

Meredith Schmidt  
Innovative Housing, Inc.  
1214 SW Washington St  
Portland OR 97205

Re: *Determination Whether Project is Subject to Prevailing Wage Rate*  
Project: Hewitt Place Townhomes  
Requested by: Innovative Housing, Inc.

Dear Ms. Schmidt:

On July 17, 2008, you submitted a request on behalf of Innovative Housing, Inc. (“IHI”) asking whether a proposed project is subject to the Prevailing Wage Rate law. Sufficient information to make a determination was received by July 24, 2008, and therefore, the commissioner issues the following determination:

#### **FINDINGS OF FACT**

1. IHI proposes to renovate an existing housing development in Troutdale. Improvements will be made to townhome units in 11, two-story buildings. The property will be owned by a partnership comprised of IHI and a for-profit entity.
2. IHI intends to use approximately \$684,000 in public funds that it will obtain from Oregon Housing and Community Services and the City of Portland’s Bureau of Housing and Community Development.
3. No public agency will occupy or use any part of the completed project.
4. All of the residential units will be occupied by persons whose incomes are no greater than 60 percent of the area median income.

#### **CONCLUSIONS OF LAW**

1. The construction project is intended to be privately owned. Less than \$750,000 in funds of a public agency will support the project, and a public agency will occupy or use less than 25% of the completed project. Therefore, the definitions of a “public works” under ORS 279C.800(6)(a)(B) and (C) do not apply to this project.
2. If the project is a public works under ORS 279C.800(6)(a)(A), the exemption applies for privately owned projects for which less than \$750,000 of funds of a

public agency are used and less than 25 percent of the square footage will be occupied or used by a public agency. ORS 279C.810(2)(c).

## **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 Hewitt Place Townhomes 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.

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 28, 2008

Brad Avakian, Commissioner  
Bureau of Labor and Industries

A handwritten signature in cursive script that reads "Christine N. Hammond". The signature is written in black ink and is positioned above a horizontal line.

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Christine N. Hammond, Administrator  
Wage and Hour Division  
Bureau of Labor and Industries

## **Certificate of Service**

On July 28, 2008, I mailed, by certified mail, the Prevailing Wage Rate Determination for the Hewitt Place Townhomes project to the requestor and any public agencies identified by the requestor as being associated with this project, as follows:

Carol Kowash  
Oregon Housing and Community Services  
725 Summer St NE, Suite B  
Salem OR 97301-1266

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Gerhard Taeubel, Compliance Specialist  
Wage and Hour Division  
Bureau of Labor and Industries