



VAL HOYLE
Labor Commissioner

April 2, 2021

Peter Garcia, Senior Procurement Coordinator
Home Forward
135 SW Ash Street
Portland, OR 97204

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*
Project: Baldwin PSH
Requested by: Home Forward

Dear Mr. Garcia:

On January 22, 2021, the Bureau of Labor and Industries received the request you submitted asking if the Prevailing Wage Rate laws would apply to the Baldwin PSH project. Sufficient information to make a determination was received on March 31, 2021, and therefore, the commissioner issues the following determination:

FINDING OF FACT

1. Home Forward, a public agency under ORS 279C.800(5), currently owns property located at 7656-7688 N Interstate Avenue in Portland, Oregon. Home Forward proposes to construct affordable housing on this property. The project is referred to as the Baldwin PSH project (the "Project").
2. Prior to construction of the Project, ownership of the property will be transferred to a to-be-named limited partnership (the "Limited Partnership") for 15 years. Home Forward will be the General Partner of the Limited Partnership, with 0.01 percent ownership interest. The Limited Partner in the Limited Partnership will be a to-be-named private tax-credit investor, with 99.99 percent ownership interest. At the end of the 15-year tax credit partnership, Home Forward will be the sole owner of the Project.
3. The Project will consist of the demolition of an existing building on the property and the construction of one four-story building with 60 studio apartment units. All units will include bathrooms and kitchens. The building will include office space for property management, as well as a community room, exercise room, outdoor patio, and bike parking. The building will also include office space for supportive services for the residents, to be staffed by Home Forward and the Urban League of Portland. The property does not include any commercial space.
4. All of the apartment units will be restricted to occupants with incomes no greater than 60 percent of the area median.
5. The Project will use the following funds of a public agency:



\$9,000,000	Oregon Housing and Community Services (“OHCS”) Permanent Supportive Housing Capital Funds
\$4,500,000	Metro Bond Funds through Portland Housing Bureau
\$1,021,715	Deferred Developers Fee
\$ 714,149	Home Forward Seller Financing
\$ 70,350	OHCS Multifamily Energy Program Funds

Other funds to be used for the Project include:

\$6,209,156	OHCS Low Income Housing Tax Credit Equity
-------------	---

CONCLUSIONS OF LAW

1. The Project meets the definition of “residential construction” in ORS 279C.810(2)(d)(D), as the Project includes the construction of an apartment building not more than four stories in height, and does not include any commercial space.
2. The Project will be owned by a limited partnership in which Home Forward, a public agency, is a minority member. The public agency will not be a majority owner in the limited partnership, and therefore, the Project meets the definition of “privately owned” in ORS 279C.810(2)(d)(C)(ii).
3. The 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 Project will “predominately” provide affordable housing, as 60 percent or more 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 the Project meets the definition of “public works” under ORS 279C.800(6)(a), it will 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 Baldwin PSH 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

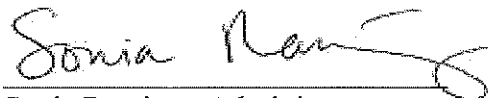
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived, this determination order will be final, and the agency file on this matter shall serve as the record for purposes of proving a prima facie case.

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: April 2, 2021

VAL HOYLE, Commissioner
Bureau of Labor and Industries



Sonia Ramirez, Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On April 2, 2021, I mailed the Prevailing Wage Rate Determination for the Baldwin PSH project to the requestor, as follows:

Peter Garcia, Senior Procurement Coordinator
Home Forward
135 SW Ash Street
Portland, OR 97204



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