

Darlee Rex
Rex Development, Inc.
43414 Covey Lane
Pendleton OR 97801

Re: *Determination Whether Project is Subject to Prevailing Wage Rate*
Project: St. Patrick's Senior Apartments
Requested by: Rex Development

Dear Ms. Rex:

On January 14, 2008, you submitted a request on behalf of the City of Heppner ("City") and the Heppner Housing Authority ("HHA") asking whether a proposed project is subject to the Prevailing Wage Rate law. Sufficient information to make a determination was received by January 18, 2008, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. The City and HHA own the St. Patrick's Senior Apartments located at 190 N. Main St. in Heppner, Oregon.
2. The City and HHA propose to renovate the residential units within the three-story building. The estimated cost of the project is \$1.2 million. The City will contract for the improvements.
3. The City and HHA intend to use \$100,000 in Housing Development Grant Program funds and approximately \$710,000 in HOME funds from Oregon Housing and Community Services Department ("OHCS") to assist with the development of the project. In addition, the City will use loan funds of up to \$290,000, obtained from a private lender, to finance the improvements.

CONCLUSIONS OF LAW

1. The renovation project will be contracted for by a public agency. Therefore, the definition of a "public works" under ORS 279C.800(6)(a)(A) applies to this project.
2. The project is expected to cost \$50,000 or more to complete, will make use of public funds, and is not privately owned. For these reasons, none of the exemptions provided for under ORS 279C.810(2) apply to the project.

3. The project, which consists of the renovation of an apartment building not more than four stories in height, meets the definition of “residential construction” under OAR 839-025-0004(24). Therefore, the provisions of OAR 839-025-0037, which instruct public agencies to use federal Davis-Bacon wage rates for residential construction projects, apply to the project.

DETERMINATION

Based on the foregoing, the Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, apply to the renovation of the St. Patrick’s Senior 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.

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 HB 2140 Section 43 (Enrolled) OR Laws 2007. 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.

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: January 23, 2008

Dan Gardner, Commissioner
Bureau of Labor and Industries

Christine N. Hammond

Christine N. Hammond, Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On January 23, 2008, I mailed, by certified mail, the Prevailing Wage Rate Determination for St. Patrick's Senior Apartments to the requestor and any public agencies identified by requestor as being associated with this project, as follows:

Darlee Rex
Rex Development, Inc.
43414 Covey Lane
Pendleton OR 97801

Steve Bogart
City of Heppner
Heppner Housing Authority
111 N Main St
Heppner OR 97836

Carole Dicksa
Oregon Housing and Community Services
725 Summer Street NE, Suite B
Salem OR 97301-1266

Oregon Parks and Recreation Dept
State Historic Preservation Office
725 Summer St NE, Suite C
Salem OR 97301

Gerhard Taeubel, Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries