



October 11, 2012

Karen Voiss
Executive Director
Accessible Living, Inc.
6160 SW Main Ave.
Beaverton, OR 97008

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*
Project: Harkson Court
Requested by: Accessible Living, Inc.

Dear Ms. Voiss:

On October 3, 2012, you submitted a request on behalf of Accessible Living, Inc. asking if the Prevailing Wage Rate law would apply to the Harkson Court Apartments Renovation project ("project"). Sufficient information to make a determination was received on October 9, 2012, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT:

1. Accessible Living, Inc. plans to renovate Harkson Court Apartments, located at 2900 22nd Avenue in Forest Grove. Accessible Living, Inc. is a private, nonprofit company.
2. Harkson Court Apartments are single story apartment buildings owned by Accessible Living. The apartments were originally built in 1994 and contain 20 apartment units that provide housing to seniors and disabled tenants. The units are occupied by residents whose incomes are no greater than 50 percent of the area median income.

PORTLAND

800 NE Oregon St. Suite 1045
Portland, OR 97232-2180
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Eugene, OR 97401-7103
(541) 686-7623
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1645 NE Forbes Rd, Ste 106
Bend, OR 97701-4990
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119 N Oakdale Ave.
Medford, OR 97501-2629
(541) 776-6201
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3. The proposed renovation work will include new roofing, siding, painting, windows, gutters and downspouts, water heaters, kitchen appliances, lighting, new toilets and bathroom vinyl.
4. The total project is estimated to cost \$400,000. Funding for the project will come from the following source:
 - a. Funds of a public agency: \$400,000
 - i. Housing Development Program Grant - Oregon Housing & Community Services - \$400,000

CONCLUSIONS OF LAW:

1. The proposed project does not meet the definition of “public works” under ORS 279C.800(6)(a)(A) because it will not be carried on or contracted for by a public agency.
2. The proposed project does not meet the definition of “public works” under ORS 279C.800(6)(a)(B) because although the project will be privately owned, it will not use \$750,000 or more in funds of a public agency.
3. Even if the project did meet the definition of “public works” under ORS 279C.800(6)(a), 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 proposed project is a project for residential construction because it is a project for reconstruction, major renovation and/or painting of one story apartment buildings. Additionally, the project will be privately owned by Accessible Living, a private nonprofit company. The project will predominately provide affordable housing because the tenants will have incomes no greater than 50% of the area median. Therefore, this exemption would apply.

DETERMINATION:

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 Harkson Court 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: October 11, 2012

BRAD AVAKIAN, 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 October 11, 2012, I mailed the Prevailing Wage Rate Determination for the Harkson

Court project to the requestor, as follows:

Karen Voiss
Executive Director
Accessible Living, Inc.
6160 SW Main Ave.
Beaverton, OR 97008

Certified Mail – Return Receipt Requested
Article #: 7012 1010 0001 2377 6026

Oregon Housing & Community Services
Attn: Loren Schultz
725 Summer Street N.E., Suite B
Salem, Oregon 97301-1266

Certified Mail – Return Receipt Requested
Article #: 7011 2000 0000 5450 9930



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