



Oregon

Bureau of Labor and Industries

Brad Avakian
Commissioner

February 23, 2016

Merry Hart
ACCESS
PO Box 4666
Medford, OR 97501

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*
Project: Victory Place Apartments
Requested by: ACCESS

Dear Ms. Hart:

On February 18, 2016, you submitted a request asking whether a proposed project is subject to the prevailing wage rate law. Sufficient information to make a determination was received on February 18, 2016, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. Fred Herrmann, a private citizen, plans to construct a new affordable housing project to be located on property that Mr. Herrmann currently owns in Medford, OR.
2. Mr. Herrmann received a grant for the construction of the project from the Oregon Housing and Community Services Department through his solely owned domestic corporation, Commercial Counsel, Inc. While the completed project will be owned by Fred Herrmann and Commercial Counsel, Inc., ACCESS, a public benefit non-profit corporation, is assisting Mr. Herrmann with the project's development.
3. The project, known as Victory Place Apartments, includes the construction of a two-story, wood frame, residential building containing seventeen studio and one bedroom housing units. The building will also include a shared laundry room for residents. The project does not contain any commercial or retail space.

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4. One of the seventeen units will be set aside for onsite management. Eight of the seventeen units will be restricted to households at or below 60% of the area median income. The remaining eight units will be restricted to households at or below 60% of the area median income, and through the HUD VASH voucher program, will allow for tenants to pay no more than 30% of their incomes for rent.
5. Funding for the project includes the following sources:
 - a. Funds of a public agency: \$1,713,153
 - i. Oregon Housing and Community Services Department - General Housing Account Program (GHAP): \$1,713,153
 - b. Other Funds: \$50,000
 - i. Bank loan: \$50,000
6. No public agency will occupy or use any square footage of the completed project.

CONCLUSIONS OF LAW

1. The proposed project meets the definition of "public works" under ORS 279C.800(6)(a)(B) because the project will use \$750,000 or more of funds of a public agency for constructing a building, structure or improvement of any type.
2. The proposed project meets the definition of "residential construction" that is "privately owned" and that "predominantly" provides "affordable housing" under ORS 279C.810(2)(d), because the project will be owned by a private corporation and includes the construction of four-story or less single-family homes or apartments, and 60% or more of the units will serve occupants whose incomes are no greater than 60% of the area median income.
3. 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 predominantly provide affordable housing.

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 Victory Place 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

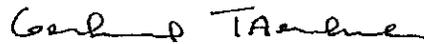
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived, this determination order will be final, and the agency file on this matter shall serve as the record for purposes of proving a prima facie case.

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 either by 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 23, 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 February 23, 2016, I mailed, by certified mail, the Prevailing Wage Rate Determination for the Victory Place Apartments project to the requestor and any public agencies identified by requestor as being associated with this project, as follows:

Merry Hart
ACCESS
PO Box 4666
Medford, OR 97501

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

Cara Carter
Housing Authority of Jackson County
2251 Table Rock Road
Medford, OR 97501



Hannah Wood, Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries