



July 30, 2013

Douglas C. Blomgren
Bateman Seidel
888 SW Fifth Ave., Suite 1250
Portland, OR 97204

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*
Project: Ariel Glen and Healy Heights
Requested by: Bateman Seidel Miner Blomgren Chellis & Gram, P.C.

Dear Mr. Blomgren:

On July 24, 2013, you submitted a request on behalf of Larkspur Housing, LLC and Central Oregon Regional Housing Authority asking if the Prevailing Wage Rate law would apply to the proposed Ariel Glen and Healy Heights project. Sufficient information to make a determination was received on July 26, 2013, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT:

1. Larkspur Housing, LLC, a private domestic limited liability company, will be acquiring and rehabilitating Ariel Glen and Healy Heights, two low-income apartment developments located in Bend (the "project").
2. Central Oregon Regional Housing Authority, doing business as Housing Works, is a public agency.
3. Larkspur Housing, LLC, a private company, will own the project. Larkspur Housing, LLC will be composed of Housing Works as managing member, an equity fund sponsored by PNC Bank, National Association as the investor member (the "Tax Credit Investor"), and a corporation affiliated with PNC Bank as the special member. Housing Works will have a .01% interest in the company; the Tax Credit Investor will have a 99.98% interest; and the special member will have a .01% interest.

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4. After a 15-year tax-credit compliance period, Housing Works will have an option and/or right of first refusal to acquire the project.
5. The two low-income apartment developments, in the aggregate, include 19 residential buildings, 140 residential units and two common-area buildings used by the tenants, for a total of 21 buildings. Each of the buildings is three-stories or fewer in height.
6. All of the apartment units (excepting two managers' units) will be for occupancy by persons with incomes at or below 60% of the area median income.
7. The total project cost will be \$19,678,000. Funding for the project includes the following sources:
 - a. Funds of a public agency: \$487,000
 - i. City of Bend Affordable Housing Fund loan - \$200,000
 - ii. Housing Works loan - \$287,000
 - b. Other funds: \$19,191,000
 - i. Private equity investment, includes low-income housing tax credits allocated through Oregon Housing & Community Services - \$2,941,000
 - ii. PNC Bank bridge loan - \$2,000,000
 - iii. Tax exempt bond proceeds during construction - \$7,000,000
 - iv. PNC Bank permanent loan, guaranteed under the HUD-FHA 223(f) program - \$7,250,000

CONCLUSION OF LAW:

1. Larkspur Housing, LLC will be acquiring and rehabilitating the Ariel Glen and Healy Heights apartment developments. Larkspur Housing, LLC is a private company because the housing authority is a managing member and not a majority owner. Because Larkspur Housing, LLC is a private entity and the proposed project scenarios will use funds of a private entity and funds of a public agency, the definition of "public works" under ORS 279C.800(6)(a)(B) should be considered.
2. The Ariel Glen and Healy Heights project does not meet the definition of "public works" under ORS 279C.800(6)(a)(B) because although the project will be privately owned and use funds of a private entity, the project will not use more than \$750,000 in funds of a public agency.

3. The prevailing wage rate laws do not apply to projects for residential construction that are privately owned and that predominately provide affordable housing. ORS 279C.810(2)(d). Even if the Ariel Glen and Healy Heights project used more than \$750,000 in funds of a public agency, this exception would apply.

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 Ariel Glen and Healy Heights 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 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

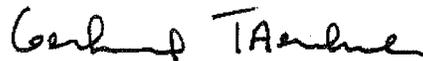
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: July 30, 2013

BRAD AVAKIAN, Commissioner
Bureau of Labor and Industries



GERHARD TAEUBEL,
Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On July 30, 2013, I mailed the Prevailing Wage Rate Determination for the Ariel Glen and Healy Heights project to the requestor and affected agency, as follows:

Douglas C. Blomgren
Bateman Seidel
888 SW Fifth Ave., Suite 1250
Portland, OR 97204

Certified Mail – Return Receipt Requested
Article #: 7012 3050 0001 7255 2550

Oregon Housing & Community Services
Attn: Teresa Pumela
725 NE Summer Street
Salem, OR 97301-1266

Certified Mail – Return Receipt Requested
Article #: 7012 3050 0001 7255 2604



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