Oregon

Bureau of Labor and Industries
Brad Avakian
Commissioner

December 5, 2013

Stephen McMurtrey
Senior Housing Development Manager
Northwest Housing Alternatives
2316 SE Willard Street
Milwaukie, OR 97222-7740

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*
Project: Julian Hotel
Requested by: Northwest Housing Alternatives

Dear Mr. McMurtrey:

On June 14, 2013, you submitted a request on behalf of Northwest Housing Alternatives asking if the Prevailing Wage Rate law would apply to the proposed Julian Hotel project. This office responded to your request on June 27, 2013, providing determinations for two possible scenarios. On December 2, 2013, you sent this office an email containing new information regarding the Julian Hotel project and requesting a revised coverage determination.

Sufficient information to make a determination was received on December 4, 2013, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT:

1. Northwest Housing Alternatives owns the Julian Hotel in Corvallis. Northwest Housing Alternatives is proposing a significant rehabilitation and seismic upgrade to the Julian Hotel. Northwest Housing Alternatives is a domestic non-profit corporation that builds and rehabilitates affordable housing for low-income Oregonians.

2. The Julian Hotel is a four-story building with two retail spaces on the ground floor: a chiropractic office and a resale clothing store. In addition, the Julian contains 30 one-bedroom units and 5 studio apartments. The Julian serves residents with incomes at or below 60% of the area median income (AMI).

3. The total project cost will be $8,232,929. Funding for the project includes the following sources:

    i. Funds of a Public Agency: $987,757
        1. Oregon Housing & Community Services ("OHCS")
            a. Trust Fund - $200,000
            b. Low-Income Weatherization Program - $92,757
        2. Corvallis Housing & Community Development:
            a. Community Development Block Grant - $100,000
            b. HOME Investment Partnerships - $595,000

    ii. Other Funds: $7,245,172
        1. Low Income Housing Tax Credits (LIHTC) - $5,403,114
        2. Permanent Loan (TBD) - $1,077,399
        3. Commercial Loan (TBD) - $386,633
        4. Deferred Development Fees - $174,832
        5. Neighborworks Loan - $110,657
        6. Cash During Rehab (TBD) - $92,537

CONCLUSIONS OF LAW:

1. The Julian Hotel project will be privately owned and will use more than $750,000 in funds of a public agency. Therefore, the definition of "public works" under ORS 279C.800(6)(a)(B) will apply to this project.

2. The Julian Hotel project includes both residential and commercial space and, as such, does not meet the definition of "residential construction" in ORS 279C.810(2)(d). Therefore, the exemption for residential construction that is privately owned and that predominantly provides affordable housing under ORS 279C.810(2)(d) will not 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, will apply to the proposed major renovation of the Julian Hotel 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: December 5, 2013

BRAD AVAKIAN, Commissioner
Bureau of Labor and Industries

Gerhard TAeubel

GERHARD TAEUBEL,
Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On December 5, 2013, I mailed the Prevailing Wage Rate Determination for the Julian Hotel project to the requestor and affected agencies, as follows:

Stephen McMurtrey
Senior Housing Development Manager
Northwest Housing Alternatives
2316 SE Willard Street
Milwaukie, OR 97222-7`740

Certified Mail – Return Receipt Requested
Article #: 7012 3050 0001 7255 3687

Kent Weiss
Housing Division Manager
Corvallis Housing & Community
Development Commission
PO Box 1083
Corvallis, OR 97339-1083

Certified Mail – Return Receipt Requested
Article #: 7012 3050 0001 7255 3694

Rachel Diamond
Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries