



Control Number: 45032



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DOCKET NO. 45032

COMPLAINT OF MARILYN
BONIABY AGAINST THE
REMINGTON APARTMENTS

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PUBLIC UTILITY COMMISSION
OF TEXAS
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COMMISSION STAFF'S RESPONSE TO ORDER NO. 4

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest and files this Response to Order No. 4. In Support thereof, Staff would show the following:

I. BACKGROUND

On August 10, 2015, Marylin Boniaby (Complainant) filed a formal complaint against the Remington Apartments regarding the failure to make water utility allocation records available for inspection consistent with Tex. Water Code § 13.5031(5) and 16 Tex. Admin. Code § 24.122(e) (TAC) and related charges.¹ IMFI Remington Apartments, LLC (IMFI) filed a letter with the Commission on September 28, 2015, explaining that it was the current owner of the Remington Apartments but that the complaint was based on the actions of the previous owner, Resilient Assets, LLC (Resilient). Resilient filed a letter with the Commission on October 2, 2015 detailing that it is no longer the owner of the Remington Apartments and submitted additional items in defense of the complaint.

Order No. 4, issued on November 12, 2015, requires Staff to file a response to the information filed by Complainant on November 10, 2015 by December 2, 2015. This pleading is timely filed.

II. RULE REQUIREMENTS

In the letter filed by Complainant on November 10, 2015, Complainant clarified that the sole purpose of her complaint was to receive the water allocation records from the previous and current owner of the Remington Apartments during the time of her occupancy, in accordance with TWC § 13.5031(5) and 16 TAC § 24.122(e). These rules require the owner to maintain all

¹ *Complaint of Marylin Boniaby Against The Remington Apartments*, Docket No. 45032, Complaint of Marylin Boniaby at 3 (August 10, 2015).

necessary records concerning utility allocations, including the retail public utility's bills and make them available for inspection by tenants.² For allocated billing, the owner shall make records available to tenants of the total number of occupants or equivalent occupants if an equivalency factor is used under 16 TAC § 24.124(e)(2).

Records relating to the occupancy factors and percentages of allocation of water bills must be maintained for the current year and the previous calendar year, in accordance with 16 TAC § 24.122(f). If these records are maintained at the on-site manager's office, the owner shall make the records available for inspection at the on-site manager's office within three days after receiving a written request.³ If the records are not routinely maintained at the on-site manager's office, the owner shall provide copies of the records to the on-site manager within 15 days of receiving a written request from a tenant or the Commission or Commission Staff.⁴ If there is no on-site manager, the owner shall make copies of the records available at the tenant's dwelling unit at a time agreed upon by the tenant within 30 days of the written request from the tenant.⁵ Copies of the records may be provided by mail.⁶

III. COMMENTS

Complainant has been unable to obtain the allocation records during the time of her tenancy and now lives elsewhere. Staff recommends that the current owners of the Remington Apartments, IMFI, be ordered to provide the allocation records for the current year and previous calendar year for the months in which Complainant was a tenant. This should be done by either making them available for inspection at the on-site manager's office, by mailing them to Complainant, or by filing them in this present docket. If some of these records are still in the possession of the previous owner, Resilient, Staff recommends that Resilient be ordered to provide those records to IMFI.

² TWC § 13.5031(5)

³ 16 TAC § 24.122(g)(1).

⁴ 16 TAC § 24.122(g)(2).

⁵ 16 TAC § 24.122(g)(3).

⁶ 16 TAC § 24.122(g)(4).

IV. CONCLUSION

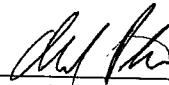
Staff respectfully recommends that an order be issued consistent with this recommendation.

Dated: December 1, 2015

Respectfully Submitted,

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Division Director
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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on December 1, 2015 in accordance with 16 TAC § 22.74.



Alexander Petak