

Claudette Luckenbill
Luckenbill-Drayton & Associates, LLC
1007 NW Rimrock Dr.
Redmond, OR 97756

Re: *Determination Whether Project is Subject to Prevailing Wage Rate*
Project: Iris Glen Townhomes – new construction project in Klamath Falls
Requested by: Luckenbill-Drayton & Associates, LLC

Dear Ms. Luckenbill:

On December 23, 2008, you submitted a request on behalf of LDA-Klamath Development, LLC, asking whether a proposed project is subject to the prevailing wage rate law. Sufficient information to make a determination was received by February 3, 2009, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. The owner of the property will be held by Iris Glen Townhomes, LLC and a tax credit investor who is yet to be identified. Iris Glen Townhomes, LLC will be owned by LDA-Klamath Development, LLC who is also the General Partner/Managing Member of the project. LDA-Klamath Development LLC will be wholly owned by Klamath Housing Authority and Luckenbill-Drayton & Associates, LLC. The Klamath Housing Authority is not a majority owner of the partnership.
2. LDA-Klamath Development, LLC proposes to construct 37 units of affordable rental housing consisting of five multi-family, multi-story residential buildings (the tallest of which will consist of 3 stories), and one single-story cottage for the site manager.
3. LDA-Klamath Development, LLC intends to use \$200,000 in public funds that it will obtain from the Oregon Housing and Community Services Department.
4. All occupants of the rental units will have incomes no greater than 60% of the Area Median Income.

5. No public agency will occupy or use any part of the completed project.

CONCLUSIONS OF LAW

1. The construction project is intended to be privately owned. Less than \$750,000 in funds of a public agency will support the project and a public agency will occupy or use less than 25% of the completed project. Therefore, the definitions of a “public works” under ORS 279C.800(6)(a)(B) and (C) do not apply to this project.
2. The project is for residential construction that is privately owned and that predominantly provides affordable housing. Therefore, it will be exempt from the Prevailing Wage Rate law. ORS 279C.810(2).

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 Iris Glen Townhomes 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

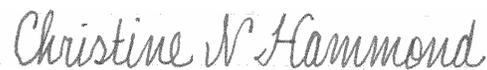
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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 either by 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 issued 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: February 4, 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 February 4, 2009, I mailed, by certified mail, the Prevailing Wage Rate Determination for the Iris Glen Townhomes project to the requestor and any public agencies identified by requestor as being associated with this project, as follows:

Debi Price, Regional Advisor to the Department, and
Mike McHam, Housing Development Representative
Housing and Community Services
North Mall Office Building
725 Summer St NE, Suite B
Salem, OR 97301-1266

Diana Otero
Klamath Housing Authority
PO Box 5110
Klamath Falls, OR 97601

Hannah Wood, Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries