



August 2, 2012

Trell Anderson  
Executive Director  
Housing Authority of Clackamas County  
P.O. Box 1510  
Oregon City, OR 97045-0510

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*  
Project: Easton Ridge Apartment Renovation  
Requested by: Housing Authority of Clackamas County

Dear Mr. Anderson:

On July 27, 2012, you submitted a request on behalf of Housing Authority of Clackamas County asking if the Prevailing Wage Rate law would apply to the proposed Easton Ridge Apartment Renovation project. Sufficient information to make a determination was received on July 31, 2012, and therefore, the commissioner issues the following determination:

#### FINDINGS OF FACT:

1. The proposed project is the renovation of the Easton Ridge Apartment complex located at 9009 SE Causey Avenue in Happy Valley.
2. Easton Ridge Apartments are currently owned by Housing Authority of Clackamas County (HACC). Ownership will transfer to Easton Ridge, LLC, a private limited liability company, at the financial closing in September 2012. Construction will not begin until after the financial closing has occurred. Housing Authority of Clackamas County will be a managing member of Easton Ridge, LLC, and not a majority owner.
3. The Easton Ridge Apartment property consists of 264 units in eleven 3-story residential buildings and a single story community building with an on-site property management office. The property is composed of 159 one-bedroom units and 105 two-bedroom units.

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4. The project will include the following: a) full replacement of the building envelope, including siding, windows and doors, b) re-design and repair of the site drainage system, and c) installation of a new interior ventilation system. In addition, six units will be converted to ADA compliant units.
5. Easton Ridge is currently income restricted to households earning 80% of the area median income and below. After the renovation is complete, the property will have 80% of the units restricted to households earning 60% of the area median income and below, with the remaining 20% of the units available to households earning 80% area median and below.
6. The total project cost will be \$35,291,500. Funding for the project includes the following sources:
  - a. Funds of a public agency: \$25,123,000
    - i. Tax exempt bonds – long term debt: \$16,210,000
    - ii. HACC seller loan: \$8,913,000
  - b. Other funds: \$10,168,500
    - i. Low income housing tax credits (LIHTC): \$7,165,000
    - ii. Rental income during construction: \$1,094,500
    - iii. Deferred development fees: \$1,909,000

#### **CONCLUSIONS OF LAW:**

1. The Easton Ridge Apartment Renovation project will be privately owned and will use more than \$750,000 in funds of a public agency. Therefore, the definition of “public works” under ORS 279C.800(6)(a)(B) will apply to this project.
2. The prevailing wage rate laws do not apply to projects for residential construction that are privately owned and that predominately provide affordable housing. ORS 279C.810(2)(d). Here, the Easton Ridge Apartment Renovation project will be a project for residential construction and will be privately owned before construction begins. Eighty percent of the units will be restricted to households earning 60% of the area median income; therefore, the project will predominantly provide affordable housing. Therefore, the prevailing wage rate laws will not apply to the Easton Ridge Apartment Renovation 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, reconstruction, major renovation and/or painting of the Easton Ridge Apartment Renovation 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, OR 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: August 2, 2012

BRAD AVAKIAN, Commissioner  
Bureau of Labor and Industries



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LOIS BANAHENE,  
Acting Administrator  
Wage and Hour Division  
Bureau of Labor and Industries

## Certificate of Service

On August 2, 2012, I mailed the Prevailing Wage Rate Determination for the Easton

Ridge Apartments Renovation project to the requestor, as follows:

Trell Anderson  
Executive Director  
Housing Authority of Clackamas County  
P.O. Box 1510  
Oregon City, OR 97045-0510

Certified Mail – Return Receipt Requested  
Article #: 7011 3500 0008 7277 3641



Cristin Casey  
Compliance Specialist  
Wage and Hour Division  
Bureau of Labor and Industries