



Oregon

Bureau of Labor and Industries

Brad Avakian
Commissioner

January 6, 2015

Jim Tierney
Executive Director
Community Action Team
125 North 17th Street
St. Helens, OR 97051

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*
Project: Victorian Court Apartments
Requested by: Community Action Team

Dear Mr. Tierney:

On December 30, 2014, you submitted a request on behalf of Community Action Team requesting a determination of whether the rehabilitation of the Victorian Court Apartments is subject to the Prevailing Wage Rate laws. On December 31, 2014 and January 5, 2015, you sent this office emails responding to some questions I had regarding the project.

Sufficient information to make a determination was received on January 5, 2015, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT:

1. Community Action Team ("CAT"), a private non-profit organization in Columbia County, Oregon and CASA of Oregon, a private non-profit corporation, intend to rehabilitate two existing apartment complexes, currently called Olive Court and The Victorian, in Scappoose, Oregon.
2. Both buildings are no more than one story in height, and will be no more than one story in height after the rehabilitation project is complete.

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3. The two buildings are currently privately owned. Olive Court is currently owned by Four M Enterprises and The Victorian is currently owned by Victorian Senior Apartments, LLC. CAT will purchase the buildings from the current owners before construction begins.
4. Two thirds of the finished units will be restricted to tenants who are at 50% or less of the area median income. Occupants' incomes in the remaining third of the units will be restricted to 60% of the area median income.
5. The total project cost will be approximately \$3,000,000. Funding for the project includes the following sources:
 - i. Funds of a Public Agency: \$2,987,142
 1. Oregon Housing and Community Services - \$2,384,100
 - a. GHAP Grant - \$500,000
 - b. HOME Grant - \$1,884,100
 2. USDA Rural Development - \$603,042
 - a. 538 Loan - \$100,000
 - b. RD Loan - \$503,042

CONCLUSIONS OF LAW:

1. The Victorian Court Apartments Project is a privately owned residential project that provides predominately affordable housing, and is therefore exempt from the prevailing wage rate laws. ORS 279C.810(2)(d); OAR 839-025-0100(1)(e).
 - a. The project is for reconstruction of apartment buildings no more than four stories in height, and is therefore "residential construction."
 - b. The occupants' incomes will be limited to no greater than 60 percent of the area median income, and is therefore "affordable housing."
 - c. At least 60 percent of the project is designated for affordable housing, therefore the project is "predominately" for affordable housing.
 - d. The finished project will be owned by Community Action Team, a private non-profit organization, and therefore will be "privately owned."

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 Victorian Court 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 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: January 6, 2015.

BRAD AVAKIAN, Commissioner
Bureau of Labor and Industries



GERHARD TAEUBEL,
Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On January 6, 2015, I mailed the Prevailing Wage Rate Determination for the Victorian Court Apartments Project to the requestor via email and as follows:

Jim Tierney
Executive Director
Community Action Team
125 North 17th Street
St. Helens, OR 97051

Certified Mail – Return Receipt Requested
Article #: 7014 0510 0001 9849 7921



Rachel Diamond
Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries