

Les Bailey
Executive Director
Albany Helping Hands Shelter Inc.
PO Box 2252
Albany OR 97321

Re: *Determination Whether Project is Subject to Prevailing Wage Rate*
Project: Albany Helping Hands Phase II
Requested by: Albany Helping Hands Shelter Inc.

Dear Mr. Bailey:

On October 19, 2007, you submitted a request on behalf of Albany Helping Hands Shelter Inc. (“AHH”) asking whether a proposed project is subject to the Prevailing Wage Rate law. Sufficient information to make a determination was received by October 23, 2007, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. AHH owns the building located at 615 9th Ave in Albany, Oregon, which it operates as a homeless shelter.
2. AHH proposes to renovate a portion of the building in order to provide an additional 42 beds and three family units.
3. AHH intends to use \$100,000 in Housing Development Grant (Trust Fund) and up to \$54,756 in Low-Income Weatherization Program funds from Oregon Housing and Community Services Department to assist with the financing of the project. In addition, the City of Albany will contribute a total of \$50,000 in loan funds for use on the project.
4. It is not anticipated that any public agency will use or occupy any part of the completed building.

CONCLUSIONS OF LAW

1. The construction project is intended to be privately owned. Less than \$750,000 in funds of a public agency will support the project, and no public agency will occupy or use the completed building. Therefore, the definitions of a “public

- works” under ORS 279C.800(6)(a)(B) and (C) do not apply to this project.
2. If the project is a public works under ORS 279C.800(6)(a)(A), the exemption applies for privately owned projects for which less than \$750,000 of funds of a public agency are used and less than 25 percent of the square footage will be occupied or used by a public agency. ORS 279C.810(2)(c).

DETERMINATION

Based on the foregoing, the Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, do not apply to the Albany Helping Hands Phase II project.

This determination is based on the agency’s file as of the date of this determination. The commissioner may make a different determination if any of the project information is incorrect, or if the project or project documents are modified or supplemented after the date of this determination.

RIGHT TO A HEARING

The requestor and any person adversely affected or aggrieved by this determination are entitled to a hearing as provided by the Administrative Procedures Act (ORS 183.413 to 183.470) and HB 2140 Section 43 (Enrolled) OR Laws 2007. If you want a hearing, the Bureau of Labor and Industries, Wage and Hour Division must receive your written request for hearing within 21 days from the date this notice was mailed. Hearing requests should be addressed and delivered to:

Administrator
Wage and Hour Division
Bureau of Labor and Industries
800 NE Oregon St., Suite 1045
Portland, Oregon 97232

If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

If you request a hearing, you will be notified of the date, time and place of the hearing. You have the right to be represented by legal counsel at a hearing. However, if you are a government agency, corporation, partnership, or unincorporated association, you must be represented by either legal counsel or an authorized representative. If you request a hearing, you will receive information on Contested Case Rights and Procedures before the hearing. After the hearing, an order confirming, modifying, or reversing this determination will be issued. This determination shall remain in effect until the final order is issued.

If you request a hearing, but fail to appear at any scheduled hearing, you will have waived your right to hearing, and the commissioner may issue a final order by default. If the commissioner issues a final order by default, the agency file on this matter shall serve as the

record for purposes of proving a prima facie case. You are not entitled to judicial review of this determination order unless you have made a timely request for a hearing.

Date: October 31, 2007

Dan Gardner, Commissioner
Bureau of Labor and Industries

Christine N. Hammond

Christine N. Hammond, Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On October 31, 2007, I mailed, by certified mail, the Prevailing Wage Rate Determination for the Albany Helping Hands Phase II project to the requestor and any public agencies identified by requestor as being associated with this project, as follows:

Les Bailey
Executive Director
Albany Helping Hands Shelter Inc.
PO Box 2252
Albany OR 97321

Heather Pate
Oregon Housing and Community Services
725 Summer Street NE, Suite B
Salem OR 97309-0409

City of Albany
Attn: Finance Department
PO Box 490
Albany OR 97321

Gerhard Taeubel, Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries