



January 23, 2014

Julie E. Garver, Housing Development Director  
Innovative Housing, Inc.  
219 NW Second Avenue  
Portland, OR 97209

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*  
Project: Woodland Square  
Requested by: Innovative Housing, Inc.

Dear Ms. Garver:

On January 8, 2014, you submitted a request asking if the Prevailing Wage Rate laws would apply to the proposed project known as Woodland Square. Sufficient information to make a determination was received on January 13, 2014, and therefore, the commissioner issues the following determination:

#### FINDINGS OF FACT:

1. The proposed project consists of the redevelopment of a property known as the Woodland Square Mobile Park in Albany, Oregon.
2. The property is currently owned by Innovative Woodland Square, LLC, a domestic limited liability company (Innovative Housing is its sole member). The future ownership of the project will be a Limited Partnership, to be determined within the next six months. It is anticipated that Raymond James Financial Services Advisors Inc., a foreign business corporation, will be the majority partner with 99.99% ownership and that Innovative Woodland Square, LLC will be the minority partner. Innovative Woodland Square, LLC will contract for the construction of the Woodland Square project.
3. The project will include the following: a) construction of 54 new apartment units in five two-and three-story buildings; b) 86 parking spaces; c) bike racks; d) children's play area; e) manager's office; f) community room for building residents; and g) a resident services office.
4. One hundred percent of the units will be made available to persons with incomes of no more than 60 percent of the area median income.

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5. Total project cost will be \$10,795,101. Funding for the project includes the following sources:
  - a) Funds of a public agency: \$1,665,000
    - i. City of Albany CARA Urban Renewal Funds (forgivable loan): \$1,450,000
    - ii. State of Oregon Trust Fund/GHAP Grant: \$200,000
    - iii. Energy Trust Rebate: \$15,000
  - b) Other funds: \$9,130,101
    - i. Low Income Housing Tax Credits: \$8,090,101
    - ii. Permanent Loan: \$815,000
    - iii. Deferred Developer Fee: \$225,000

**CONCLUSIONS OF LAW:**

1. The Woodland Square project will be privately owned and will use more than \$750,000 in funds of a public agency. Therefore, the definition of “public works” under ORS 279C.800(6)(a)(B) will apply to this project.
2. The prevailing wage rate laws do not apply to projects for residential construction that are privately owned and that predominately provide affordable housing. ORS 279C.810(2)(d). Here, the Woodland Square project will be a privately owned project for residential construction. One hundred percent of the units will be restricted to households earning 60% of the area median income; therefore, the project will predominantly provide affordable housing. Therefore, the prevailing wage rate laws will not apply to the Woodland Square project.

**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 Woodland Square 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, OR 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: January 23, 2014

BRAD AVAKIAN, Commissioner  
Bureau of Labor and Industries



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Administrator  
Wage and Hour Division  
Bureau of Labor and Industries

**Certificate of Service**

On January 23, 2014, I mailed the Prevailing Wage Rate Determination for the Woodland Square project to the requestor, as follows:

Julie E. Garver  
Housing Development Director  
Innovative Housing, Inc.  
219 NW Second Avenue  
Portland, OR 97209

Certified Mail – Return Receipt Requested  
Article #: 7012 3460 0001 3059 7978



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