

PUBLICATION

\$1.6 Million and Attorneys' Fees Awarded to Low-income Housing Entity in Texas

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A public-private partnership owning a low-income housing complex in Texas sued its prior property management company after the U.S. Department of Housing and Urban Development audited the property and determined the management company's employees had defrauded the federal government of over \$1.6 million in unsupported affordable housing subsidy payments. Despite demand being made and clear liability, the prior property management company refused to comply with its indemnification obligations for its employees' fraud pursuant to the parties' property management agreement.

In 2018, the owner, represented by Baker Donelson, sued the management company for negligence, negligent supervision, and breach of contract. Much of the litigation in advance of trial centered on the management company's attempt to delay ultimate resolution on the merits via various motions practice, odd discovery maneuvers, and eleventh-hour attempts at dispositive motions. The case was tried to the court – via Zoom – starting in December 2020 and ending in August 2021. Given the clear liability of the management company, our trial strategy was to set out clearly and methodically the contractual obligations and industry standards, followed by the management company's failure to abide by them. The defense continued their attempts to subvert resolution on the merits, including filing a dispositive motion on the eve of trial and a motion for judgment in the middle of trial. The court refused to consider the former and ultimately denied the latter.

In the final judgment, the court found for the owner on all three causes of action: the management company had negligently managed the property; negligently supervised its employees; and breached the terms of the parties' property management agreement. The court awarded the owner damages in excess of \$1.6 million. The court also found the management company was contractually obligated to indemnify the owner for the management company's employees' conduct, including an award of the owner's attorneys' fees totaling nearly \$250,000. The court further concluded that the management company had failed to prove its defenses of impossibility (i.e., that the management agreement was impossible to perform) and statute of limitations.

The client was represented at trial by [Kimberly A. Chojnacki](#), together with [Phillip D. Sharp](#) during the course of litigation. [Lee Hill](#) represents the client in regulatory compliance and real estate development matters.