

June 25, 2009

Rich Ullring, President  
Board of Directors for Blanchet House of Hospitality  
1513 SW Marlow Avenue  
Portland, OR 97225

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*  
Project: Blanchet House of Hospitality  
Requested by: Blanchet House of Hospitality Board of Directors

Dear Mr. Ullring:

On May 29, 2009, you submitted a request asking whether the proposed new Blanchet House of Hospitality ("Blanchet House") project will be subject to the Prevailing Wage Rate laws. Sufficient information to make a determination was received by June 11, 2009, and therefore, the commissioner issues the following determination:

#### **FINDINGS OF FACT**

1. A private non-profit charitable organization known as Blanchet House of Hospitality ("BHH") owns Blanchet House, a facility that provides temporary living accommodations to homeless men and provides free meals to anyone who comes to the facility's "soup kitchen." Blanchet House is currently located in Portland at the corner of NW 4<sup>th</sup> Avenue and Glisan Street. The facility currently provides temporary shelter for up to 29 homeless men, and serves 600-800 meals per day.
2. BHH plans to demolish the existing building and construct a new wood-frame three-story facility on the corner of NW 3<sup>rd</sup> Avenue and Glisan Street in Portland. The new, larger facility will allow Blanchet House to provide temporary shelter for up to 51 homeless men and serve 700-900 meals per day.
3. The proposed new facility will include a below-grade basement that will be used for storage and utility rooms. The first floor will include a commercial kitchen, areas for food storage and food preparation, a dining area, guest and staff restrooms, three small offices, and an indoor queuing area. The upper two floors will each include 12 to 13 one- or two-bed dormitory-style rooms. Both of these floors will have a central shared bathroom, laundry room, and community room. The community rooms will include a small kitchenette.

4. Portland Development Commission (“PDC”) currently owns the property located at the corner of NW 3<sup>rd</sup> Avenue and Glisan Street. PDC will transfer ownership of this property to BHH for the purchase price of zero dollars. Information on the fair market value of this property was not provided, so the amount of funds of a public agency to be used regarding the transfer of property (pursuant to ORS 279C.810(1)(a)(E)(i) and (ii)) is unknown.
5. PDC will grant \$2,000,000 to BHH to help fund this project. The total project cost is estimated to be \$10,600,000.

## **CONCLUSIONS OF LAW**

1. The proposed project for the construction of Blanchet House is intended to be privately owned. \$750,000 or more in funds of a public agency will be used on the project. Therefore, the definition of “public works” in ORS 279C.800(6)(a)(B) will apply to this project.
2. The definition of “residential construction” in ORS 279C.810(2)(d)(D) is based on the U.S. Department of Labor’s guidelines for this term. Pursuant to the U.S. Department of Labor’s “All Agency Memorandum No. 130: Application of the Standard of Comparison ‘Projects of a Character Similar’ Under Davis-Bacon and Related Acts,” residential construction includes single family houses or apartment buildings of no more than four stories in height. The proposed project is not construction of a single-family house or an apartment building. As such, the project does not meet the definition of “residential construction” in ORS 279C.810(2)(d)(D). Therefore, the exemption from the prevailing wage rate laws provided for in ORS 279C.810(2)(d) does not apply to this project.
3. None of the other exemptions listed in ORS 279C.810(2) apply to the proposed project.

## **DETERMINATION**

Based on the foregoing, the Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, will apply to the Blanchet House of Hospitality 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

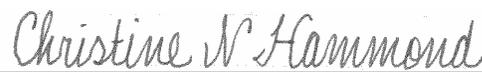
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: June 25, 2009

Brad Avakian, Commissioner  
Bureau of Labor and Industries



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

## Certificate of Service

On June 25, 2009, I mailed, by certified mail, the Prevailing Wage Rate Determination for the Blanchet House of Hospitality project to the requestor and any public agencies identified by requestor as being associated with this project, as follows:

Craig Lewis  
Melvin Mark Companies  
111 SW Columbia Street, Suite 1380  
Portland, OR 97201

Barbara Shaw  
Portland Development Commission  
222 NW 5<sup>th</sup> Avenue  
Portland, OR 97209

Portland Development Commission  
Attn: General Counsel  
222 NW 5<sup>th</sup> Avenue  
Portland, OR 97209

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