

August 3, 2009

Mark Kellenbeck  
Cascade Management, Inc.  
830 NE Victoria  
Grants Pass, OR 97526

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*  
Project: Proposed Renovations to the Rogue Terrace Apartment Complex  
Requested by: Cascade Management, Inc.

Dear Mr. Kellenbeck:

On July 16, 2009, you submitted a request on behalf of Cascade Management, Inc., asking if the Prevailing Wage Rate law would apply to the proposed project to renovate the Rogue Terrace apartment complex, located at 641 N River Rd. in Rogue River. Sufficient information to make a determination was received on July 29, 2009, and therefore, the commissioner issues the following determination:

#### **FINDINGS OF FACT**

1. Rogue Terrace is currently owned by Earl Kellenbeck dba Rogue Terrace Apartments. Rogue Terrace will be purchased by the private for-profit business Southern Oregon Affordable Rentals I, LLC ("SOAR").
2. The 32-unit apartment complex includes eight two-story buildings, all of which provide housing for elderly and disabled people earning less than 50 percent of the area median income.
3. After purchasing the apartment complex, SOAR plans to renovate the buildings. The proposed renovation project will include replacing existing carpet and vinyl flooring, removing existing baseboard heaters and replacing with appropriate heating and cooling systems, replacing all toilets and some plumbing fixtures, repairing existing steel and concrete stairs, and replacing current windows with more energy efficient windows. The total cost of the project is estimated to be \$1,736,891.

4. Funds used to support this project come from the following sources:

\$164,461	Housing Development Grant
\$934,960	HOME Investment Partnerships Program Grant
\$877,257	Oregon Affordable Housing Tax Credits

## **CONCLUSIONS OF LAW**

1. The proposed project to renovate the Rogue Terrace apartment complex will be privately owned, and funds of a public agency in excess of \$750,000 will be used on the project.<sup>1</sup> Therefore, the proposed project is a “public works” under ORS 279C.800(6)(a)(B).
2. The proposed project is for residential construction that will be privately owned and that predominantly provides affordable housing. Therefore, the exemption from the prevailing wage rate law provided for in ORS 279C.810(2)(d) will apply to this 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 project to renovate the Rogue Terrace apartment complex.

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

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<sup>1</sup> Pursuant to ORS 279C.810(1)(a)(C), the \$877,257 in tax credits to be used on the project are not funds of a public agency. However, the amount of two public grants to be used on the project equals more than \$750,000.

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

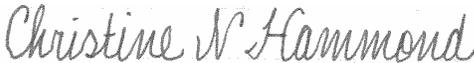
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: August 3, 2009

Brad Avakian, Commissioner  
Bureau of Labor and Industries



Christine N. Hammond, Administrator  
Wage and Hour Division  
Bureau of Labor and Industries

## Certificate of Service

On August 3, 2009, I mailed the Prevailing Wage Rate Determination for the Rogue Terrace Apartment Complex project to the requestor and public agencies associated with this project, as follows:

Mark Kellenbeck  
Cascade Management, Inc.  
830 NE Victoria  
Grants Pass, OR 97526

Kristen Paulson  
Cascade Management, Inc.  
830 NE Victoria  
Grants Pass, OR 97526

Karen Clearwater  
Oregon Housing and Community Services  
Region Advisor to the Department  
2510 Oakmont Way  
Eugene, OR 97401

Carol Kowash  
Oregon Housing and Community Services  
Loan Officer, Multifamily Housing Section  
725 Summer St. NE, Suite B  
Salem, OR 97301

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