



# Oregon

Bureau of Labor and Industries

Brad Avakian  
Commissioner

August 18, 2014

George N. Diamond  
Edgewater Village, LLC  
2839 SW 2<sup>nd</sup> Ave.  
Portland, OR 97201

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*  
Project: Edgewater Village  
Requested by: Edgewater Village, LLC

Dear Mr. Diamond:

On August 14, 2014, you submitted a request on behalf of Edgewater Village, LLC asking if the Prevailing Wage Rate laws would apply to the Edgewater Village project. Sufficient information to make a determination was received on August 18, 2014, and therefore, the commissioner issues the following determination:

## FINDING OF FACT

1. Edgewater Village, LLC, a private entity, plans to build a 60-lot subdivision on 5.6 acres in Albany, Oregon. The project, referred to as Edgewater Village, includes but is not limited to demolition of the Inland Quick Freeze Packaging Plant that was formerly on the property, site work necessary to prepare the location, waterfront path enhancement, and construction of the houses.
2. Edgewater Village, LLC currently owns the property, and purchased it from a private entity in 2005.
3. On February 27, 2008, Edgewater Village, LLC entered into a Grant Funding Contract with the City of Albany and the Albany Revitalization Agency for a \$2,400,000 "forgivable loan and grant note" to develop the site into residential property. If the project is not completed according to the Grant Funding Contract, the loan must be repaid to the City of Albany, with interest. However, upon completion of the 60 homes, the loan will be forgiven.

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4. Of the \$2,400,000 loan, \$900,000 was used to demolish and remove the Inland Quick Freeze Packaging Plant from the project site. The remaining loan amount was used to “discharge underlying prior encumbrances on the property,” as the property “was on the verge of default.”
5. Edgewater Village, LLC has spent \$700,000 in “personal funds” on the infrastructure costs for the project.

## **CONCLUSIONS OF LAW**

1. “Funds of a public agency” includes money loaned by a public agency, as defined in OAR 839-025-0004(9)(a)(A). The \$2,400,000 loan from the City of Albany and the Albany Revitalization Agency meets the definition of “funds of a public agency.”
2. The Edgewater Village project is a privately owned construction project that uses funds of a private entity and \$750,000 or more of funds of a public agency, and therefore the project meets the definition of “public works” under ORS 279C.800(6)(a)(B).
3. No exemptions from the Prevailing Wage Rate laws under ORS 279C.810(2) 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, apply to the Edgewater Village 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, Oregon 97232

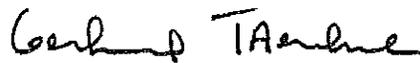
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived, this determination order will be final, and the agency file on this matter shall serve as the record for purposes of proving a prima facie case.

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 18, 2014

Brad Avakian, Commissioner  
Bureau of Labor and Industries



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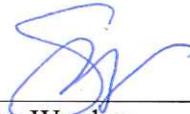
Gerhard Taubel, Administrator  
Wage and Hour Division  
Bureau of Labor and Industries

## Certificate of Service

On August 19, 2014, I mailed the Prevailing Wage Rate Determination for the Edgewater Village project to the requestor and associated public agency, as follows:

George N. Diamond  
Edgewater Village, LLC  
2839 SW 2<sup>nd</sup> Ave.  
Portland, OR 97201

Kate Porsche  
Economic Development & Urban Renewal Director  
Albany City Manager's Office  
PO Box 490  
Albany, Oregon 97321-0144



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