

July 21, 2009

Ed McNamara  
Nurture Development, LLC  
907 NE Thompson Street  
Portland, OR 97212

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*  
Project: Pearl Family Housing  
Requested by: Nurture Development, LLC

Dear Mr. McNamara:

On July 7, 2009, you submitted a request on behalf of Nurture Development, LLC, asking if the Prevailing Wage Rate law would apply to a proposed project known as the Pearl Family Housing project. Sufficient information to make a determination was received on July 7, 2009, and therefore, the commissioner issues the following determination:

#### **FINDINGS OF FACT**

1. Nurture 247 Limited Partnership (“Nurture”) proposes to build a 138-unit low-income family development project. The building will consist of six floors above ground, five of which will be for residential housing. The ground floor will be used for community services facility space. The building will also include one level of basement parking.
2. All tenants of the Pearl Family Housing project will have incomes less than 60 percent of the area median family income.
3. Nurture is a limited partnership made up of Nurture Development, LLC as General Partner, with .01 percent interest, and US Bancorp Community Development Corporation as Limited Partner, with 99.99 percent interest. The Pearl Family Housing project will be owned by Nurture for 15 years. After that time, it is expected that the project will be owned by a limited equity cooperative whose members are the tenants of the building.
4. Portland Development Commission will loan Nurture approximately \$19,000,000 in funds of a public agency for use on this project. Oregon Housing and Community Services will loan Nurture approximately \$1,000,000 in funds of a public agency for use on this project.

## **CONCLUSIONS OF LAW**

1. The proposed project will be privately owned, and more than \$750,000 in funds of a public agency will be used on the project. Therefore, the definition of “public works” under ORS 279C.800(6)(a)(B) will apply to the project.
2. The Pearl Family Housing project will be a total of six stories high above ground, with a level of underground parking, and, as such, does not meet the definition of “residential construction” in ORS 279C.810(2)(d)(D). Therefore, the exemption for residential construction that is privately owned and that predominately provides affordable housing under ORS 279C.810(2)(d) will not apply to this project.
3. None of the other exemptions listed in ORS 279C.810(2) 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 apply to the Pearl Family Housing 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 HB 2140 Section 43 (Enrolled) OR Laws 2007. 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

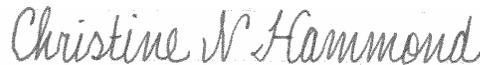
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: July 21, 2009

Brad Avakian, Commissioner  
Bureau of Labor and Industries



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

## Certificate of Service

On July 21, 2009, I mailed the Prevailing Wage Rate Determination for the Pearl Family Housing project to the requestor and public agencies associated with this project, as follows:

Ed McNamara  
Nurture Development, LLC  
907 NE Thompson Street  
Portland, OR 97212

Siobain Beddow  
Portland Development Commission  
222 NW Fifth Avenue  
Portland, OR 97209

Shelly Cullin  
Oregon Housing and Community Services  
Housing Finance Section  
725 Summer Street NE, Suite B  
Salem, OR 97301

Alice Meyers  
Bureau of Environmental Services  
1120 SW Fifth Avenue, Room 1000  
Portland, OR 97204

Kyle Diesner  
Bureau of Planning and Sustainability  
721 NW 9<sup>th</sup> Avenue, Suite 195  
Portland, OR 97209

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