



May 23, 2013

Daniel F. Potter
Executive Director
Housing Authority of Clackamas County
Managing Member of Easton Ridge LLC
P.O. Box 1510
Oregon City, OR 97045-0510

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*
Project: Easton Ridge Apartment Renovation (Updated Project Scope)
Requested by: Housing Authority of Clackamas County / Easton Ridge LLC

Dear Mr. Potter:

On July 27, 2012, a request was submitted on behalf of Easton Ridge, LLC asking if the Prevailing Wage Rate law would apply to the Easton Ridge Apartment Renovation project. Based on the information provided at that time, BOLI issued a determination that the Prevailing Wage Rate laws would not apply to the Easton Ridge Apartment Renovation project.

On May 15, 2013, you submitted a request on behalf of Easton Ridge, LLC and the Housing Authority of Clackamas County stating that the scope of the Easton Ridge Apartment Renovation project had changed and asking if the Prevailing Wage Rate law would apply to the proposed amended Easton Ridge Apartment Renovation project.

Sufficient information to make a determination was received on May 20, 2013, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT:

1. The proposed project is the renovation of the Easton Ridge Apartment complex located at 9009 SE Causey Avenue in Happy Valley. The Easton Ridge Apartment property consists of 264 units in 11 three-story residential buildings and a single story community building with an on-site property management office. The property is comprised of 159 one-bedroom units and 105 two-bedroom units.

PORTLAND
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2. Ownership of the Easton Ridge Apartments transferred from Housing Authority of Clackamas County (“HACC”) to Easton Ridge, LLC on March 7, 2013. Easton Ridge, LLC is a private limited liability company. HACC is a managing member of Easton Ridge, LLC, and not a majority owner.
3. The project includes the following: (a) full replacement of the building envelope, including siding, windows and doors; (b) re-design and repair of the site drainage system; (c) installation of a new interior ventilation system; (d) full replacement of unit kitchens; and (e) replacement of 15% of the bathrooms. Additionally, six units will be made ADA compliant.
4. Easton Ridge is currently income restricted to households earning 80% of the area median income and below. After the renovation is complete, the property will have 80% of the units restricted to households earning 60% of the area median income and below, with the remaining 20% of the units available to households earning 80% area median and below.
5. The total project cost will be \$40,099,642. Funding for the project includes the following sources:
 - a. Funds of a public agency: \$29,500,642
 - i. Tax exempt bonds – long term debt: \$16,603,341
 - ii. HACC seller loan: \$12,237,301
 - iii. Clackamas County HOME loan: \$660,000
 - b. Other funds: \$10,599,000
 - i. Low income housing tax credits (LIHTC): \$8,309,000
 - ii. Operations cash flow during construction: \$990,000
 - iii. Deferred development fees: \$1,300,000

CONCLUSIONS OF LAW:

1. The Easton Ridge Apartment Renovation project will be privately owned and will use more than \$750,000 in funds of a public agency. Therefore, the definition of “public works” under ORS 279C.800(6)(a)(B) will apply to this project.
2. The prevailing wage rate laws do not apply to projects for residential construction that are privately owned and that predominately provide affordable housing. ORS 279C.810(2)(d). The Easton Ridge Apartment Renovation project will be a privately owned residential construction project. The project will predominantly provide affordable housing because 80% of the units will be restricted to households earning 60% of the area median income and below. Therefore, this exception applies and the prevailing wage rate laws will not apply to the Easton Ridge Apartment Renovation project.

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 proposed construction, reconstruction, major renovation and/or painting of the Easton Ridge Apartment Renovation 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 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, OR 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: May 23, 2013

BRAD AVAKIAN, Commissioner
Bureau of Labor and Industries



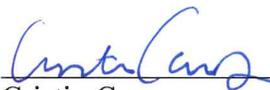
GERHARD TAEUBEL,
Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On May 23, 2013, I mailed the Prevailing Wage Rate Determination for the Easton Ridge Apartments Renovation project to the requestor, as follows:

Daniel F. Potter
Executive Director
Housing Authority of Clackamas County
P.O. Box 1510
Oregon City, OR 97045-0510

Certified Mail – Return Receipt Requested
Article #: 7012 1010 0001 2378 0009



Cristin Casey
Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries