Oregon

Bureau of Labor and Industries
Brad Avakian
Commissioner

October 16, 2012

Nick Sauvie
Executive Director
Rose Community Development
5215 SE Duke Street
Portland, OR 97206

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*
Project: Greenview Terrace Apartments
Requested by: Rose Community Development

Dear Mr. Sauvie:

On October 10, 2012, you submitted a request on behalf of Rose Community Development asking if the Prevailing Wage Rate law would apply to the Greenview Terrace Apartments project ("project"). Sufficient information to make a determination was received on October 16, 2012, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT:

1. Rose Community Development plans to acquire and renovate the Greenview Terrace Apartments located at 620 SE 148th in Portland. Rose Community Development is a private nonprofit company. Rose Community Development will purchase Greenview Terrace Apartments from a private owner and the purchase will close in early January 2013.

2. The project consists of four apartment buildings, all of which are either one or two stories in height. There are a total of 11 two bedroom units and 20 one bedroom units. The units will all be occupied by residents whose incomes are no greater than 60 percent of the area median income.

3. The proposed renovation work will address mostly deferred maintenance and replacement of worn out finishes, including installation of new roofing, new siding, new doors and windows, new insulation, new kitchen and bathroom fixtures, new floor coverings and repair of exterior stairs and decks.

4. The total project is estimated to cost $4,666,163. Funding for the project will come from the following source:

    a. Funds of a public agency: $3,634,163
        i. Oregon Housing & Community Services Grant - $659,129
        ii. Portland Housing Bureau Grant - $160,000
        iii. Portland Housing Bureau Loan - $2,815,034
    b. Other funds: $1,032,000
        i. NOAH Loan - $900,000
        ii. Deferred Development Fees - $132,000

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 reconstruction, major renovation and/or painting of one and two story apartment buildings. Additionally, the project will be privately owned by Rose Community Development, a private nonprofit company. The project will predominately provide affordable housing because the tenants will have incomes no greater than 60% 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 Greenview Terrace 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: October 16, 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 October 16, 2012, I mailed the Prevailing Wage Rate Determination for the Greenview Terrace Apartments project to the requestor and associated public agencies, as follows:

Nick Sauvie
Executive Director
Rose Community Development
5215 SE Duke Street
Portland, OR 97206

Certified Mail – Return Receipt Requested
Article #: 7012 1010 0001 2377 5708

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

Certified Mail – Return Receipt Requested
Article #: 7012 1010 0001 2377 5715

Nate McCoy
Sr. Construction Coordinator
Portland Housing Bureau
421 SW 6th Ave., Suite 500
Portland, OR 97204

Certified Mail – Return Receipt Requested
Article #: 7012 1010 0001 2377 5722

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