



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES

Prevailing Wage
PO Box 44540 • Olympia, Washington 98504-4540
360/902-5335 Fax 360/902-5300

July 28, 2008

Mr. David Spurlock, Housing Development Specialist
Office of Rural and Farm Worker Housing
1400 Summitview Avenue, # 203
Yakima, WA 98902-2965

Re: Columbia Pointe Farm Worker Housing Development Prevailing Wage Rates

Dear Mr. Spurlock:

You have asked for a determination of the appropriate pay classification, Residential or Commercial to be used for the project referenced.

The answer below is based on the information you provided. References to the Revised Code of Washington (RCW) and the Washington Administrative Code (WAC) are included. Again, this answer is based on your fact set. If the facts differ from those you provided, the answers may be different.

You describe a project of less than four (4) stories that will be used for housing. The occupancy durations will range from approximately one (1) month to six (6) months. You further describe some International Building Code definitions.

The code definitions are interesting but not controlling or even of value as any precedent. Here, the Washington State law and rule will control. The applicable rule defining "residential" for purposes of the prevailing wage law, Chapter 39.12 RCW, is WAC 296-127-010(9):

"Residential construction" means construction, alteration, repair, improvement, or maintenance of single family dwellings, duplexes, apartments, condominiums, and other residential structures not to exceed four stories in height, including basement, when used solely as permanent residences. It does not include the utilities construction (water and sewer lines), or work on streets, or work on other structures (e.g., for recreation and business.)

David Spurlock

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Please note that residential prevailing wage rates cannot be used for streets, curbs, gutters, sidewalks, water or sewer or storm sewer utility lines outside the structure, work on other structures such as medical or counseling offices, treatment facilities, and detention facilities; and residential rates cannot be used on a four story building that also has a basement, garage, or commercial floors under those four stories. Most important, to be “residential,” the structure must be “used solely as permanent residences.”

Although you stated your project is under four stories, you did not state whether your structure was under four stories in height, including basement. That is crucial. A project exceeding the height limits cannot be residential. Provided that your project meets the residential criteria for height, further analysis is required.

In making residential determinations a number of interrelated factors are analyzed:

- Sole use as residences (no other uses, such as commercial, medical, counseling, etc.);
- Permanent use as residences/domicile;
- Complete dwelling units (each unit provides all aspects of an abode including full kitchen and bathroom);
- Duration of residency;
- Terms of any lease or rental agreement;
- Utilities exclusive to each individual dwelling unit (heating, cooling, electricity, etc.);
- Living arrangements exempt under RCW 59.18.040(1);
- Any use as a hotel or motel (see RCW 19.48.010);

The residencies that you describe are complete units; their sole, permanent use is only for residences; they are not motels or hotels; and no non-residential uses will be present. With your specific fact set, to the extent residential rates may be used for public works, those residential rates are appropriate. If any facts vary, this answer could be different.

Washington State prevailing wage information, including the WACs, are available on the Department’s web site: <http://www.lni.wa.gov/TradesLicensing/PrevWage/default.asp>

I hope this answers your questions. If you need additional information or have questions, please call or email me at 360 902-5330 or somd235@lni.wa.gov.

