



August 20, 2014

Anthony Chrisman, President
Cove Avenue Apartments, Inc.
PO Box 490
Enterprise, OR 97828

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*
Project: Cove Avenue Apartments
Requested by: Chrisman Development, Inc.

Dear Mr. Chrisman:

On August 19, 2014, you submitted a request asking if the Prevailing Wage Rate laws would apply to the proposed reconstruction project known as the Cove Avenue Apartments. Sufficient information to make a determination was received on August 20, 2014, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. Cove Avenue Apartments, Inc., a private entity, owns the Cove Avenue Apartments located in La Grande, Oregon. The 20-unit apartment complex consists of three apartment buildings which are two stories tall, and one common laundry room building which is one story tall. The complex includes no commercial or retail space.
2. Cove Avenue Apartments, Inc. proposes to rehabilitate the apartments. The work to be done includes the installation of new siding, exterior doors, and new stairways. Sidewalks, concrete patios, and parking lots will be removed and replaced, and new copper wiring safety harnesses on electrical outlets and switches will be installed.
3. All Cove Avenue Apartment occupants' incomes will be no greater than 50 percent of the area median income.
4. Cove Avenue Apartments, Inc. will contract for the construction work to be done on the project.

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Portland, OR 97232-2180
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5. The total project cost will be \$502,500. The project will be solely funded by a \$502,500 HOME Investment Partnership Grant from Oregon Housing and Community Services, a public agency. No other funds of a public agency will be used on the project.
6. No public agency will occupy or use any square footage of the completed project.

CONCLUSIONS OF LAW

1. The proposed project meets the definition of “residential construction” in ORS 279C.810(2)(d)(D), as the project includes the reconstruction of apartment buildings not more than four stories in height, and does not include any commercial or retail spaces.
2. The proposed project meets the definition of “privately owned” in ORS 279C.810(2)(d)(C)(ii), as the project is owned by Cove Avenue Apartments, Inc.
3. The proposed project meets the definition of “affordable housing” in ORS 279C.810(2)(d)(A), as the project will serve occupants whose incomes are not greater than 50 percent of the area median income. The proposed project will “predominately” provide affordable housing, as 100 percent of the units will be for affordable housing. ORS 279C.810(2)(d)(B).
4. Pursuant to ORS 279C.810(2)(d), the prevailing wage rate laws do not apply to projects for residential construction that are privately owned and that predominately provide affordable housing. Even if this proposed project met the definition of “public works” under ORS 279C.800(6)(a), it would be exempt from the prevailing wage rate laws.

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 project known as the Cove Avenue Apartments.

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, this determination order will be final, and the agency file on this matter shall serve as the record for purposes of proving a prima facie case.

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 order 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.

Date: August 20, 2014

Brad Avakian, Commissioner
Bureau of Labor and Industries



Gerhard Taeubel, Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On August 21, 2014, I mailed the Prevailing Wage Rate Determination for the proposed project known as the Cove Avenue Apartments to the requestor, as follows:

Josh Harman, Development Manager
Cove Avenue Apartments, Inc.
PO Box 490
Enterprise, OR 97828



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