for utilities, plus any mandatory fees. Exceeding the maximum rent is a violation of 10 TAC §10.622 (Special Rules Regarding Rents and Rent Limit Violations).

14. An on-site monitoring review was conducted at Aloysius A. Ochoa Apartments on November 29, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.
15. An on-site monitoring review was conducted at Lyndon B. Johnson Memorial Apartments on November 27, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements; and
  - b. Respondent failed to collect required data by not providing an Annual Eligibility Certification for unit 2100022, a violation of 10 TAC §10.612 (Tenant File Requirements), which requires developments to annually collect an Annual Eligibility Certification form from each household.
16. An on-site monitoring review was conducted at Rafael Marmolejo Jr. Memorial Apartments on December 12, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements;
  - c. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing), which requires developments to maintain an affirmative marketing plan that meets minimum requirements and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to the disabled; and
  - d. Respondent failed to post a copy of the Tenant Rights and Resources Guide in a common area of the leasing office, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a

common area of the leasing office and provide a copy to each household during the application process and upon any subsequent change to common amenities, unit amenities, or services.

17. An on-site monitoring review was conducted at Juan Hart Memorial Apartments on November 30, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements; and
  - b. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing), which requires developments to maintain an affirmative marketing plan that meets minimum requirements and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to the disabled.
18. All violations listed above are considered resolved at the time of this Order, but were resolved after the corrective action period.

### **CONCLUSIONS OF LAW**

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, and 10 TAC §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. Respondent violated 10 TAC §10.610 in 2017, by not maintaining complete and acceptable written tenant selection criteria meeting TDHCA requirements at all fifteen properties that are the subject of this Agreed Final Order.
5. Respondent violated 10 TAC §10.617 in 2017, by failing to provide a complete and acceptable affirmative marketing plan and associated outreach marketing materials at the following five properties: Tays, J.E. Anderson Apartments, Harry S. Truman Apartments, Rafael Marmolejo Jr. Memorial Apartments, and Juan Hart Memorial Apartments.

6. Respondent violated leasing requirements in 10 TAC §10.613 in 2017, by failing to post a laminated copy of the Tenant Rights and Resources Guide in a common area of the leasing office at the following four properties: Tays, J.E. Anderson Apartments, Harry S. Truman Apartments, and Rafael Marmolejo Jr. Memorial Apartments.
7. Respondent violated 10 TAC §10.613 in 2017, by failing to execute required lease provisions or exclude prohibited lease language at Tays.
8. Respondent violated 10 TAC §10.611 and Section 4 of the LURA in 2017 by failing to provide documentation that household incomes are within prescribed limits upon initial occupancy for two units at Tays.
9. Respondent violated 10 TAC §10.609 in 2017 by failing to collect an Annual Eligibility Certification for one unit at Lyndon B Johnson Memorial Apartments.
10. Respondent violated 10 TAC §10.622 in 2017 by charging gross rents exceeding the allowable limits, and not making timely corrections once the violations were discovered, for one unit at Kennedy Brothers Communities.
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 §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. It is appropriate to assess no administrative penalty in accordance with the policies situated at 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 Board of the Texas Department of Housing and Community Affairs orders the following:

**IT IS HEREBY ORDERED** that Respondent not be assessed an administrative penalty.

**IT IS FURTHER ORDERED** that Respondent shall follow the requirements of 10 TAC §10.406, a copy of which is included at Exhibit 1, 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.

Approved by the Governing Board of TDHCA on November 8, 2018.

By: /s/ J.B. Goodwin  
Name: J.B. Goodwin  
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 8th day of November, 2018, personally appeared J.B. Goodwin, 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/ Peggy M. Henderson  
Notary Public, State of Texas

**THE STATE OF TEXAS** §  
  §  
**COUNTY OF TRAVIS** §

Before me, the undersigned notary public, on this 8th day of November, 2018, 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/ Peggy M. Henderson  
Notary Public, State of Texas





STATE OF TEXAS

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COUNTY OF EL PASO

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BEFORE ME, \_\_\_\_\_, a notary public in and for the State of Texas, on this day personally appeared Gerald Cichon, known to me or proven to me through \_\_\_\_\_ to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (he/she) executed the same for the purposes and consideration therein expressed, who being by me duly sworn, deposed as follows:

1. "My name is Gerald Cichon, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of Chief Executive Officer of Paisano Haymon Krupp GP, LLC. I am an authorized representative of Respondent, owner of the property known as Haymon Krupp, which is subject to a Land Use Restriction Agreement monitored by the TDHCA in the State of Texas, and I am duly authorized to execute this document.
3. 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 Board of the Texas Department of Housing and Community Affairs."

**RESPONDENT:**

**HAYMON KRUPP, LP**, a Texas limited partnership

**PAISANO HAYMON KRUPP GP, LLC**, a Texas limited liability company, its general partner

**PAISANO HOUSING REDEVELOPMENT CORPORATION**, a Texas nonprofit corporation, an instrumentality of the Housing Authority of the City of El Paso

By: /s/ Gerald Cichon

Name: Gerald Cichon

Title: Chief Executive Officer

Given under my hand and seal of office this 7 day of DEC, 2018.

