



April 7, 2014

Jessica Woodruff
REACH Orenco LLC
c/o REACH Community Development, Inc.
4150 SW Moody Avenue
Portland, OR 97239

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*
Project: Orchards at Orenco – Phase I
Requested by: REACH Orenco LLC

Dear Ms. Woodruff:

On March 27, 2014, you submitted a request asking if the Prevailing Wage Rate laws would apply to the proposed project known as Orchards at Orenco. Orchards at Orenco is currently planned to be done in three phases, with Phase I starting construction in spring 2014. Phase II is anticipated to begin in spring 2015, and Phase III will be constructed at a future date when funding is secured. This determination analyzes the facts of Phase I only. Sufficient information to make a determination was received on April 4, 2014, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. REACH Orenco LLC, a domestic limited liability company established in 2011, owns six acres of land located in the Orenco Station neighborhood of Hillsboro, Oregon. REACH Community Development, Inc., a private non-profit corporation, is currently the sole and managing member of REACH Orenco LLC. At construction loan closing, REACH Community Development, Inc. will be the managing member of REACH Orenco LLC, with .01 percent interest. Wells Fargo Affordable Housing Community Development Corporation will be the investor member, with 99.98 percent interest. The Housing Authority of Washington County, Oregon will be a Class B member, with .01 percent interest.
2. Phase I of Orchards at Orenco (the “project”) will consist of one three-story building that contains 57 one- and two-bedroom units, all of which will be designated as affordable housing, with the occupants’ incomes restricted to no greater than 60 percent of the area median. The project will include a parking

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

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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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area, playground, garden, and barbeque area for residents, but will not include any commercial space.

3. REACH Orenco LLC will contract with Walsh Construction Co. for Phase I of this project.
4. The total project cost for Phase I is estimated to be \$14,550,124. The proposed project will use the following funds of a public agency:
\$200,000 OHCS Trust Fund
\$100,000 OHCS Low Income Weatherization
\$1,500,000 Washington County HOME Funds

Other funds to be used for the proposed project include:

\$2,475,000	Permanent Loan (NOAH)
\$100,000	Deferred Development Fee
\$300,000	Holland Partners Option Fee
\$64,000	Energy Trust
\$260,000	NeighborWorks America
\$4,029	Enterprise Charrett Grant
\$500,000	Meyer Memorial Trust

CONCLUSIONS OF LAW

1. The proposed project meets the definition of “affordable housing” in ORS 279C.810(2)(d)(A), as the project will serve occupants whose incomes are no greater than 60 percent of the area median income. The proposed project will “predominately” provide affordable housing, as 100 percent of the units will be for affordable housing. ORS 279C.810(2)(d)(B).
2. The proposed project meets the definition of “privately owned” in ORS 279C.810(2)(d)(C)(ii), as the affordable housing project is owned by REACH Orenco LLC. The Housing Authority of Washington County will be a member of REACH Orenco LLC, but will not be a managing member, and will not be a majority owner in the limited liability company.
3. The proposed privately owned project will use funds of private entities and \$750,000 or more in funds of public agencies. Therefore, the proposed project meets the definition of “public works” under ORS 279C.800(6)(a)(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. The proposed project meets the definition of a project for residential construction under ORS 279C.810(2)(d)(D) because it consists of an apartment building that is not more than four stories in height, and the project will not include any commercial space. As noted above,

the project is privately owned and predominately provides affordable housing. Therefore, the exemption from the prevailing wage rate laws under ORS 279C.810(2)(d) will apply to this proposed 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 Phase I of the proposed project known as Orchards at Orenco, provided that subsequent phases, if part of the same project, do not change the character of the 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.

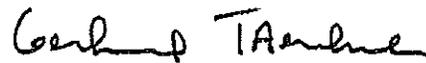
If you request a hearing, you will be notified of the date, time and place of the hearing. You have the right to be represented by legal counsel at a hearing. However, if you are a

government agency, corporation, partnership, or unincorporated association, you must be represented 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: April 7, 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 April 7, 2014, I mailed the Prevailing Wage Rate Determination for the proposed project known as Orchards at Orenco – Phase I to the requestor and interested parties, as follows:

Jessica Woodruff, Housing Project Manager
REACH Orenco LLC
c/o REACH Community Development, Inc.
4150 SW Moody Avenue
Portland, OR 97239

Tony Penrose, Loan Officer
Oregon Housing & Community Services
725 Summer Street NE, Suite B
Salem, OR 97301

Ben Sturtz, Housing Services Specialist
Washington County, Office of Community Development
328 West Main Street, Suite 100
Hillsboro, OR 97123

Craig Kelley, Senior Project Manager
Housing Development Center
HDC Community Fund LLC
847 NE 19th Avenue, Suite 150
Portland, OR 97232



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