

Catherine Kes
Housing Development Manager
Hacienda Community Development Corporation
5136 NE 42nd Ave
Portland, OR 97218

Re: *Determination Whether Project is Subject to Prevailing Wage Rate*
Project: Miraflores, 8917 N Newell, Portland, Oregon
Requested by: Hacienda Community Development Corporation

Dear Ms. Kes:

On August 10, 2007, you submitted a request on behalf of Hacienda Community Development Corporation (“Hacienda”) asking whether a proposed project is subject to the Prevailing Wage Rate law. Sufficient information to make a determination was received by August 14, 2007, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. Hacienda represents that the project will be owned by a private entity comprised of Hacienda and a tax-credit investor.
2. Hacienda proposes to construct three three-story apartment buildings at 8917 N Newell. Of the 32 units to be built, 31 will be units occupied by occupants whose incomes are no greater than 60 percent of the area median income.
3. Hacienda intends to use \$440,421 in HOME and tax-increment funds that it will receive from the Portland Development Commission to assist with the development of the project. Oregon Housing and Community Services Department is expected to contribute a total of \$1,838,000 in tax credits to the project.
4. It is not anticipated that any public agency will use or occupy any part of the completed project.

CONCLUSIONS OF LAW

1. The construction project is intended to be privately owned. Pursuant to ORS 279C.810(1)(a)(C), tax credits are not included in the definition of “funds of a

public agency.” Less than \$750,000 in funds of a public agency will support the project, and no public agency will occupy or use the completed building. Therefore, the definitions of a “public works” under ORS 279C.800(6)(a)(B) and (C) do not apply to this project.

2. Hacienda’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), 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 construction of the development proposed for 8917 N Newell.

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.

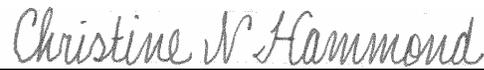
If you request a hearing, you will be notified of the date, time and place of the hearing. You have the right to be represented by legal counsel at a hearing. However, if you are a government agency, corporation, partnership, or unincorporated association, you must be represented by either legal counsel 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: September 5, 2007

Dan Gardner, Commissioner
Bureau of Labor and Industries

A handwritten signature in cursive script that reads "Christine N. Hammond". The signature is written in black ink and is positioned above a horizontal line.

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

Certificate of Service

On September 5, 2007, I mailed, by certified mail, the Prevailing Wage Rate Determination for 8917 N Newell (Miraflores Project) to the requestor and any public agencies identified by requestor as being associated with this project, as follows:

Catherine Kes
Housing Development Manager
Hacienda Community Development Corporation
5136 NE 42nd Ave
Portland, OR 97218

Rhonda VanderMeer
Portland Development Commission
222 NW Fifth Ave
Portland OR 97209

Roz Barnes
Housing Development Representative
Oregon Housing and Community Services
725 Summer St NE, Suite B
Salem OR 97301-1266

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