

Douglas McRae
Willamette Neighborhood Housing Services
257 SW Madison Ave, Suite 113
Corvallis, OR 97333

Re: *Determination Whether Project is Subject to Prevailing Wage Rate*
Project: Linn Haven-Stonebrook
Requested by: Willamette Neighborhood Housing Services

Dear Mr. McRae:

On January 15, 2009, you submitted a request on behalf of Willamette Neighborhood Housing Services, asking whether a proposed project is subject to the prevailing wage rate law. Sufficient information to make a determination was received by February 17, 2009, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. The ownership of the property will be held by Willamette Neighborhood Housing Services as the general partner and a tax credit investor who is yet to be identified as the limited partner. After year 15, Willamette Neighborhood Housing Services will have 100% ownership in the property.
2. Willamette Neighborhood Housing Services proposes to rehabilitate the exterior and interior of single or two-story residential buildings at two sites in Sweet Home: Linn Haven Apartments and Stonebrook Apartments, consisting of 26 units and 25 units of existing affordable housing respectively.
3. Willamette Neighborhood Housing Services intends to use \$760,840 in public funds that it will obtain from the Oregon Housing and Community Services Department.
4. All occupants of the rental units will have incomes no greater than 60% of the Area Median Income.

5. No public agency will occupy or use any part of the completed project.

CONCLUSIONS OF LAW

1. The construction project is intended to be privately owned. \$750,000 or more in funds of a public agency will support the project. Therefore, the definition of a “public works” under ORS 279C.800(6)(a)(B) will apply to this project if the Oregon Housing and Community Services commits funds to this project as proposed.
2. The project meets the definition of “residential construction” under ORS 279C.810(2)(d)(D), is privately owned, and will predominantly provide affordable housing. Therefore, the exemption for residential construction that provides affordable housing will apply.

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 Linn-Haven-Stonebrook 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 either by 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 issued 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: March 9, 2009

Brad Avakian, Commissioner
Bureau of Labor and Industries



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

Certificate of Service

On March 10, 2009, I mailed, by certified mail, the Prevailing Wage Rate Determination for the Linn Haven Apartments and Stonebrook Apartments Rehabilitation project to the requestor and any public agencies identified by requestor as being associated with this project, as follows:

Jack Duncan, Regional Advisor to the Department, and
Mike McHam, Housing Development Representative
Housing and Community Services
North Mall Office Building
725 Summer St NE, Suite B
Salem, OR 97301-1266

Hannah Wood, Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries