



# Oregon

Bureau of Labor and Industries

Brad Avakian  
Commissioner

November 16, 2015

Rosie Andalon  
CASA of Oregon  
20508 SW Roy Rogers Road, Suite 155  
Sherwood, OR 97140

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*  
Project: Garden City Apartments  
Requested by: CASA of Oregon

Dear Ms. Andalon:

On November 12, 2015, the Bureau of Labor and Industries received the request you submitted asking if the Prevailing Wage Rate laws would apply to the proposed Garden City Apartments construction project. Sufficient information to make a determination was received on November 16, 2015, and therefore, the commissioner issues the following determination:

## FINDING OF FACT

1. Farmworker Housing Development Corporation ("FHDC"), a private non-profit entity, plans to purchase privately owned property in Silverton, Oregon, with the intention of building an affordable housing complex for farmworkers and their families, referred to as the Garden City Apartments. CASA of Oregon is the developer consultant for the project.
2. The proposed Garden City Apartments will consist of the construction of four buildings, all three stories or less, for a total of 20 two- and three-bedroom apartment units. The property will include a community building which will house a computer lab, laundry room, and a large multi-purpose room that will include a kitchen. The community building will provide space for classes for residents, and may also be used for FHDC board meetings, which would include attendance by non-residents. The space will not be open to the general public, however.
3. Of the 20 apartment units, 13 units will be restricted to occupants with incomes no greater than 60 percent of the area median; six units will be restricted to occupants

**PORTLAND**  
800 NE Oregon St. Suite 1045  
Portland, OR 97232-2180  
(971) 673-0761  
Fax (971) 673-0762

**SALEM**  
3865 Wolverine St. NE; E-1  
Salem, OR 97305-1268  
(503) 378-3292  
FAX (503) 373-7636

**EUGENE**  
1400 Executive Parkway, Suite 200  
Eugene, OR 97401-2158  
(541) 686-7623  
FAX (541) 686-7980

**BEND**  
Apprenticeship and Training  
Worksource Bend  
1645 NE Forbes Rd, Ste 106  
Bend, OR 97701-4990  
(541) 322-2435  
FAX (541) 389-8265

Oregon Relay TTY:711

[www.oregon.gov/boli](http://www.oregon.gov/boli)  
AN EQUAL OPPORTUNITY EMPLOYER

**MEDFORD**  
Apprenticeship and Training  
119 N Oakdale Ave.  
Medford, OR 97501-2629  
(541) 776-6201  
FAX (541) 776-6284



with incomes no greater than 50 percent of the area median. One unit will be used for the property manager, and that unit will have no income restrictions.

4. The total construction cost is estimated to be \$5,887,409. Funds of a public agency that will be used on the project include:

\$1,267,281                      OHCS HOME Grant

Other funds that will be used on the project include:

\$1,620,128                      OHCS Farmworker Housing Tax Credit Equity

\$2,000,000                      USDA Rural Development 516 Grant

\$1,000,000                      USDA Rural Development 514 Loan

## **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, reconstruction, major renovation or painting of apartment buildings not more than four stories in height, and does not include any commercial space.
2. The property is currently owned by a private entity and will be purchased by another private entity. 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 proposed 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 this 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 Garden City Apartments 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

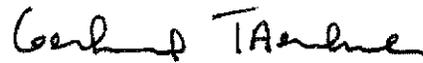
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived, this determination order will be final, and the agency file on this matter shall serve as the record for purposes of proving a prima facie case.

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: November 16, 2015

Brad Avakian, Commissioner  
Bureau of Labor and Industries

A handwritten signature in black ink, appearing to read "Gerhard Taeubel". The signature is written in a cursive style with a horizontal line underneath it.

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

## Certificate of Service

On November 16, 2015, I mailed the Prevailing Wage Rate Determination for the Garden City Apartments project to the requestor, as follows:

Rosie Andalon  
CASA of Oregon  
20508 SW Roy Rogers Road, Suite 155  
Sherwood, OR 97140



---

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