

July 8, 2009

Wm. R. Lovelace
Wm. R. Lovelace Construction, Inc.
910 NE "D" St. Suite 103
Grants Pass, OR 97526

Re: *Determination Whether Project is Subject to Prevailing Wage Rate*
Project: Remodel of Cedar Grove Apartments
Requested by: Wm. R. Lovelace

Dear Mr. Lovelace:

On June 24, 2009, you submitted a request on behalf of Wm. R. Lovelace Construction, Inc. asking whether a proposed project is subject to the Prevailing Wage Rate law. Sufficient information to make a determination was received by July 6, 2009, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. The owner of the project, Lovelace Properties, LLC, represents that the remodel project will be comprised of seven existing two-story apartment buildings with a total of 42 units with a HUD section 8 subsidy for 41 of those units.

2. The funding sources for the project are a mix of public funds and private funds. The total dollar amount of the purchase and remodel is \$4,105,000.00. Funding will be obtained from the following sources: State of Oregon Housing and Community Development LIHTC equity of \$1,834,231.00; HOME funds in the amount of \$985,000.00; Housing Trust Funds in the amount of \$100,000.00; Oregon Affordable Housing Tax Credit (OAHTC) in the amount of \$1.12 million and/or a permanent loan from the Umpqua Bank in the amount of \$1,120,000.00.¹ It is stipulated that the project is to remain low income housing for the next 25 years and continue on with a 20-year HUD Section 8 rent contract.

3. Wm. R. Lovelace Construction, Inc. plans to remodel mainly the interior of the apartments including the replacement of appliances, cabinets, floor coverings, paint, countertops, plumbing fixtures and interior electrical work including the replacement of fixtures. Exterior roof replacement of all units, vinyl windows, and an added yard drain to remedy a standing water problem. Outside stair handrails will be brought up to code.

¹ Information provided by the requestor, Wm. R. Lovelace Construction, Inc. shows \$1,120,000.00 coming from the Umpqua Bank as a permanent loan, information from the internet regarding the project shows the \$1,120,000.00 as funds from an Oregon Affordable Housing Tax Credit (OAHTC).

4. The total remodel portion of the project will use \$1,000,843.00 of the funds. The purchase price of the project is \$1,967,500.00. The balance of the proceeds will be used for permits, environmental reports, engineering, legal, insurance, appraisals, loan fees, inspection reports, cost accounting, and tenant relocation during construction.

5. No public agency will occupy any part of the project. The project is strictly residential low-income rental apartments with HUD Section 8 rental assistance.

CONCLUSIONS OF LAW

1. The construction project is intended to be privately owned. \$750,000 or more in funds of a public agency will support the project. Therefore, the definition of a “public works” under ORS 279C.800(6)(a)(B) will apply to this project.

2. The project is for residential construction that is privately owned and that predominantly provides affordable housing. Therefore, it will be exempt from the Prevailing Wage Rate law. ORS 279C.810(2)(d).

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 Remodel of the Cedar Grove Apartments 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.

REQUEST FOR A RECONSIDERATION

After the commissioner issues a determination, the requestor or any public agency served with a copy of the determination may request that the commissioner reconsider the determination. A request for reconsideration must be submitted in writing to the Prevailing Wage Rate Unit, must include the reason or reasons for the request and any documents in support of the request, and must be received within 15 calendar days of the date the determination was mailed. A request for reconsideration does not toll the time period for requesting a contested case hearing on the 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 ORS 279C.817. 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

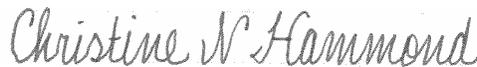
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: July 8, 2009

Brad Avakian, Commissioner
Bureau of Labor and Industries



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

Certificate of Service

On July 8, 2009, I mailed, by certified mail, the Prevailing Wage Rate Determination for the Remodel of the Cedar Grove Apartments project to the requestor and any public agencies identified by requestor as being associated with this project, as follows: State of Oregon Housing and Community Development LIHTC, HOME, Housing Trust Fund and the Oregon Affordable Housing Tax Credit Program.

Requestor:

Wm. R. Lovelace
Wm. R. Lovelace Construction, Inc.
910 NE "D" St. Suite 103
Grants Pass, OR 97526

Agencies:

Mr. Mike McHam
Oregon Housing and Community Development
725 Summer St. NE, Suite B
Salem, OR 97301-1266

Bank:

Aaron Walker, Senior VP
Umpqua Bank
675 Oak Street, Suite 200
Eugene, OR 97401

Debbie Sluyter, Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries