



November 8, 2012

Jonia A. Pierce, Director of Housing Development  
Housing Authority of Yamhill County  
Yamhill County Affordable Housing Corporation  
135 NE Dunn Place  
McMinnville, OR 97128

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*  
Project: Deskins Commons Apartments  
Requested by: Housing Authority of Yamhill County

Dear Ms. Pierce:

On November 1, 2012, you submitted a request on behalf of Housing Authority of Yamhill County asking if the Prevailing Wage Rate law would apply to the Deskins Commons Apartments project ("project"). Sufficient information to make a determination was received on November 1, 2012, and therefore, the commissioner issues the following determination:

## FINDINGS OF FACT:

1. The Housing Authority of Yamhill County ("HAYC") is planning to construct Deskins Commons Apartments, a multi-family affordable housing development in Newberg. The project will be privately owned by Deskins Commons Housing, LLC, a limited liability company in which HAYC is a managing member and not a majority owner.
2. Deskins Commons Apartments will be an entirely residential apartment project comprised of 56 one, two and three bedroom units in eight buildings. The tallest apartment building will be three stories in height. The project will include common laundry rooms, and one common area for residents' use that includes a kitchen. The units will all be occupied by residents whose incomes are no greater than 50 percent of the area median income.

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3. The total project is estimated to cost \$14,283,431. Funding for the project will come from the following source:
  - a. Funds of a public agency: \$3,985,287
    - i. Oregon Housing & Community Services
      1. HOME Grant - \$500,000
      2. Housing Trust Fund - \$100,000
      3. Low Income Weatherization Program - \$75,000
      4. General Housing Account Program (“GHAP”) - \$100,000
    - ii. Developer Loan (HAYC) - \$250,000
    - iii. Public Housing Sales Proceeds - \$2,960,287
  - b. Other funds: \$10,298,144
    - i. Permanent Mortgage - \$2,351,975
    - ii. Low Income Housing Tax Credits (“LIHTC”) - \$7,872,000
    - iii. School Excise Tax Fee Waiver - \$55,100
    - iv. Property Tax Exemption - \$19,069

#### **CONCLUSIONS OF LAW:**

1. The proposed project meets the definition of “public works” under ORS 279C.800(6)(a)(B) because the project will be privately owned and it will use \$750,000 or more in funds of a public agency.
2. 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). The proposed project is a project for residential construction because it is a project for construction of apartment buildings of no more than three stories in height. Additionally, the project will be privately owned by Deskins Commons Housing, LLC. The project will predominately provide affordable housing because the tenants will have incomes no greater than 50 percent of the area median. Therefore, this exemption would apply.

#### **DETERMINATION:**

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 Deskins Commons Apartments 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: November 8, 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 8, 2012, I mailed the Prevailing Wage Rate Determination for the Deskins Commons Apartments project to the requestor and associated public agency, as follows:

Jonia A. Pierce,  
Director of Housing Development  
Housing Authority of Yamhill County  
Yamhill County Affordable Housing Corporation  
135 NE Dunn Place  
McMinnville, OR 97128

Certified Mail – Return Receipt Requested  
Article #: 7012 1010 0001 2377 5869

Carole Dicksa  
HOME Program Manager  
Oregon Housing & Community Services  
725 Summer St. NE, Suite B  
Salem, OR 97301-1266

Certified Mail – Return Receipt Requested  
Article #: 7012 1010 0001 2377 5852



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