



December 3, 2014

Angela Guo, Development Associate
Guardian Real Estate Services LLC
710 NW 14th Avenue, 2nd Floor
Portland, OR 97209

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*
Project: NAYA Generations, Revised
Requested by: Guardian Real Estate Services LLC

Dear Ms. Guo:

On July 17, 2013, your company submitted a request asking if the Prevailing Wage Rate Laws would apply to the NAYA Generations project. On July 30, 2013, the Bureau of Labor and Industries issued a determination that the Prevailing Wage Rate Laws would not apply to the project. On November 4, 2014, you submitted a request asking for an updated determination for the NAYA Generations project, based on a change in the fact situation for this project. Sufficient information to make a determination was received on December 2, 2014, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. Native American Youth and Family Center ("NAYA") is a domestic nonprofit serving Native American families in the Portland Metro area.
2. NAYA plans to build an affordable housing project, known as NAYA Generations, at 5203 SE 82nd Avenue in Portland. The 2.9 acre site is owned by Portland Public Schools. Portland Public Schools has leased the land to the City of Portland, who in turn has subleased the land to NAYA for the project. NAYA will have the option to purchase the land for \$1.00 after 15 years.
3. The project will consist of four buildings, all to be constructed below four stories in height. The complex will provide 40 units of affordable housing, including 8 units for families agreeing to adopt or become permanent guardians for foster children, and 32 units for seniors and elders providing support and mentoring for the families and children. The project will also include a common gathering

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room, resident lounge, community kitchen, reception area, and offices for property operations and the non-profit resident service-provider. Construction is expected to begin in September 2015, and completion is expected to be in August 2016.

4. All of the units will be restricted to households earning less than 60 percent of the median family income for Multnomah County.
5. The NAYA Generations project will be owned through a NAYA-controlled Limited Liability Corporation comprising membership in a Limited Partnership, which will include a tax credit investor as 99.99 percent owner. The tax credit Limited Partnership will own the development. Guardian Real Estate Services will co-develop the project with NAYA.
6. The revised total project cost is estimated to be \$10,200,000. Revised funding for the project includes the following sources:

Funds of a public agency:

\$600,000	Portland Housing Bureau Community Development Block Grant
\$175,000	Oregon Housing and Community Services Low Income Weatherization Program

Other funds:

\$8,200,000	Low Income Housing Tax Credits
\$100,000	Private foundation fundraising
\$650,000	Permanent loan from private lender
\$500,000	Deferred developer fee

CONCLUSIONS OF LAW

1. The proposed 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) applies to this project.
2. The proposed project meets the definition of “residential construction” in ORS 279C.810(2)(d)(D), as the project includes the construction of apartment buildings not more than four stories in height, and does not include any commercial space.
3. The proposed project meets the definition of “privately owned” in ORS 279C.810(2)(d)(C)(ii), as the project is and will be owned by a private partnership.
4. The proposed project meets the definition of “affordable housing” in ORS 279C.810(2)(d)(A), as the project will serve occupants whose incomes are no greater than 60 percent of the area median income.

5. The proposed project will “predominately” provide affordable housing, as 60 percent or more of the project will be for affordable housing. ORS 279C.810(2)(d)(B).
6. 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 predominately provide affordable housing. Even though this proposed project meets the definition of “public works” under ORS 279C.800(6)(a)(B), it is exempt from the prevailing wage rate laws under ORS 279C.810(2)(d).

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 NAYA Generations project, as revised.

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

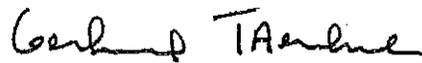
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived, this determination order will be final, and the agency file on this matter shall serve as the record for purposes of proving a prima facie case.

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: December 3, 2014

Brad Avakian, Commissioner
Bureau of Labor and Industries



Gerhard Tacubel, Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On December 3, 2014, I mailed the Prevailing Wage Rate Determination for the proposed project known as NAYA Generations, as revised, to the requestor, interested parties, and associated public agencies, as follows:

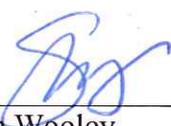
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Portland, OR 97204

Lyn Ward, Director of Operations and Finance
Native American Youth and Family Center
5135 NE Columbia Blvd.
Portland, OR 97218

Joyce Robertson, Loan Officer
Oregon Housing and Community Services
1600 SW 4th Ave., Suite 109
Portland, OR 97201



Susan Wooley
PWR Technical Assistance Coordinator
Wage and Hour Division
Bureau of Labor and Industries