



January 22, 2013

Karen Shawcross, Executive Director
Bienestar, Inc.
220 SE 12th Avenue, Suite A-100
Hillsboro, OR 97123

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*
Project: Juniper Gardens Phase II Apartments
Requested by: Bienestar, Inc.

Dear Ms. Shawcross:

On January 14, 2013, you submitted a request asking if the Prevailing Wage Rate laws would apply to the proposed project known as Juniper Gardens Phase II Apartments. Sufficient information to make a determination was received on January 22, 2013, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. Bienestar, Inc. ("Bienestar"), a private non-profit company, owns 1.46 acres of land at 2718 Juniper Street in Forest Grove, Oregon. Bienestar proposes to build four two-story apartment buildings on this property for farm workers and their families. The property immediately borders Juniper Gardens Phase I Apartments, a completed affordable-housing apartment complex that is also owned by Bienestar, Inc. Juniper Gardens Phase I and Phase II Apartments will share a community building, property management, and outdoor amenities. The proposed project will not include any commercial space.
2. The project will consist of 22 two-, three-, and four-bedroom units, 21 of which will be designated as affordable housing, with the occupants' incomes restricted to no greater than 50 percent of the area median.
3. The total project cost is estimated to be \$5,700,000. The proposed project will use the following public funds:
\$500,000 OHCS HDGP Grant
\$100,000 OHCS ORR Loan
\$250,000 Washington County HOME Funds

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Other funds to be used for the proposed project include:
\$1,500,000 USDA Rural Development 514 Loan
\$1,500,000 USDA Rural Development 516 Grant
\$1,800,000 Farmworker Housing Tax Credits Equity

CONCLUSIONS OF LAW

1. The proposed project will be privately owned and will use \$750,000 or more in funds of public agencies. Therefore, the proposed project meets the definition of “public works” under ORS 279C.800(6)(a)(B).
2. 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. The proposed project meets the definition of a project for residential construction because it consists of apartment buildings that are not more than four stories in height. Additionally, the project will be owned by Bienestar, Inc., a private nonprofit company. Finally, the project will predominately provide affordable housing because the occupants of 21 of the 22 units will have incomes no greater than 50% of the area median. Therefore, the exemption from the prevailing wage rate laws under ORS 279C.810(2)(d) would apply to this proposed 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 project known as Juniper Gardens Phase II Apartments.

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 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: January 22, 2013

Brad Avakian, Commissioner
Bureau of Labor and Industries

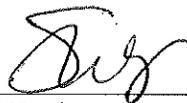


Gerhard Taubel, Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On January 22, 2013, I mailed the Prevailing Wage Rate Determination for the proposed project known as Juniper Gardens Phase II Apartments to the requestor, as follows:

Karen Shawcross, Executive Director
Bienestar, Inc.
220 SE 12th Avenue, Suite A-100
Hillsboro, OR 97123



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