

Michelle Haynes
Housing Development Director
REACH Community Development, Inc.
1135 SE Salmon Street
Portland, OR 97214

Re: *Determination Whether Project is Subject to Prevailing Wage Rate*
Project: 1949 SE Division, Portland, Oregon
Requested by: REACH Community Development Inc.

Dear Ms. Haynes:

On July 13, 2007, you submitted a request on behalf of REACH Community Development Inc. ("REACH") asking whether a proposed project is residential construction. This request was revised to ask whether the proposed project is subject to the Prevailing Wage Rate law. Sufficient information to make a determination was received by August 8, 2007, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. Multnomah County currently owns the property located at 1949 SE Division in Portland, Oregon. The current value of the property is significantly less than \$750,000.
2. Multnomah County attempted to dispose of the property through its Affordable Housing Development Program. REACH was selected to develop the site. However, environmental contamination was discovered, and REACH postponed acquiring the property until after Multnomah County performed environmental remediation.
3. REACH now proposes to construct a four-story mixed-use building consisting of three floors of residential condominium units over ground-floor commercial retail space. Of the 26 condominiums to be built, eight will be affordable units. REACH represents that the construction project will not begin before it acquires the property.
4. Multnomah County proposes to transfer ownership of the property to the City of Portland, which will in turn convey the property to REACH. A draft "Agreement of Purchase and Sale" provides that REACH will take title to the property once remediation has been fully completed and the Oregon Department of Environmental Quality has issued a No Further Action determination.

5. It is not anticipated that any public agency will use or occupy any part of the completed building.
6. Other than the transfer of title to the property to REACH at a cost below the property's current value, no funds of a public agency will be used for the proposed development.

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 no public agency will occupy or use the completed building. Therefore the definition of a "public works" under ORS 279C.800(6)(a)(B) and (C) do not apply to this project.
2. If the project is a public works under ORS 279C.800(6)(a)(A), the exemption applies for privately owned projects for which less than \$750,000 of funds of a public agency are used and less than 25 percent of the square footage will be occupied or used by a public agency. ORS 279C.810(2)(c).

DETERMINATION

Based on the foregoing, the Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, do not apply to construction of the development proposed for 1949 SE Division.

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.

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

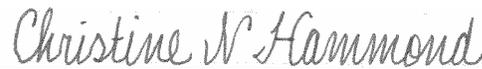
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: August 31, 2007

Dan Gardner, Commissioner
Bureau of Labor and Industries



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

Certificate of Service

On August 31, 2007, I mailed, by certified mail, the Prevailing Wage Rate Determination for 1949 SE Division to the requestor and any public agencies identified by requestor as being associated with this project, as follows:

Michelle Haynes
Housing Development Director
REACH Community Development, Inc.
1135 SE Salmon Street
Portland, OR 97214

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Deputy City Attorney
City of Portland
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Gerhard Taeubel, Compliance Specialist
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