



February 26, 2016

Howard Kopp
United Community Action Network
280 Kenneth Ford Drive
Roseburg, OR 97470

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*
Project: Liberty Pointe Apartments
Requested by: United Community Action Network

Dear Mr. Kopp:

On February 12, 2016, the Bureau of Labor and Industries received the request you submitted asking if the Prevailing Wage Rate laws would apply to the proposed Liberty Pointe Apartments construction project. Sufficient information to make a determination was received on February 23, 2016, and therefore, the commissioner issues the following determination:

FINDING OF FACT

1. United Community Action Network (“UCAN”), a private non-profit entity, owns the Liberty Pointe Apartments in Winston, OR. UCAN plans to rehabilitate the property, with the intention of providing an affordable housing complex for those with a family member in recovery from substance abuse.
2. The Liberty Pointe Apartments complex project is made up of three duplexes, providing six apartment units. All duplexes are one story in height. The proposed rehabilitation project will include replacing exterior siding, roofing, gutters, and windows.
3. All six units will be restricted to occupants with incomes no greater than 50 percent of the area median.

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4. The total construction cost is estimated to be \$665,998.00. Funds of a public agency that will be used on the project include:
\$532,998.00 OHCS grant

Other funds that will be used on the project include:
\$133,000 UCAN provided funding

CONCLUSIONS OF LAW

1. The 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 space.
2. The property is currently owned and will remain owned by a private entity. Therefore, the project meets the definition of “privately owned” in ORS 279C.810(2)(d)(C)(ii).
3. The 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 50 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 project meets the definition of “public works” under ORS 279C.800(6)(a), it will 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 Liberty Pointe Apartments 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 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

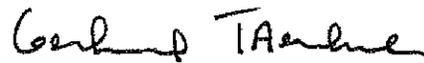
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived, this determination order will be final, and the agency file on this matter shall serve as the record for purposes of proving a prima facie case.

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: February 26, 2016

Brad Avakian, Commissioner
Bureau of Labor and Industries

A handwritten signature in black ink, appearing to read "Gerhard Taeubel". The signature is written in a cursive style with a large initial "G".

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

Certificate of Service

On February 26, 2016, I mailed, by certified mail, the Prevailing Wage Rate Determination for the Liberty Pointe Apartments project to the requestor and any public agencies identified by requestor as being associated with this project, as follows:

Howard Kopp
United Community Action Network
280 Kenneth Ford Drive
Roseburg, OR 97470

Joanne Sheehy
Oregon Housing and Community Services
725 Summer Street NE
Salem, OR 97301



Mike Kern
PWR Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries