

December 14, 2009

Destin Ferdun
Lunabridge
3575 NE Shaver
Portland, OR 97212

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*
Project: 29th Place Development
Requested by: Lunabridge

Dear Mr. Ferdun:

On November 30, 2009, you submitted a request asking if the Prevailing Wage Rate law would apply to the proposed acquisition and renovation of the 29th Place Development located in Eugene, Oregon. Sufficient information to make a determination was received on December 10, 2009, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. The 29th Place Development will be owned by a new partnership that is yet to be named. ShelterCare, a private non-profit entity that provides housing and support services to homeless families and adults who have mental illnesses or brain injuries, will be the General Partner, with .01 percent ownership in the partnership. The Limited Partner, with 99.99 percent ownership in the partnership, will be an as-yet-to-be-named private investor. No public agency will be involved in this partnership.
2. The 29th Place Development will consist of three two-story apartment buildings. The buildings will not include any commercial or retail space. All of the occupants' incomes of these apartments will be less than 60 percent of the area median income.
3. ShelterCare will be the developer for this project. The proposed renovations to the project will include replacing roofs, exterior siding, insulation, windows, stairways, water heaters, and bathroom fixtures. Two ADA units will be completely renovated, and the entire site will be upgraded for ADA access.

4. The proposed plan includes the demolition of a two-bedroom home located at 2945 Willamette Street and adjacent to the apartment buildings. The area where the home currently sits will be landscaped with grass and will become part of the apartment complex.
5. The project's construction costs are estimated to be \$1,470,150, and the total project cost, including acquisition, is estimated to be \$4,455,153.
6. Committed funds of a public agency used to support this project come from the following sources:

\$695,000	City of Eugene HOME Funds
\$115,000	DHS Addictions & Mental Health Funds
\$100,000	OHCS Trust Funds
7. The proposed project will also tentatively use approximately \$335,000 per year in Low-Income Housing Tax Credits (LIHTC).

CONCLUSIONS OF LAW

1. The proposed project to acquire and renovate the 29th Place Development will be privately owned, and funds of a public agency in excess of \$750,000 will be used on the project.¹ Therefore, the proposed project is a “public works” under ORS 279C.800(6)(a)(B).
2. The proposed project is for residential construction that will be privately owned and that predominantly provides affordable housing. Therefore, the exemption from the prevailing wage rate law provided for in ORS 279C.810(2)(d) will 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 not apply to the proposed acquisition and rehabilitation of the 29th Place Development 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

¹ Pursuant to ORS 279C.810(1)(a)(C), the annual tax credits of \$335,000 to be used on the project are not funds of a public agency. However, the amount of funds of a public agency used on the project still exceeds \$750,000.

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

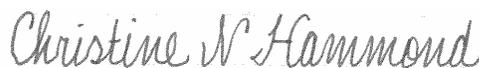
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: December 14, 2009

Brad Avakian, Commissioner
Bureau of Labor and Industries



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

Certificate of Service

On December 14, 2009, I mailed the Prevailing Wage Rate Determination for the 29th

Place Development project to the requestor and public agencies associated with this project, as follows:

Destin Ferdun
Lunabridge
3575 NE Shaver
Portland, OR 97212

Susan Ban, Executive Director
ShelterCare
PO Box 23338
Eugene, OR 97402

Karen Clearwater, RAD
Oregon Housing & Community Services
2510 Oakmont Way
Eugene, OR 97401

Becky Wheeler, Housing Finance Analyst
City of Eugene, Community Development
99 W 10th Ave.
Eugene, OR 97401

Jeff Puterbaugh, Housing Development Coordinator
Department of Human Services
Addictions and Mental Health Division
500 Summer St. NE, E-86
Salem, OR 97301-1118

Mike McHam, Multifamily Housing Section
Oregon Housing & Community Services
725 Summer St. NE, Suite B
Salem, OR 97301-1266

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