/s/ Aracely Saenz  
Signature of Notary Public

Aracely Saenz  
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

My Commission Expires: 10-9-21



STATE OF TEXAS §

COUNTY OF EL PASO §

BEFORE ME, \_\_\_\_\_, a notary public in and for the State of Texas, on this day personally appeared Gerald Cichon, known to me or proven to me through \_\_\_\_\_ to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (he/she) executed the same for the purposes and consideration therein expressed, who being by me duly sworn, deposed as follows:

1. "My name is Gerald Cichon, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of Chief Executive Officer of Paisano El Paso RAD I, Inc. I am an authorized representative of Respondent, owner of the following eleven properties, known as: Raymond Telles Manor, Lt. Palmer Baird, J.E. Anderson Apartments, Everett Alvarez Apartments, Harry S. Truman Apartments, Dwight D. Eisenhower Memorial Apartments, Kennedy Brothers Communities, Aloysius A. Ochoa Apartments, Lyndon B Johnson Memorial Apartments, Rafael Marmolejo Jr Memorial Apartments, and Juan Hart Memorial Apartments, which are each subject to separate Land Use Restriction Agreements monitored by the TDHCA in the State of Texas, and I am duly authorized to execute this document.
3. 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 Board of the Texas Department of Housing and Community Affairs."

**RESPONDENT:**

**EL PASO RAD I, LTD**, a Texas limited partnership

**PAISANO EL PASO RAD I, INC**, a Texas corporation, its general partner

**PAISANO HOUSING REDEVELOPMENT CORPORATION**, a Texas nonprofit corporation, an instrumentality of the Housing Authority of the City of El Paso

By: /s/ Gerald Cichon

Name: Gerald Cichon

Title: Chief Executive Officer

*[notary page follows]*

Given under my hand and seal of office this 7 day of DEC, 2018.

/s/ Aracely Saenz

Signature of Notary Public

Aracely Saenz

Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

My Commission Expires: 10-9-21

**Exhibit 1**  
**Texas Administrative Code**

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

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(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice to the Department at least thirty (30) calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Transfers that are the result of an involuntary removal of the general partner by the investment limited partner must be reported to the Department, as soon as possible due to the sensitive timing and nature of this decision. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure, staff may make a recommendation to the Board for the debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with §1.5 of this title (relating to Previous Participation Reviews), prior to recommending any new financing or allocation of credits.

(b) Requirement. Department approval must be requested for any new member to join in the ownership of a Development. Exceptions include changes to the investment limited partner, non-controlling limited partner, or other partners affiliated with the investment limited partner, or changes resulting from foreclosure wherein the lender or financial institution involved in the transaction is the resulting owner. Any subsequent transfer of the Development will be required to adhere to the process in this section. Furthermore, a Development Owner may not transfer an allocation of tax credits or ownership of a Development supported with an allocation of tax credits to any Person or entity unless the Development Owner obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section. Notwithstanding the foregoing, a Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new members or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(c) Transfers Prior to 8609 Issuance or Construction Completion. Transfers (other than those that do not require Executive Director approval, as set forth in subsection (b) of this section) will not be approved prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) unless the Development Owner can provide evidence that the need for the transfer is due to a hardship (ex. potential bankruptcy, removal by a partner, etc.). The Development Owner must provide the Department with a written explanation describing the hardship and a copy of any applicable agreement between the parties to the transfer, including any Third-Party agreement.

(d) Non-Profit Organizations. If the ownership transfer request is to replace a non-profit organization within the Development ownership entity, the replacement non-profit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Non-Profit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Non-Profit Organization that meets the requirements of §42(h)(5) of the Code and Texas Government Code §2306.6706.

(2) If the LURA requires ownership or material participation in ownership by a qualified non-profit organization, but the Development did not receive Tax Credits pursuant to §42(h)(5) of the Code, the Development Owner must show that the transferee is a non-profit organization that complies with the LURA.

(e) Historically Underutilized Business ("HUB") Organizations. If a HUB is the general partner of a Development Owner and it (i) is being removed as the result of a default under the organizational documents of the Development Owner or (ii) determines to sell its ownership interest, in either case, after the issuance of 8609s, the purchaser of that general partnership interest is not required to be a HUB as long as the LURA does not require such continual ownership or a material LURA amendment is approved. Such approval can be obtained concurrent with Board approval described herein. All such transfers must be approved by the Board and require that the Board find that:

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

(2) the participation by the HUB has been substantive and meaningful, or would have been substantial and meaningful had the HUB not defaulted under the organizational documents of the Development Owner, enabling it to realize not only financial benefit but to acquire skills relating to the ownership and operation of affordable housing; and

(3) the proposed purchaser meets the Department's standards for ownership transfers

(f) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances that gave rise to the need for the transfer and the effects of approval or denial. Documentation includes but is not limited to:

(1) a written explanation outlining the reason for the request;

(2) a list of the names of transferees and Related Parties;

(3) detailed information describing the experience and financial capacity of transferees and related parties holding an ownership interest of 10 percent or greater in any Principal or Controlling entity;

(4) evidence and certification that the tenants in the Development have been notified in writing of the proposed transfer at least thirty (30) calendar days prior to the date the transfer is approved by the Department. The ownership transfer approval letter will not be issued until this 30 day period has expired.

(g) Within five (5) business days after the date the Department receives all necessary information under this section, staff shall initiate a qualifications review of a transferee, in accordance with §1.5 of this title, to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter.

(h) Credit Limitation. As it relates to the Housing Tax Credit amount further described in §11.4(a) of this title (relating to Tax Credit Request and Award Limits), the credit amount will not be applied in circumstances described in paragraphs (1) and (2) of this subsection:

(1) in cases of transfers in which the syndicator, investor or limited partner is taking over ownership of the Development and not merely replacing the general partner; or

(2) in cases where the general partner is being replaced if the award of credits was made at least five (5) years prior to the transfer request date.

(i) Penalties. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department.

(j) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by corresponding ownership transfer fee as outlined in §10.901 of this chapter (relating to Fee Schedule).

**Source Note:** The provisions of this §10.406 adopted to be effective December 9, 2014, 39 TexReg 9518