



Oregon

Bureau of Labor and Industries

Brad Avakian
Commissioner

February 4, 2015

C. Paul Dagle
Dagle Law Office, LLC
9755 SW Barnes Road, Suite 695
Portland, OR 97225

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*
Project: Sunset View Apartments
Requested by: Dagle Law Office, LLC

Dear Mr. Dagle:

On January 26, 2015 we received your request asking if the Prevailing Wage Rate laws would apply to the proposed construction project known as Sunset View Apartments. Sufficient information to make a determination was received on February 3, 2015, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. Pedcor Investments-2013-CXXIV, LP (the "Partnership"), owns property at 16251 SW Jenkins Road in Beaverton, Oregon, and proposes to construct a 236-unit low-income apartment complex known as Sunset View Apartments on this property. The Partnership is currently an Indiana limited partnership, but will be converted to an Oregon domestic limited partnership prior to the commencement of construction of the project.
2. The Partnership will be made up of a General Partner and Limited Partners. The General Partner will be Sunset View Housing Company, LLC (the "LLC"), which will own .005 percent interest in the Partnership. The members of the LLC will consist of three limited liability companies and three individuals. Most are private, but one limited liability company is Sunset View, LLC, which is wholly owned by the Housing Authority of Washington County, a public agency, and will own a 20 percent interest in the LLC.
3. The Limited Partners of the Partnership will include one or more to-be-named tax credit investors, and will own 99.99 percent of the Partnership. The Housing

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Authority of Washington County will be admitted as a special limited partner and will own .005 percent limited partnership interest in the Partnership.

4. The developer of the project will be Pedcor Development Associates, LLC. The project will consist of six 3-story apartment buildings, four 4-story apartment buildings, and one community clubhouse that will not be more than four stories in height. The project will not include any commercial or retail space.
5. All apartment units will be leased to individuals and families with incomes no greater than 60 percent of the area median income, adjusted for family size.
6. The funding for the project includes funds of a private entity and OHCS low-income housing tax credits of approximately \$1,754,706. The project will also use funds of a public agency in the form of approximately \$29,500,000 in private activity bonds issued by the Housing Authority of Washington County.

CONCLUSIONS OF LAW

1. 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 or retail spaces.
2. The proposed project meets the definition of “privately owned” in ORS 279C.810(2)(d)(C)(ii), as the project will be owned by the Partnership. The Housing Authority of Washington County will own a small percentage of the Partnership, but will not be a majority owner of the Partnership.
3. 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 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 proposed project met the definition of “public works” under ORS 279C.800(6)(a), it would 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 project known as Sunset View 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

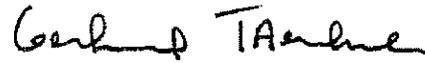
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived, this determination order will be final, and the agency file on this matter shall serve as the record for purposes of proving a prima facie case.

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 4, 2015

Brad Avakian, Commissioner
Bureau of Labor and Industries

A handwritten signature in black ink that reads "Gerhard Taeubel". The signature is written in a cursive style with a horizontal line underneath it.

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

Certificate of Service

On February 4, 2015, I mailed the Prevailing Wage Rate Determination for the proposed project known as Sunset View Apartments to the requestor, associated public agencies and other interested parties, as follows:

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