

David Crawford  
Geller Silvis & Associates, Inc.  
4905 SW Griffith Drive, Suite 204  
Beaverton OR 97005

Re: *Determination Whether Project is Subject to Prevailing Wage Rate*  
Project: EAST Place Apartments  
Requested by: Polk Community Development Corporation

Dear Mr. Crawford:

On October 29, 2007, you submitted a request on behalf of Polk Community Development Corporation (“Polk CDC”) asking whether a proposed project is subject to the Prevailing Wage Rate law. Sufficient information to make a determination was received by November 9, 2007, and therefore, the commissioner issues the following determination:

#### **FINDINGS OF FACT**

1. Polk CDC owns the project site in Dallas, Oregon. A limited liability company, of which Polk CDC will be the sole member, will own the project upon completion.
2. Polk CDC proposes to develop the property into a two-story apartment building consisting of five residential units. All five of the units will be occupied by occupants whose incomes are no greater than 60 percent of the area median income.
3. Polk CDC intends to use \$145,398 in Housing Development Grant (Trust Fund), \$568,293 in HOME Investment Partnerships Program Grant, and \$29,602 in HELP Grant funds from Oregon Housing and Community Services Department (“OHCS”) to assist with the development of the project.
4. It is not anticipated that any public agency will use or occupy any part of the completed building.

#### **CONCLUSIONS OF LAW**

1. The construction project is intended to be privately owned. No public agency will occupy or use the completed building. Therefore, the definition of a “public works” under ORS 279C.800(6)(a)(C) does not apply to this project.
2. Polk CDC’s description of the project is “residential construction” under ORS 279C.810(2)(d)(D) and will predominantly provide affordable housing, as

described in ORS 279C.810(2)(d)(A), (B).

3. If the project is a public works under ORS 279C.800(6)(a)(A) or (B), the exemption applies for privately owned projects for residential construction that predominantly provide affordable housing. ORS 279C.810(2)(d).

## **DETERMINATION**

Based on the foregoing, the Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, do not apply to the EAST 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.

## **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: November 14, 2007

Dan Gardner, Commissioner  
Bureau of Labor and Industries

*Christine N. Hammond*

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

## **Certificate of Service**

On November 14, 2007, I mailed, by certified mail, the Prevailing Wage Rate Determination for EAST Place Apartments to the requestor and any public agencies identified by requestor as being associated with this project, as follows:

David Crawford  
Geller Silvis & Associates, Inc.  
4905 SW Griffith Drive, Suite 204  
Beaverton OR 97005

Carol Kowash  
Oregon Housing and Community Services  
725 Summer Street NE, Suite B  
Salem OR 97301-1266

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Gerhard Taeubel, Compliance Specialist  
Wage and Hour Division  
Bureau of Labor and Industries