



Oregon

Bureau of Labor and Industries

Brad Avakian
Commissioner

February 11, 2016

Erik Pattison, Housing Development Associate
Hacienda Community Development Corporation
6700 NE Killingsworth Ave.
Portland, OR 97218

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*
Project: Rehabilitation of Los Jardines de la Paz Apartments
Requested by: Hacienda Community Development Corporation

Dear Mr. Pattison:

On February 4, 2016, you submitted a request on behalf of Hacienda Community Development Corporation asking if the Prevailing Wage Rate law would apply to the proposed rehabilitation of the Los Jardines de la Paz Apartments, located at 5530 NE 60th Ave. in Portland, Oregon. Sufficient information to make a determination was received on February 9, 2016, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. Hacienda Community Development Corporation (“Hacienda”) is a domestic non-profit corporation that provides affordable housing, homeownership support, economic advancement, and educational opportunities to Oregonians.
2. Oregon Housing and Community Services (“OHCS”), a public agency as that term is defined in ORS 279C.800(5), seeks to provide stable and affordable housing to Oregonians.
3. The Los Jardines de la Paz Apartments (“Los Jardines”) is a 43-unit affordable housing complex comprised of nine buildings, five of which are two stories in height and four of which are three stories tall. Los Jardines exclusively serves tenants earning no more than 60 percent of the area median income. Los Jardines is entirely residential, featuring no commercial space.
4. Los Jardines is owned by Los Jardines Limited Partnership (“the Partnership”), a domestic limited partnership owned jointly by Hacienda, Homestead Equity Fund II Limited Partnership (a domestic limited partnership), and Homestead Equity Fund A - Oregon Limited Partnership (a domestic limited partnership). Hacienda is the sponsor/general partner of the Partnership and holds a 0.1% ownership interest in Los Jardines; Homestead Equity Fund II holds a 71.9% interest in Los Jardines, and Homestead Equity Fund A holds a 28% ownership interest in Los Jardines. Neither

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Hacienda Community Development Corporation, nor Homestead Equity Fund II, nor Homestead Equity Fund A, nor Los Jardines Limited Partnership is a public agency as defined in ORS 279C.800(5).

5. Hacienda will contract for the rehabilitation of Los Jardines. Rehabilitation work will include a complete replacement of the current building envelope (siding, paint, insulation, roof, and walkways) as well as improvements to on-site drainage/storm water systems, waste management systems, and lighting systems.
6. The total project cost is estimated to be \$3,140,000.
7. The project will be funded using an OHCS General Housing Account Program grant in the amount of \$3,141,314; these funds represent “funds of a public agency” as defined in ORS 279C.800(5).

CONCLUSIONS OF LAW

1. The project meets the definition of “residential construction” in ORS 279C.810(2)(d)(D), as the project includes the construction, reconstruction, major renovation, or painting of apartment buildings not more than four stories in height, and does not include any commercial space.
2. The property is currently owned by a private entity and will remain owned by the same private entity before, during, and after the project is completed. Therefore, the project meets the definition of “privately owned” in ORS 279C.810(2)(C)(ii).
3. The project meets the definition of “affordable housing” in ORS 279C.810(2)(d)(A), as the project will serve occupants whose incomes are not greater than 60 percent of the area median income. The proposed project will “predominantly” provide affordable housing, as all 43 units will be for affordable housing. ORS 279C.810(2)(d)(B).
4. Pursuant to ORS 279C.810(2)(d), the Prevailing Wage Rate laws do not apply to projects for residential construction that are privately owned and that predominantly provide affordable housing. Even if this project meets the definition of “public works” under ORS 279C.800(6)(a), it will be exempt from the Prevailing Wage Rate laws.

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 proposed rehabilitation of the Los Jardines de la Paz Apartments.

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.

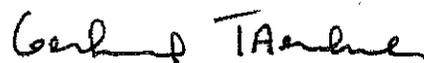
If you request a hearing, you will be notified of the date, time and place of the hearing. You have the right to be represented by legal counsel at a hearing. However, if you are a government agency, corporation, partnership, or unincorporated association, you must be represented by either legal counsel 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: February 11, 2016

BRAD AVAKIAN, Commissioner
Bureau of Labor and Industries



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

Certificate of Service

On February 11, 2016, I mailed the Prevailing Wage Rate Determination for the proposed rehabilitation of the Los Jardines de la Paz Apartments to the requestor and interested parties below:

Erik Pattison, Housing Development Associate
Hacienda Community Development Corporation
6700 NE Killingsworth Ave.
Portland, OR 97218

Certified Mail – Return Receipt Requested
Article # 7015-1660-0000-2223-5354

Tony Penrose, Loan Officer
Oregon Housing and Community Services
North Mall Office Building
725 Summer Street NE, Suite B
Salem, OR 97301

Certified Mail – Return Receipt Requested
Article # 7015-1660-0000-2223-5361



Michael Fevurly
Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries