



July 15, 2015

April Berg, Assistant Director, Development
Home Forward
135 SW Ash Street
Portland, OR 97204

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*
Project: St. Francis Park Apartments
Requested by: Home Forward

Dear Ms. Berg:

On July 10, 2015, we received your request asking if the Prevailing Wage Rate laws would apply to the proposed project known as the St. Francis Park Apartments. Sufficient information to make a determination was received on July 14, 2015, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. St. Francis Park Limited Partnership (“St. Francis Park LP”) owns property in southeast Portland and plans to build a 106-unit affordable housing project on this property, to be called St. Francis Park Apartments. The project will not exceed four stories in height, and will include a residential community room, management offices, residential bike storage, a main lobby, and a loading dock. The project will not include any retail space.
2. The general partner of St. Francis Park LP is St. Francis Park GP LLC, with .01 percent ownership. Home Forward, a public agency as defined in ORS 279C.800(5), is the special limited partner, currently with 99.99 percent ownership. Prior to construction, the to-be-named Investor Limited Partner will be admitted to the partnership, with 99.98 percent ownership. At that time, Home Forward’s ownership will decrease to .01 percent.

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3. Home Forward Development Enterprises Corporation, a domestic non-profit entity incorporated in 2005, will contract for the construction of this project.
4. Of the 106 apartment units in this project, 10 will be for occupants at or below 30 percent of the area median income, and 96 will be for occupants at or below 60 percent of the area median income.
5. The project will use more than \$750,000 in funds of a public agency, including approximately \$3,500,000 in HUD HOME funds through Portland Housing Bureau, and approximately \$3,000,000 in a Portland Housing Bureau Tax Increment Financing Loan.

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 an apartment building not more than four stories in height, and does not include any retail space.
2. The project is owned by St. Francis Park LP. Although Home Forward is currently 99.99 percent owner of St. Francis Park LP, prior to construction Home Forward’s ownership will decrease to .01 percent, and it will then not be a majority owner in the partnership. Therefore, the project meets the definition of “privately owned” in ORS 279C.810(2)(d)(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 “predominately” provide affordable housing, as 100 percent of the 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 predominately 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 St. Francis Park 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 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

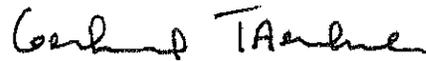
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived, this determination order will be final, and the agency file on this matter shall serve as the record for purposes of proving a prima facie case.

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: July 15, 2015

Brad Avakian, Commissioner
Bureau of Labor and Industries



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

Certificate of Service

On July 15, 2015, I mailed the Prevailing Wage Rate Determination for the St. Francis Park Apartments project to the requestor and interested party, as follows:

April Berg, Assistant Director, Development
Home Forward
135 SW Ash Street
Portland, OR 97204

Trell Anderson, Manager
Caritas Housing Initiatives
c/o Catholic Charities
2740 SE Powell Boulevard
Portland, OR 97202



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