



January 23, 2012

Nora Cronin
St. Vincent de Paul Society
705 S. Seneca
PO Box 24608
Eugene, OR 97402

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*
Project: Stellar Apartments
Requested by: St. Vincent de Paul Society of Lane County, Inc.

Dear Ms. Klein

On January 13, 2012, you submitted a request on behalf of St. Vincent de Paul Society of Lane County ("SVDP") asking if the Prevailing Wage Rate law would apply to the Stellar Apartments project ("project"). Sufficient information to make a determination was received on January 23, 2012, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT:

1. St. Vincent de Paul Society of Lane County, Inc. ("SVDP") is planning to construct Stellar Apartments. SVDP is a domestic non-profit company located in Eugene.
2. Stellar Apartments will be a family development on approximately three acres of land. The project will be 100% residential use. It will consist of 12 buildings across the site with a mixture of two and three story buildings. The project will include a mixture of one, two and three bedroom units. There will also be a community room for resident activities. Fifty-three of the 54 units will be restricted to households at or below 50% of the area median income. One on-site manager unit is income exempt.

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3. The project will be owned as a private limited partnership, with 99.99% owned by Wells Fargo Affordable Housing Community Development Corporation as limited partner and .01% owned by SVDP as general partner.
4. The total project is estimated to cost \$10,271,262. Funding for the project includes the following sources:
 - a. Funds of a public agency: \$1,472,000
 - i. Oregon Housing and Community Services
 1. General Housing Account Program (GHAP) Grant - \$178,000
 - ii. City of Eugene
 1. HOME Grant - \$860,000
 2. Donated Land - \$420,500
 - iii. Eugene Water and Electric Board (EWEB)
 1. Incentives - \$13,500
 - b. Other Funds: \$8,799,262
 - i. LIHTC (Low Income Housing Tax Credit) Equity - \$7,378,262
 - ii. City of Eugene
 1. SDC (system development charge) waivers - \$256,308
 - iii. Eugene Water and Electric Board (EWEB)
 1. SDC waivers - \$64,692
 - iv. Network for Oregon Affordable Housing (NOAH)
 1. Loan - \$1,100,000

CONCLUSIONS OF LAW:

1. The proposed project meets the definition of “public works” under ORS 279C.800(6)(a)(B) because the project will be privately owned and will use \$750,000 or more of funds of a public agency.
2. The prevailing wage rate laws do not apply to projects for residential construction that are privately owned and that predominately provide affordable housing. ORS 279C.810(2)(d). The proposed project is a project for residential construction because it is a project for construction of apartment buildings not more than three stories in height. Additionally, the project will be privately owned, by a private limited partnership. Finally, the project will predominately provide affordable housing because the occupants 53 of the 54 units will have incomes no greater than 50% of the area median. Therefore, this exemption will apply.

DETERMINATION:

The Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, will not apply to the proposed construction, reconstruction, major renovation and/or painting of the Stellar 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 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, OR 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, 2012

BRAD AVAKIAN, 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, 2012, I mailed the Prevailing Wage Rate Determination for the Stellar Apartments project to the requestor, as follows:

Nora Cronin
St. Vincent de Paul Society
705 S. Seneca
PO Box 24608
Eugene, OR 97402

Certified Mail – Return Receipt Requested
Article #: 7011 2000 0000 5450 9541



Cristin Casey
Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries