



Oregon

Bureau of Labor and Industries

Brad Avakian
Commissioner

May 4, 2016

Stephen McMurtrey
Housing Director
Northwest Housing Alternatives
2316 SE Willard Street
Milwaukie, OR 97222-7740

Re: *Second Determination - Whether Project is Subject to Prevailing Wage Rate Law*
Project: Northwest Housing Alternatives (NHA) Campus
Requested by: Northwest Housing Alternatives

Dear Mr. McMurtrey:

On June 24, 2013, Jonathan Trutt submitted a request on behalf of Northwest Housing Alternatives, asking if the Prevailing Wage Rate law would apply to the proposed Northwest Housing Alternatives (NHA) Campus project. Based on the information provided at that time, BOLI issued a determination that the Prevailing Wage Rate laws would apply to the Northwest Housing Alternatives (NHA) Campus project.

On April 22, 2016, you submitted a second request on behalf of Northwest Housing Alternatives, stating the funding sources had changed and asking if the Prevailing Wage Rate law would apply to the proposed amended Northwest Housing Alternatives (NHA) Campus project.

Sufficient information to make a determination was received on May 2, 2016, and, therefore, the commissioner issues the following determination:

FINDINGS OF FACT:

1. Northwest Housing Alternatives ("NHA") is a domestic non-profit corporation that develops and owns affordable housing throughout Oregon. NHA's campus is in Milwaukie and currently consists of a shelter for homeless families (the Annie Ross House), two office buildings, and nine units of rental housing. These buildings are located on contiguous parcels of land totaling approximately 1.75 acres. NHA plans to redevelop its campus.

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2. Beginning May 2017, NHA plans to demolish all buildings on the NHA campus and replace them with a single Opportunity Center/office building, a new homeless shelter for families and approximately 40 units of affordable rental housing. All rental housing units will be restricted to households with incomes at or below 60% of the area median income.
3. The campus redevelopment project will involve three components - the Opportunity Center/office, the shelter and the affordable housing. Each of the three components will be:
 - a. Privately owned,
 - b. Four stories or less,
 - c. Completely physically distinct from the others,
 - d. Located on separate lots,
 - e. Separately financed,
 - f. Designed by the same architect under three separate contracts, one for each component, and
 - g. Built over the course of 18 months by the same general contractor under three separate contracts, one for each component.
4. The estimated total project cost is \$17,231,752, of which \$730,000 are public funds. The components have different funding sources.
 - a. New Homeless Shelter and Opportunity Center/Office - \$6,689,675
 - i. Funds of a public agency: \$430,000
 1. Community Development Block Grant (CDBG) from Clackamas County: \$430,000
 - ii. Other funds: \$6,259,675
 1. NHA fundraising: \$4,859,675
 2. Loan for Shelter and Opportunity Center/Office: \$1,200,000
 3. Home Builders Association: \$200,000
 - b. New Affordable Housing - \$10,542,077
 - i. Funds of a public agency: \$300,000
 1. HOME funds from Clackamas County: \$300,000
 - ii. Other funds: \$10,242,077
 1. Low Income Housing Tax Credits (LIHTC): \$8,145,943
 2. Mortgage (NOAH): \$2,000,000
 3. Deferred Development Fee: \$96,134

CONCLUSIONS OF LAW:

1. The definition of "public works" under ORS 279C.800(6)(a)(A) applies to roads, highways, buildings, structures, and improvements of all types, the construction, reconstruction, major renovation or painting of which is carried on or contracted for by any public agency to serve the public interest. The Northwest Housing Alternatives (NHA) Campus project is not carried on or contracted for by any public agency; therefore, the definition of "public works" under ORS 279C.800(6)(a)(A) does not apply.
2. The definition of "public works" under ORS 279C.800(6)(a)(B) applies to projects that are for the construction, reconstruction, major renovation or painting of a road, highway, building, structure or improvement of any type that uses \$750,000 or more of funds of a public agency. The NHA Campus project will use \$730,000 in funds of a public agency; therefore, the definition of "public works" under ORS 279C.800(6)(a)(B) does not apply.

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 construction, reconstruction, major renovation and/or painting of the Northwest Housing Alternatives (NHA) Campus 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, Oregon 97232

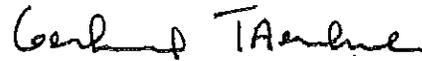
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived, this determination order will be final, and the agency file on this matter shall serve as the record for purposes of proving a prima facie case.

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: May 4, 2016

Brad Avakian, Commissioner
Bureau of Labor and Industries



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

Certificate of Service

On May 4, 2016, I mailed the Prevailing Wage Rate Determination for the Northwest Housing Alternatives (NHA) Campus project to the requestor and affected agencies, as follows:

Stephen McMurtrey
Housing Director
Northwest Housing Alternatives
2316 SE Willard Street
Milwaukie, OR 97222-7740

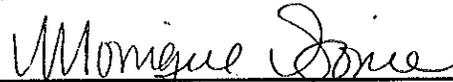
Certified Mail — Return Receipt Requested
Article #: 7013 2250 000 3322 5708

Vince Chiotti
Oregon Housing & Community Services
1600 SW 4th Avenue, Suite 109 Portland,
OR 97201

Certified Mail — Return Receipt Requested
Article #: 7013 2250 0000 3322 5715

Chuck Robbins
Clackamas County
Community Development
2051 Kaen Road, Suite 245
Oregon City, OR 97045-1284

Certified Mail — Return Receipt Requested
Article#:7013 2250 0000 3322 5722



Monique Soria
Compliance Specialist
Wage and Hour Division
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