



March 19, 2013

Brian Rousseau  
Home Forward  
135 SW Ash Street  
Portland, OR 97204

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*  
Project: Parking Lot Repair at Fairview Oaks Apartment Complex  
Requested by: Home Forward

Dear Mr. Rousseau:

On February 22, 2013, you submitted a request on behalf of Home Forward asking if the Prevailing Wage Rate laws would apply to the proposed parking lot repair to be done at the Fairview Oaks apartment complex (the "project"). Sufficient information to make a determination was received on March 7, 2013, and therefore, the commissioner issues the following determination:

## FINDINGS OF FACT:

1. Home Forward, a public agency as defined in ORS 279C.800(5), owns the Fairview Oaks affordable housing apartment complex located in Fairview, Oregon.
2. The proposed project is to repair damaged sections of the parking lot that serves the apartment complex.
3. The estimated project cost will be \$75,000. Home Forward will pay for the repair work with reserve deposits (i.e., rent paid to Home Forward by occupants of the complex).
4. In 2008, the Housing Authority of Portland (now known as Home Forward) contracted with Guardian Management LLC ("Guardian Management") to provide property management services at the Fairview Oaks apartment complex. Under this agreement, Home Forward may assign Guardian Management responsibility for construction, remodeling or renovation of the property, and will pay Guardian Management a 3-percent fee to manage the project.

**PORTLAND**  
800 NE Oregon St. Suite 1045  
Portland, OR 97232-2180  
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Fax (971) 673-0762

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5. Home Forward has assigned responsibility to Guardian Management for the parking lot repair project. Guardian Management will contract with a contractor as necessary to complete the project.

#### **CONCLUSIONS OF LAW:**

1. ORS 279C.800(6)(a)(A) defines “public works” to include roads, highways, buildings, structures and improvements of all types, the construction, reconstruction, major renovation or painting of which is carried on or contracted for by a public agency to serve the public interest. The proposed project will include the reconstruction of a parking lot, and the project will be carried on and contracted for by a public agency to serve the public interest. Therefore, the definition of “public works” under ORS 279C.800(6)(a)(A) will apply to this project.
2. The total project cost will exceed \$50,000, the project will use funds of a public agency, and the project is publicly owned. As a result, no exemptions from the law under ORS 279C.810(2) will apply to this 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 apply to the proposed parking lot repair to be done at the Fairview Oaks apartment complex.

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

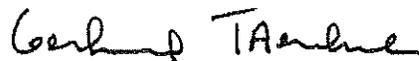
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: March 19, 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 March 20, 2013, I mailed the Prevailing Wage Rate Determination for the proposed parking lot repair at the Fairview Oaks Apartment complex to the requestor, as follows:

Brian Rousseau  
Home Forward  
135 SW Ash Street  
Portland, OR 97204



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Susan Wooley  
PWR Technical Assistance Coordinator  
Wage and Hour Division  
Bureau of Labor and Industries