



# Oregon

Bureau of Labor and Industries

Brad Avakian  
Commissioner

Kristen Karle  
St. Vincent de Paul Society of Lane County, Inc.  
PO Box 24608  
Eugene OR 97402

Re: *Determination Whether Project is Subject to Prevailing Wage Rate*  
Project: Lamb Building (1880 W 11<sup>th</sup> Ave, Eugene)  
Requested by: St. Vincent de Paul Society of Lane County, Inc.

Dear Ms. Karle:

On November 24, 2008, you submitted a request on behalf of the St. Vincent de Paul Society of Lane County, Inc. ("SVDP") asking whether a proposed project is subject to the Prevailing Wage Rate law. Sufficient information to make a determination was received by December 4, 2008, and therefore, the commissioner issues the following determination:

## FINDINGS OF FACT

1. SVDP proposes to construct a four-story, wood-frame building on property currently owned by SVDP at 1880 West 11<sup>th</sup> Avenue in Eugene. The 43,340 square foot structure will include 35 residential housing units and 7,000 square feet of commercial space on its ground floor. More than 60% of the residential units will be occupied by tenants earning 60% or less of the area median income. A thrift bookstore owned and operated by SVDP will occupy the commercial portion of the building.
2. A limited partnership consisting of private entities, of which SVDP will act as the general partner, will own the building.
3. SVDP will use private funds for the project, and construction of the commercial space will be entirely financed with private funds. In addition, the City of Eugene ("City") and the Oregon Housing and Community Services Department ("OHCS") will contribute funds in excess of \$750,000 to assist with the construction of the building.
4. SVDP will enter into a single contract for construction of the building, and such work will be completed in a single phase.

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## **CONCLUSIONS OF LAW**

1. The project for the construction of the building is intended to be privately owned. Funds of a private entity will be used. In addition, it is anticipated that the project will use \$750,000 or more of funds of a public agency. If \$750,000 or more of funds of a public agency will be used, then the definition of “public works” under ORS 279C.800(6)(a)(B) will apply to this project.
2. The building will consist of parts with both residential and commercial uses. The commercial portion of the building will not be incidental in function to the residential portion. Therefore, the project is not a project for residential construction and the exemption provided for in ORS 279C.810(2)(d) does not apply.
3. ORS 279C.827(2) permits a public works of the type described in ORS 279C.800(6)(a)(B) to be divided between those parts that will include funds of a public agency and those that will not, after the application of considerations set forth in ORS 279C.827(1)(c). In the present case, the project consists of a single structure that will be constructed in a single phase according to an overall plan. Therefore, under ORS 279C.827 and OAR 839-025-0310, division of the project for the purposes of the Prevailing Wage Rate Laws would be improper.
4. Definitions that may be relevant to this determination are in ORS 279C.800 and OAR 839-025-0004.

## **DETERMINATION**

Based on the foregoing, the Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, do apply to the construction of the building proposed for 1880 West 11<sup>th</sup> Avenue.

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

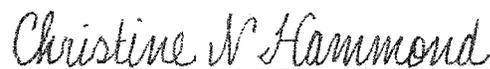
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: December 11, 2008

Brad Avakian, Commissioner  
Bureau of Labor and Industries



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Christine N. Hammond, Administrator  
Wage and Hour Division  
Bureau of Labor and Industries