

October 22, 2009

Eli Spevak
Orange Splot, LLC
6325 N Albina Ave #6
Portland, OR 97217

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*
Project: Woolsey Commons, revised project
Requested by: Orange Splot, LLC

Dear Mr. Spevak:

On December 31, 2008, you submitted a request asking if the Prevailing Wage Rate laws would apply to a proposed construction project known as Woolsey Commons. The Bureau of Labor and Industries responded on January 20, 2008, with a determination that the Prevailing Wage Rate laws would not apply to the project as described. On October 7, 2009, you submitted an emailed request for a new coverage determination for the Woolsey Commons project, as the funding situation for this project has changed. Sufficient information to make a determination on the revised project was received on October 13, 2009, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. Orange Splot, LLC, a privately-owned company, plans to construct a three-story wood-frame building containing eight residential condominium units, located at 4475 N Trenton in Portland, Oregon. The building will not include any commercial space.
2. Orange Splot, LLC purchased the property from Housing Authority of Portland for full market value. When the project is completed, it will continue to be privately owned.
3. All of the residential units will be sold to first time buyers with incomes no greater than 80 percent of the area median income.
4. Originally, Portland Development Commission ("PDC") was going to contribute \$672,000 in funds of a public agency toward this project. Now PDC will contribute \$1,072,000 in funds of a public agency toward this project.

CONCLUSIONS OF LAW

1. The Woolsey Commons project will be privately owned, and more than \$750,000 in funds of a public agency will be used on the project. Therefore, the definition of “public works” under ORS 279C.800(6)(a)(B) will apply to the project.
2. The Woolsey Commons project is for residential construction that will be privately owned and that predominantly provides affordable housing. Therefore, the exemption from the Prevailing Wage Rate law provided for ORS 279C.810(2)(d) will apply to this 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 not apply to the proposed construction of the Woolsey Commons.

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

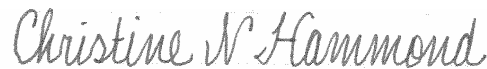
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: October 22, 2009

Brad Avakian, Commissioner
Bureau of Labor and Industries

A handwritten signature in cursive script that reads "Christine N. Hammond". The signature is written in dark ink and is positioned above a horizontal line.

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

Certificate of Service

On October 22, 2009, I mailed the Prevailing Wage Rate Determination for the Woolsey Commons project to the requestor and any public agencies identified by requestor as being associated with this project, as follows:

Eli Spevak
Orange Splot, LLC
6325 N Albina Ave #6
Portland, OR 97217

Dan Williams
Portland Development Commission
222 NW Fifth Ave.
Portland, OR 97209

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