

September 7, 2010

Heather Gramp, Grants Manager  
Habitat for Humanity Portland/Metro East  
1478 NE Killingsworth St.  
Portland, OR 97211

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*  
Project: Affordable Housing Development (17119 SE Division St., Portland, OR)  
Requested by: Habitat for Humanity Portland/Metro East

Dear Ms. Gramp:

On August 18, 2010, you submitted a request on behalf of Habitat for Humanity, asking if the Prevailing Wage Rate law would apply to the proposed affordable homeownership project to be located at 17119 SE Division Street in Portland, Oregon. Sufficient information to make a determination was received on September 2, 2010, and therefore, the commissioner issues the following determination:

#### **FINDINGS OF FACT**

1. The property at 17119 SE Division Street in Portland, Oregon, is currently owned by Habitat for Humanity.
2. The proposed project is for a 45-home development to be constructed on this site. The project will be a mixture of 2-, 3-, and 4-bedroom homes. Habitat for Humanity will build the homes with primarily volunteer labor. Ownership of the homes is limited to buyers earning less than 80 percent of the median income.
3. The Portland Housing Bureau (a division of the City of Portland) will provide a loan through the Neighborhood Stabilization Program Fund to Habitat for Humanity in the amount of \$1,375,000.000 for this project. Portland Housing Bureau's Reservation of Funds letter stipulates that a minimum of \$884,554 be spent on homes for buyers earning 50 percent or less of the median income, with the remainder of the loan amount being spent on homes for buyers earning less than 80 percent of the median income.

## **CONCLUSIONS OF LAW**

1. The proposed affordable homeownership project located at 17119 SE Division Street in Portland, Oregon, will be privately owned, and funds of a public agency in excess of \$750,000 will be used on the project. 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 affordable homeownership project located at 17119 SE Division Street in Portland, Oregon.

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

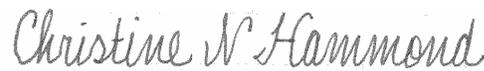
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: September 7, 2010

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 September 7, 2010, I mailed the Prevailing Wage Rate Determination for the proposed affordable homeownership project located at 17119 SE Division Street in Portland, Oregon, to the requestor and public agency associated with this project, as follows:

Heather Gramp, Grants Manager  
Habitat for Humanity Portland/Metro East  
1478 NE Killingsworth St.  
Portland, OR 97211

Don Williams  
Portland Housing Bureau  
421 SW 6<sup>th</sup> Ave., Suite 500  
Portland, OR 97204

---

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