

April 9, 2009

Julie Garver, Housing Developer  
Innovative Housing, Inc.  
1214 SW Washington St.  
Portland, OR 97205

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*  
Project: The Clifford Apartments Renovation  
Requested by: Innovative Housing, Inc.

Dear Ms. Garver:

On February 23, 2009, you submitted a request on behalf of Innovative Housing, Inc. (“IHI”), asking if the Prevailing Wage Rate law would apply to a proposed renovation project to The Clifford Apartments building. Sufficient information to make a determination was received on April 2, 2009, and therefore, the commissioner issues the following determination:

#### **FINDINGS OF FACT**

1. The Clifford Apartments, a privately-owned building, is a four-story apartment building located at 527 SE Morrison Street in Portland, Oregon. The building has 88 apartments for low-income, homeless and mentally-ill individuals. All occupants will have incomes less than 60 percent of the area median income.
2. The Clifford Apartments has four existing commercial tenant spaces on the main floor and is therefore a mixed-use building.
3. The proposed renovation will include improvements to the lobby and lobby entrance, indoor air quality, and half the roof. The proposed work will also include the addition of ADA ramps and several residential unit repairs to flooring, kitchenettes, plumbing and electrical. The cost of construction is estimated to be \$2,400,000.
4. Funds of multiple public agencies in excess of \$750,000 will be used on this project.

## **CONCLUSIONS OF LAW**

1. The renovation project will be privately owned, and more than \$750,000 in funds of a public agency will be used on the project. Therefore, the definition of “public works” under ORS 279C.800(6)(a)(B) will apply to the project.
2. The Clifford Apartments building includes both residential and commercial space and, as such, does not meet the definition of “residential construction” in ORS 279C.810(2)(d)(D). Therefore, the exemption for residential construction that is privately owned and that predominately provides affordable housing under ORS 279C.810(2)(d) will not apply to this 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 apply to the proposed renovation of The Clifford Apartments.

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 HB 2140 Section 43 (Enrolled) OR Laws 2007. 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

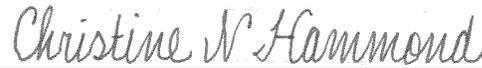
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: April 9, 2009

Brad Avakian, Commissioner  
Bureau of Labor and Industries



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Christine N. Hammond, Administrator  
Wage and Hour Division  
Bureau of Labor and Industries

## **Certificate of Service**

On April 9, 2009, I mailed the Prevailing Wage Rate Determination for the Clifford Apartments renovation project to the requestor associated with this project, as follows:

Julie Garver, Housing Developer  
Innovative Housing, Inc.  
1214 SW Washington St.  
Portland, OR 97205

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Susan Wooley  
PWR Technical Assistance Coordinator  
Wage and Hour Division  
Bureau of Labor and Industries