Sincerely,

David J. Soma
Industrial Statistician
Prevailing Wage Program Manager



Office of Rural and Farmworker Housing
Nonprofit Affordable Housing Development

- Benton City**
 Benton City Rehab
 Cherryhill Villas
 Desert Rose Terrace
- Brewster**
 Vista Park Homes
- Burlington**
 Raspberry Ridge
- East Wenatchee**
 Heritage Glen
- Grandview**
 Harvest Homes
 Juan Pablo II
- Granger**
 Harvest Plaza
- Lower Yakima Valley**
 Home Owner Rehab
- Mabton**
 The Foothills
 Mabton Rehab
- Manson**
 Morning Sun Park
- Mattawa**
 Mattawa Homes
 Wahluke Slope
- Moses Lake**
 Larson I Rehab
 Larson II Rehab
- Mount Vernon**
 Mt. Baker Meadows
- Oroville**
 Similkameen Park
- Othello**
 Harvest Manor
- Pasco**
 Highland Park
- Roosevelt**
 Pueblo del Rio
- Royal City**
 Frenchman Hills
 Jardin de Rosas
 Royal Slope Rehab
- Sunnyside**
 Plaza del Sol
 Roza Park
 Sunshine Plaza
- Tieton/Cowiche**
 Valley West
- Toppenish**
 Horizon Apts.
 Linda Vista
 Sage Court
- Wapato**
 Inaba Produce Farms
- Wenatchee**
 The Applewood
 Washington Square
 Wenatchee II
- Yakima**
 Mariposa Park
 Pioneer Plaza
 Sunset Terrace

July 2, 2008

Mr. David Soma
 Director of Prevailing Wages
 Washington State Department of Labor and Industries
 P.O. Box 44540
 Olympia, WA 98504-4540

RE: Columbia Pointe: Prevailing Wage Rates

Dear Mr. Soma:

Thank you for our phone conversation regarding the classification of prevailing wage rates on the Columbia Pointe housing development located in Malaga, WA. I am writing to you on behalf of the Housing Authority of Chelan County and the City of Wenatchee (CCWHA), to request your reconsideration of the Department of Labor and Industries (L & I) position on this issue. We were quite surprised to learn Columbia Pointe failed to meet the definition of "residential construction" defined in WAC 296-127-010(9) as:

...construction, alternation, repair, improvement, or maintenance of single family dwellings, duplexes, apartments, condominiums, and other residential structures **not to exceed four stories in height**, including basement, **when used solely as permanent residences**. It does not include the utilities construction (water and sewer lines), or work on streets; or work on other structures, e.g., for recreation and business.

We respectfully request reconsideration for Columbia Pointe's designation as "residential construction" for the following reasons:

- The Columbia Pointe apartments will be built to the International Building Code (Section 310.2) R-2 which is defined as, "residential occupancies containing sleeping units or more than two dwelling units **where the occupants are primarily permanent in nature.**" The IBC R-2 building code includes: apartment houses, Boarding houses (non-transient), convents, dormitories, fraternities and sororities, hotels (non-transient), monasteries, motels (non-transient), and vacation timeshare properties. This building code by definition is for primarily permanent residences;
- The International Building Code R-1 standard applies to residential occupancies "transient in nature". Transient is defined in Section 310.2 of the International Building Code as "occupancy of a dwelling unit or sleeping unit for not more than 30 days."
- The length of stay for each resident at Columbia Pointe will vary; however the anticipated average length of stay will exceed 30 days and may be up to six months. Therefore, Columbia Pointe does not meet the transient definition of R-1 and falls under the R-2 permanent residence building code;
- Zoning laws do not allow for commercial buildings to be constructed in residential zones and the architectural plans and designs are in no way amenable to commercial uses.



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- Yakima**
Mariposa Park
Pioneer Plaza
Sunset Terrace

It is our strong belief that the spirit and intent of the residential construction definition is met though the design and construction methods employed to build Columbia Pointe and other similar seasonally-occupied housing developments. Columbia Pointe apartments will be **less than four stories in height and meets the permanent residence requirement** as the anticipated occupancy will be longer than 30 days as defined by the International Building Code Section 310.2. It is for the above mentioned reasons that we respectfully request L & I's reconsideration of the applicability of the "residential construction" definition to Columbia Pointe.

Please feel free to contact us with any additional questions you might have. Time is of the essence for us. We would appreciate your immediate attention to this matter and look forward to hearing from you soon.

Sincerely,

David Spurlock
Housing Development Specialist

Cc: Marty Stierlen, CCWHA
Tom Bassett, Forte Architects
Amy Vira, Johnson, Guakroger, Drewelow, & Woollet, P.S.