

April 22, 2010

Sheryldene Rogers, Director of Development
Goodale & Barbieri Company
818 W Riverside Ave, Suite 300
Spokane, WA 99201

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*
Project: Spruce Place/Richards Place
Requested by: Goodale & Barbieri Company

Dear Ms. Rogers:

On January 19, 2010, you submitted a request on behalf of Goodale & Barbieri Company asking if the Prevailing Wage Rate law would apply to the proposed Spruce Place/Richards Place construction project. Sufficient information to make a determination was received on April 15, 2010, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. Sequoia Mental Health Services (“Sequoia”), a private non-profit entity, currently owns vacant property located at 4565 SW 185th Avenue in Beaverton, Oregon.
2. In 2006, a fire destroyed Sequoia’s clinic/administrative offices. In 2007, Sequoia “began to explore the possibility of incorporating the construction of needed new housing for mentally disabled persons, with the construction of a new clinic/administrative building on its existing property. The project cost was estimated at \$3.7 million.” The “existing property” in question is that located at 4565 SW 185th Avenue in Beaverton.
3. Sequoia now proposes to go forward with this plan and construct new housing for mentally disabled persons and a new clinic/administrative building on the vacant property in Beaverton. For zoning purposes, the ownership of the project is divided into two “condominiums.” Sequoia will own the clinic/office portion of the complex, referred to as Richards Place, and Spruce Place, Inc.¹ will own the housing component of the complex, referred to as Spruce Place.

¹ Spruce Place, Inc. is a private non-profit entity.

4. Spruce Place will consist of one three-story building containing fourteen one-bedroom units for very-low-income persons disabled due to chronic mental illness. All of the occupants' incomes of these fourteen units will be less than 60 percent of the area median. The complex will include a two-bedroom unit for an on-site manager, and community space for residents' use.
5. Richards Place, which will abut Spruce Place, will serve not only the occupants of Spruce Place, but will also serve the community as a whole. It is estimated that 520 low- to moderate-income persons with mental and chemical disabilities will be served by Richards Place.
6. Spruce Place and Richards place are adjacent and perpendicular to each other, with a covered walk-way joining the two buildings.
7. Funds of public agencies will be used on the Spruce Place/Richards Place project as follows:

\$255,511	Washington Co. CDBD funds
\$315,000	Washington Co. Special Projects Appropriation
\$750,000	Washington Co. HOME funds
\$115,000	State Mental Health
\$100,000	OHCS Trust funds
\$28,018	OHCS LI Weatherization funds

CONCLUSIONS OF LAW

1. ORS 279C.827 and OAR 839-025-0310 prohibits dividing a public works project to avoid compliance with the PWR law. Some of the factors used in making this determination include the physical separation of the project structures, the timing of the work, the continuity of contractors working on the project parts, and the anticipated outcome of the improvements. Spruce Place and Richards Place are divided into two "condominiums" for zoning purposes, but the documentation submitted with this determination request show that the construction of these two buildings were considered to be one project, dating back as far as 2007. Therefore, Spruce Place and Richards Place are regarded as one project when considering the application of PWR law.
2. The proposed construction project will be privately owned, and more than \$750,000 in funds of public agencies will be used on the project. Therefore, the definition of "public works" under ORS 279C.800(6)(a)(B) will apply to the project.
3. The Spruce Place/Richards Place project 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 construction of the Spruce Place/Richards Place project. Pursuant to OAR 839-025-0315, this project may be one in which multiple wage determinations may be appropriate and will be considered upon request.

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, 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 22, 2010

Brad Avakian, 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 April 22, 2010, I mailed the Prevailing Wage Rate Determination for the Spruce Place/Richards Place construction project to the requestor and other parties associated with this project, as follows:

Sheryldene Rogers, Director of Development
Goodale & Barbieri Company
818 W Riverside Ave, Suite 300
Spokane, WA 99201

Douglas Cushing
Jordan Schrader Ramis PC
Two Centerpointe Drive, 6th Floor
Lake Oswego, OR 97035

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