



March 19, 2015

Patrick O'Toole
Union Labor Retirement Association
DBA Westmoreland's Union Manor
1625 SE Lafayette Street
Portland, OR 97202

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*
Project: Westmoreland's Union Manor
Requested by: Union Labor Retirement Association

Dear Mr. O'Toole:

On March 4, 2015, you submitted a request on behalf of Union Labor Retirement Association requesting a determination of whether the rehabilitation of Westmoreland's Union Manor Project is subject to the Prevailing Wage Rate laws. On March 18 and 19, 2015, Brian Sweeney, Director of Construction Management with the Housing Development Center, and Philip Dochow, the financial project manager, sent this office emails responding to some questions I had regarding the project.

Sufficient information to make a determination was received on March 19, 2015, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT:

1. Union Labor Retirement Association ("ULRA") is a domestic non-profit corporation that provides affordable housing for elderly and other low income residents.
2. ULRA currently owns Westmoreland's Union Manor. ULRA intends to complete a rehabilitation of the property. Westmoreland Union Manor One LP will acquire the building after the rehabilitation.
3. Westmoreland's Union Manor was built in 1966. It is a seven-story building made up of 301 units. Of the units, 217 (72%) are currently covered by two

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Section 8 contracts. The first contract, covering 167 units, caps residents' incomes at 80% of the area median income. The second, covering the remaining 50 units, caps residents' incomes at 50% of the area median income. These two contracts will be combined after the rehabilitation, and thereafter incomes for new residents will be capped at 50% of the median area income.

4. The total project cost will be approximately \$52,990,990. Funding for the project includes the following sources:
 - i. Funds of a Public Agency: \$25,950,000
 - A. Federal Housing Administration 221(d)4 permanent loan - \$25,700,000
 - B. Oregon Housing and Community Services Weatherization - \$250,000
 - ii. Other funds: \$27,040,990
 - A. Low Income Housing Tax Credit equity - \$13,235,417
 - B. Seller Note - \$11,522,627
 - C. Deferred developer fee - \$500,000
 - D. Energy Trust of Oregon - \$400,000
 - E. Existing Reserves - \$502,946
 - F. NOI during construction - \$880,000

CONCLUSIONS OF LAW:

1. The Westmoreland's Union Manor project is a privately-owned project that will use more than \$750,000 in funds of a public agency. Therefore, the definition of "public works" in ORS 279C.800(6)(a)(B) applies.
2. The exemption for residential projects that predominately provide affordable housing does not apply. The project will be a privately owned building that provides predominately affordable housing; however, it will be seven stories in height, and therefore the definition of "residential construction" in ORS 279C.810(2)(d)(D) 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 apply to the Westmoreland's Union Manor 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.

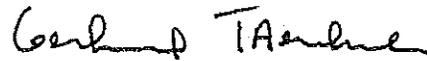
If you request a hearing, you will be notified of the date, time and place of the hearing. You have the right to be represented by legal counsel at a hearing. However, if you are a government agency, corporation, partnership, or unincorporated association, you must be represented by either legal counsel 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: March 19, 2015.

BRAD AVAKIAN, Commissioner
Bureau of Labor and Industries



GERHARD TAEUBEL,
Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On March 19, 2015, I mailed the Prevailing Wage Rate Determination for the Victorian Court Apartments Project to the requestor via email to Brian Sweeney and as follows:

Patrick O'Toole
Union Labor Retirement Association
DBA Westmoreland's Union Manor
1625 SE Lafayette Street
Portland, OR 97202

Certified Mail – Return Receipt Requested
Article #: 7014 0510 0001 9849 7105



Rachel Diamond
Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries