Oregon

Bureau of Labor and Industries
Brad Avakian
Commissioner

November 21, 2012

Ms. Karen Litwiller
Oregon Mennonite Residential Services, Inc.
325 SW Elmwood
McMinnville, OR 97128

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*
Project: 20th Street
Requested by: Oregon Mennonite Residential Services, Inc.

Dear Ms. Litwiller:

On November 19, 2012, you submitted a request on behalf of Oregon Mennonite Residential Services, Inc. asking if the Prevailing Wage Rate law would apply to the proposed 20th Street Project. Sufficient information to make a determination was received on November 20, 2012, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT:

1. Oregon Mennonite Residential Services ("OMRS") operates group homes for adults with developmental disabilities. The project involves OMRS' plan to purchase and remodel a house on 20th Street in McMinnville. The 20th Street house is a three-bedroom group home for developmentally disabled women. OMRS is a domestic non-profit company.

2. OMRS is currently renting the 20th Street home from Mennonite Village in Albany and plans to purchase the home as soon as it receives grant funding from Oregon Housing & Community Services. Mennonite Village is a private non-profit company.

3. Prior to moving the residents into the 20th Street home, OMRS made some changes so that future remodeling would not require relocation of the residents. The changes included making the bathroom accessible, removing part of a wall, repainting the interior, removing carpet from bedroom floors, installing several light fixtures and adding monitoring systems to doors and windows. This work was performed in fall 2011and the home opened in January 2012. Some of the

work was performed by OMRS staff persons and other work was completed by local contractors. The work was paid for by OMRS reserves, with the intent of including reimbursement in the Oregon Housing & Community Services grant request.

4. The project will involve additional work. The additional work includes installing interior sprinklers and hard-wired smoke detectors, replacing interior doors and windows, installing a new heat pump and furnace, adding a wheelchair ramp to the home's front entrance, upgrading insulation in the attic, replacing floor coverings and performing some exterior improvements. An OMRS employee will serve as the general contractor. Competing bids were received on the various portions of the project.

5. The total project cost is estimated at $271,795. Funding for the project includes the following sources:

    a. Funds of a public agency: $271,795
        i. Oregon Housing & Community Services – General Housing Activity Program (GHAP) grant - $271,795
            1. Funds will cover purchase price, reimbursement for work that has already been performed and work that still needs to be performed.

CONCLUSIONS OF LAW:

1. The proposed project does not meet the definition of "public works" under ORS 279C.800(6)(a)(A) because the project will not be carried on or contracted for by a public agency.

2. The proposed project does not meet the definition of "public works" under ORS 279C.800(6)(a)(B) because although the project will be privately owned by OMRS, it will not use $750,000 or more in funds of a public agency.

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 construction, reconstruction, major renovation and/or painting of the 20th Street 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 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, OR 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 21, 2012

BRAD AVAKIAN, Commissioner
Bureau of Labor and Industries

Christine N Hammond

CHRISTINE N. HAMMOND,
Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On November 21, 2012, I mailed the Prevailing Wage Rate Determination for the 20th Street Project to the requestor and interested agency, as follows:

Ms. Karen Litwiller
OMRS
325 SW Elmwood
McMinnville, OR 97128

Certified Mail – Return Receipt Requested
Article #: 7012 2210 0000 1197 7158

Loren Shultz
Loan Officer
Oregon Housing & Community Services
725 Summer St. NE, Suite B
Salem, OR 97301-1266

Certified Mail – Return Receipt Requested
Article #: 7012 2210 0000 1197 7164

Cristin Casey
Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries