

Lisa Gramp
Assistant General Counsel
Portland Development Commission
222 NW Fifth Ave
Portland OR 97209-3859

Re: *Determination Whether Project is Subject to Prevailing Wage Rate*
Project: Killingsworth Station Project
Requested by: Portland Development Commission

Dear Ms. Gramp:

On January 18, 2008, you submitted a request on behalf of the Portland Development Commission ("PDC") asking whether a proposed project is subject to the Prevailing Wage Rate law. On February 12, 2008, the Bureau issued a response to your request. The following determination supersedes the Bureau's earlier letter:

FINDINGS OF FACT

1. PDC proposes to grant certain real property located at the northeast corner of North Interstate Avenue and North Killingsworth Street to a private developer, Killingsworth Station, LLC ("Developer").
2. Developer plans to construct a mixed-use development consisting of two four-story buildings containing approximately 54 residential condominium units, approximately 9,258 square feet of ground floor retail space, and related infrastructure improvements.
3. To assist with the development of the project, PDC intends to contribute subsidies totaling more than \$750,000.
4. To date, a disposition and development agreement ("DDA") between PDC and the Developer has not yet been executed. PDC is the urban renewal agency of the City of Portland.

CONCLUSIONS OF LAW

1. PDC will enter into a DDA with the Developer after July 1, 2007. Therefore, the prevailing wage law as amended on July 1, 2007, applies to this project.
2. 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) applies to this project.

3. The project is a mixed-use development and does not meet the definition of “residential construction” under ORS 279C.810(2)(d)(D) or OAR 839-025-0004(24). Therefore, the exemption provided for in ORS 279C.810(2)(d) does not apply.

DETERMINATION

Based on the foregoing, the Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, do apply to the Killingsworth Station 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: March 20, 2008

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 March 20, 2008, I mailed, by certified mail, the Prevailing Wage Rate Determination for the Killingsworth Station project to the requestor and any public agencies identified by requestor as being associated with this project, as follows:

Lisa Gramp
Assistant General Counsel
Portland Development Commission
222 NW Fifth Ave
Portland OR 97209-3859

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