

Eli Spevak
Orange Splot LLC
6325 N. Albina Ave #6
Portland, OR 97217

Re: *Determination Whether Project is Subject to Prevailing Wage Rate*
Project: Woolsey Commons – new construction project at 4475 N. Trenton
Requested by: Orange Splot LLC

Dear Mr. Spevak:

On December 31, 2008, you submitted a request on behalf of Orange Splot LLC asking whether a proposed project is subject to the prevailing wage rate law. Sufficient information to make a determination was received by January 13, 2009, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. Orange Splot LLC is a single member limited liability company with Eli Spevak as the sole member
2. Orange Splot LLC proposes to construct a single 3-story wood frame building containing 8 residential condominium units. The building coverage of the site is 3,392 square feet and the total gross square footage of the building is 9,564 square feet.
3. Orange Splot LLC purchased the property from the Housing Authority of Portland for full market value. The property is, and the completed project will be, privately owned.
4. Orange Splot LLC intends to use \$672,000 in public funds that it will obtain from the Portland Development Commission.
5. No public agency will occupy or use any part of the completed project.
6. All of the residential units will be sold to first time buyers with incomes no greater than 80% of the area median income.

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 a public agency will occupy or use less than 25% of the completed project. 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 279C800(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% 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, will not apply to the Woolsey Commons 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

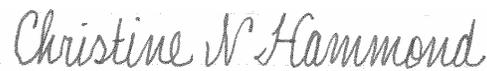
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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 either by 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 issued 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: January 20, 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 January 21, 2009, I mailed, by certified mail, the Prevailing Wage Rate Determination for the Woolsey Commons project to the requestor and any public agencies identified by requestor as being associated with this project, as follows:

Portland Development Commission
222 NW 5th Ave
Portland, OR 97209

Hannah Wood, Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries