



Oregon

Bureau of Labor and Industries

Brad Avakian
Commissioner

December 8, 2014

Brian Rousseau, Senior Procurement Coordinator
Home Forward
135 SW Ash Street
Portland, OR 97204

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*
Project: 85 Stories Group 1
Requested by: Home Forward

Dear Mr. Rousseau:

On November 25, 2014, you submitted a request asking if the Prevailing Wage Rate laws would apply to the proposed reconstruction project known as 85 Stories Group 1. Sufficient information to make a determination was received on December 5, 2014, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. Home Forward, a public housing authority, owns numerous apartment buildings offering affordable housing in the Portland area. Home Forward plans to renovate ten of those apartment buildings, and refers to the project as 85 Stories.
2. In September 2013, Home Forward transferred four apartment buildings to Home Forward Development Enterprises, a non-profit public benefit entity established in 2005, and an affiliate of Home Forward. Two of the buildings transferred were Gallagher Plaza and Northwest Tower, both located in northwest Portland. Gallagher Plaza is a six-story apartment building, and Northwest Tower is a 13-story apartment building. Both apartments restrict occupants' incomes to 50% or less of the median income.
3. In February 2015, Home Forward plans to begin reconstruction work on Gallagher Plaza and Northwest Tower, and refers to this work as 85 Stories Group 1. Home Forward will be the developer and project manager for 85 Stories Group 1, and has awarded a contract to Walsh Construction Company for the reconstruction work to be done. The work to be done on Gallagher Plaza includes

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Portland, OR 97232-2180
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3865 Wolverine St. NE; E-1
Salem, OR 97305-1268
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FAX (503) 373-7636

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1400 Executive Parkway, Suite 200
Eugene, OR 97401-2158
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FAX (541) 686-7980

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1645 NE Forbes Rd, Ste 106
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replacing the exterior envelope, reroofing the building, reinforcing concrete columns, and making frontage improvements to improve the pedestrian zone. The work to be done on Northwest Tower includes replacing steam space heating with electric resistance wall-mounted heaters, upgrading hot water storage tanks, installing spray foam insulation at exterior walls, and making frontage improvements to improve the pedestrian zone.

4. Prior to construction, the two buildings will transfer to Wests Limited Partnership. Home Forward will serve as the general partner, with .01 percent ownership, and Wells Fargo will serve as the limited partner, with 99.99 percent ownership. Home Forward will retain ownership of the land through ground leases.
5. The total cost for 85 Stories Group 1 is estimated to be \$55,381,532. Funding includes the following sources:

Funds of a public agency:

Home Forward Capital	\$2,767,321
Home Forward Cash Flow	\$1,340,241

Other funds:

Low Income Housing Tax Credit Equity	\$21,746,645
Permanent Loan	\$13,399,325
Purchase Loan	\$16,128,000

CONCLUSIONS OF LAW

1. The proposed project meets the definition of “public works” under ORS 279C.800(6)(a)(A) because it is a reconstruction project that will be carried on and contracted for by a public agency to serve the public interest.
2. The proposed project will cost more than \$50,000 and will use funds of a public agency; therefore, the exemptions from the prevailing wage rate laws under ORS 279C.810(2)(a) and (b) will not apply to the project.
3. While the proposed project will be privately owned and will predominately provide affordable housing, the project does not meet the definition of “residential construction” under ORS 279C.810(2)(d)(D) because the buildings are more than four stories in height. Therefore, the exemption from the prevailing wage rate laws under ORS 279C.810(2)(d) will not 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 proposed project known as 85 Stories Group 1.

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

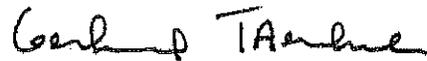
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived, this determination order will be final, and the agency file on this matter shall serve as the record for purposes of proving a prima facie case.

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: December 8, 2014

Brad Avakian, Commissioner
Bureau of Labor and Industries



Gerhard Taeubel, Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On December 8, 2014, I mailed the Prevailing Wage Rate Determination for the proposed project known as 85 Stories Group 1 to the requestor, as follows:

Brian Rousseau, 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