



BUREAU of LABOR & INDUSTRIES

February 15, 2024

Bryan M. Carroll
CGCH II, Inc.
15561 SW Bowmen Court
Sherwood, OR 97140

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*
Project: 301 House
Ref: **24-0783**
Requested by: CGCH II, Inc.

Dear Mr. Carroll:

On February 7, 2024, the Bureau of Labor and Industries received the request you submitted, asking if the Prevailing Wage Rate laws would apply to the 301 House project. Sufficient information to make a determination was received on February 13, 2024, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. Donneil Building, LLC ("DB"), a private entity, owns property located at 301 14th Street SE in Salem, Oregon (the "Property"). CGCH II, Inc ("CGCH"), a private entity, proposes to lease the Property and develop a Residential Treatment Facility ("RTF") on the Property. The demolition of the existing structure on the Property and development of the RTF is referred to as the 301 House project (the "Project").
2. Ownership of the Property and Project will not change; DB will retain ownership and CGCH will be the operator of the RTF.
3. The Project includes the demolition of an existing structure and the construction of one two-story building, including all excavation, framing, plumbing, and electrical systems, installation of a sprinkler system, a fire system, and paving of a rear parking area. The completed Project will have a total of 10 occupant bedrooms, shared kitchen, dining and living areas, an as-yet-undetermined number of shared bathroom facilities, and office space for the operation of the RTF. The Project does not include any commercial space.
4. The RTF will be staffed 24 hours a day to provide various services and care to occupants of the Project. According to Exhibit A, Part 1, Section 3 of the Oregon Health Authority (OHA) and CGCH's Grant Agreement (the "GA"), the Project will "provide direct residential services to the [RTF's] residents that meet OHA required standards for each individual served, including but not limited to the applicable standards provided in OAR Chapter 309, Divisions 33 (Civil Commitment Proceedings), 35 (Residential Treatment Facilities and Residential Treatment Homes for Adults With Mental Health Disorders), and 40 (Adult Foster Homes)."
5. There will be no wage restrictions for occupants. According to Bryan Carroll, CGCH President, all occupant services and care will be "funded through a combination of state funds from OHA, county

funds if the state does not provide any, and in some cases 'rent and allowance' for the individuals can be paid by their payee (often a family member who pays a small portion of their living costs)."

6. The Project will use the following funds of a public agency:
\$1,789,000 OHA Grant Funds – HB 5024 (2021)

CONCLUSIONS OF LAW

1. The Project will use \$750,000 or more in funds of a public agency. Therefore, the Project meets the definition of "public works" under ORS 279C.800(6)(a)(B).
2. 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 predominantly provide affordable housing. While the Project will be privately owned, it is neither residential construction nor does it predominantly provide affordable housing.

Under 279C.810(2)(d)(D), "residential construction" is the construction, reconstruction, major renovation, or painting of single-family houses or apartment buildings not more than four stories in height and all incidental items, such as site work, parking areas, utilities, streets, and sidewalks, pursuant to the United States 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," dated March 17, 1978 ("USDOL AAM 130"). The Project is for the construction of an RTF that includes private bedrooms with shared living areas and bathroom and kitchen facilities. Therefore, the Project is neither for the construction of a single-family house nor an apartment building, but rather for a building that is more like a dormitory.¹ Under US DOL AAM 130, dormitories are listed as an example of building construction, as opposed to residential construction. As such, the Project does not meet the definition of "residential construction," and the exemption in ORS 279C.810(2)(d) does not apply.

Additionally, the Project does not meet the definitions of "affordable housing" or "predominantly" in ORS 279C.810(2)(d)(A) and 279C.810(2)(d)(B) because occupants' incomes are not required to be restricted to no greater than 60 percent of the area median income.

3. No other exemptions to the Prevailing Wage Rate laws under ORS 279C.810(2) 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, will apply to the 301 House project.

This determination is based on the agency's file as of the date of this determination. If any of the project information provided is incorrect or incomplete, this determination may no longer apply. If the project or project documents are modified or supplemented after the date of this determination, this determination may no longer apply. The commissioner may make a different determination if any of the project information is incomplete or incorrect, or if the project or project documents are modified or supplemented after the date of

¹ See also, In the Matter of Blanchet House of Hospitality, Case No 11-10, Final Order of Commissioner Brad Avakian issued February 19, 2010.

this determination. A new determination may be requested based on the modified or supplemented information or documentation.

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

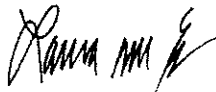
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived, this determination order will be final, and the agency file on this matter shall serve as the record for purposes of proving a prima facie case.

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 15, 2024

CHRISTINA E. STEPHENSON, Commissioner
Bureau of Labor and Industries



Laura van Enckevort
Wage and Hour Administrator

Certificate of Service

On February 15, 2024, I mailed the Prevailing Wage Rate Determination for the 301 House project to the requestor, as follows:

Bryan M. Carroll
CGCH II, Inc.
15561 SW Bowmen Court
Sherwood, OR 97140



Ray Badalich
Prevailing Wage Coordinator
Wage and Hour Division
Bureau of Labor and Industries