



April 23, 2015

Josh Harman, Development Manager  
Chrisman Development, Inc.  
PO Box 490  
Enterprise, OR 97828

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*  
Project: Holiday Garden Apartments, Revised  
Requested by: Chrisman Development, Inc.

Dear Mr. Harman:

On August 14, 2013, Chrisman Development, Inc. submitted a request asking if the Prevailing Wage Rate laws would apply to the proposed project known as the Holiday Garden Apartments. On August 20, 2013, the Bureau of Labor and Industries issued a determination that the Prevailing Wage Rate laws would not apply to the project.

On April 21, 2015, you submitted a request asking for an updated determination for the Holiday Garden Apartments project, based on a change in the funding sources for this project. Sufficient information to make a determination was received on April 23, 2015, and therefore, the commissioner issues the following determination:

## FINDINGS OF FACT

1. The proposed project consists of the acquisition and rehabilitation of three apartment complexes in three Oregon cities:  
In Grants Pass, the Holiday Park Garden Apartments, currently owned by Holiday Park Gardens Limited Partnership, a private entity;  
In Sandy, the Holiday Garden Sandy (Evans Street Senior) Apartments, currently owned by Evans Street Limited Partnership, a private entity; and  
In Talent, the Holiday Garden Talent Apartments, currently owned by Holiday Garden – Talent, Limited Partnership, a private entity.

The acquisition and rehabilitation of all three complexes is referred to as the “proposed project.”

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2. Holiday Garden Apartments, LLC, a domestic limited liability company, plans to acquire and rehabilitate the proposed project. Holiday Garden Apartments, LLC will be composed of Southern Oregon Affordable Housing II, Inc. as managing member, with 0.01 percent interest in profits, losses, gain and credits; and a to-be-named tax credit investor with 99.99 percent interest. No public agency will own the project or be part of Holiday Garden Apartments, LLC.
3. The proposed project consists of 36 one- and two-story apartment buildings, with a total of 208 units. The work to be done includes new roofs, siding, windows, and doors; repair and/or replacement of exterior stairs, railings and decks; site improvements/repairs for enhanced appearance and accessibility; and interior improvements as needed including new cabinets, countertops, flooring and appliances. The proposed project does not include any commercial space.
4. One-hundred percent of the units are to be made available to persons with incomes at or below 60 percent of the area median income.
5. The proposed project will use the funds (estimated and rounded):
 

\$94,000	Energy Trust from Oregon Department of Energy
\$6,245,000	Lottery-backed Bond Preservation Funds
\$11,400,000	Proceeds from Tax Exempt Bonds
\$6,296,420	Low Income Housing Tax Credit Equity
\$2,350,000	USDA Section 538 Rural Development Loan
\$6,346,477	USDA Section 515 Rural Development Debt
\$868,998	Deferred Developer Fee
\$149,318	Project Cash Flow

## CONCLUSIONS OF LAW

1. The proposed project meets the definition of “residential construction” in ORS 279C.810(2)(d)(D), as the project includes the construction, reconstruction, major renovation or painting of apartment buildings not more than four stories in height, and does not include any commercial or retail spaces.
2. The proposed project meets the definition of “privately owned” in ORS 279C.810(2)(d)(C)(ii), as the project will be privately owned by Holiday Garden Apartments, LLC.
3. The proposed project meets the definition of “affordable housing” in ORS 279C.810(2)(d)(A), as the project will serve occupants whose incomes are not greater than 60 percent of the area median income. The proposed project will “predominately” provide affordable housing, as 100 percent of the units will be for affordable housing. ORS 279C.810(2)(d)(B).
4. Pursuant to ORS 279C.810(2)(d), the prevailing wage rate laws do not apply to projects for residential construction that are privately owned and that

predominately provide affordable housing. Even if this proposed project met the definition of "public works" under ORS 279C.800(6)(a), it would be exempt from the prevailing wage rate laws.

## **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 Holiday Garden Apartments project, as revised.

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, this determination order will be final, and the agency file on this matter shall serve as the record for purposes of proving a prima facie case.

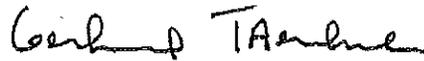
If you request a hearing, you will be notified of the date, time and place of the hearing. You have the right to be represented by legal counsel at a hearing. However, if you are a government agency, corporation, partnership, or unincorporated association, you must be represented by either legal counsel 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 order 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.

Date: April 23, 2015

Brad Avakian, Commissioner  
Bureau of Labor and Industries



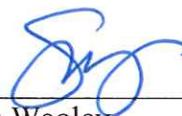
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Gerhard Taeubel, Administrator  
Wage and Hour Division  
Bureau of Labor and Industries

## Certificate of Service

On April 23, 2015, I mailed the Prevailing Wage Rate Determination for the proposed Holiday Garden Apartments project, as revised, to the requestor, as follows:

Josh Harman, Development Manager  
Chrisman Development, Inc.  
PO Box 490  
Enterprise, OR 97828



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