



September 18, 2012

David Huntington, Executive Director  
Community Development Corporation  
of Lincoln County  
P.O. Box 1457  
Newport, OR 97365

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*  
Project: Jetty Apartments  
Requested by: Community Development Corporation of Lincoln County

Dear Mr. Huntington:

On September 13, 2012, you submitted a request on behalf of Community Development Corporation of Lincoln County (LCDC) asking if the Prevailing Wage Rate law would apply to the Jetty Apartments project ("project"). Sufficient information to make a determination was received on September 18, 2012, and therefore, the commissioner issues the following determination:

### FINDINGS OF FACT:

1. LCDC plans to purchase and rehabilitate Jetty Apartments in Lincoln City. LCDC is a private non-profit company. Jetty Apartments is a 17-year-old two-story residential apartment building in Lincoln City. Once purchased, LCDC plans to extensively rehabilitate Jetty Apartments.
2. One hundred percent of the occupancy of Jetty Apartments will be restricted to persons with an income of 50% or less of the area median.
3. The total project is estimated to cost \$926,354. All funding for the project will come from an Oregon Housing & Community Services (OHCS) grant. The funds will be funds of a public agency.

**PORTLAND**  
800 NE Oregon St. Suite 1045  
Portland, OR 97232-2180  
(971) 673-0761  
Fax (971) 673-0762

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## **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 will use \$750,000 or more of 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 an apartment building not more than two stories in height. Additionally, the project will be privately owned by LCDC. The project will predominately provide affordable housing because the tenants will have incomes no greater than 50% of the area median. Therefore, this exemption will 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 Jetty 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

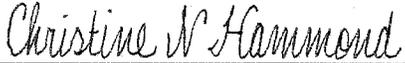
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: September 18, 2012

BRAD AVAKIAN, Commissioner  
Bureau of Labor and Industries

  
CHRISTINE N. HAMMOND,  
Administrator  
Wage and Hour Division  
Bureau of Labor and Industries

## Certificate of Service

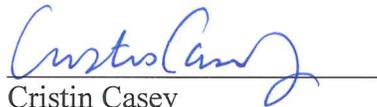
On September 18, 2012, I mailed the Prevailing Wage Rate Determination for the Jetty Apartments project to the requestor, as follows:

David Huntington, Executive Director  
Community Development Corporation  
of Lincoln County  
P.O. Box 1457  
Newport, OR 97365

Certified Mail – Return Receipt Requested  
Article #: 7012 1010 0001 2377 6231

Joyce Robertson  
Oregon Housing & Community Services  
P.O. Box 14508  
Salem, OR 97309-0409

Certified Mail – Return Receipt Requested  
Article #: 7012 1010 0001 2377 6248



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