



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES

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

October 27, 2008

Ms. Allison Holmes, Housing Development Specialist
Office of Rural and Farm Worker Housing
1400 Summitview Avenue, # 203
Yakima, WA 98902-2965

Re: La Posada East & West Farm Worker Housing Development Prevailing Wage Rates

Dear Ms. Holmes:

You have asked for a determination of the appropriate wage 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.)

Allison Holmes
October 27, 2008
Page 2

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.”

You stated your project is under four stories, including the basement. A project exceeding the height limits cannot be residential. Your project meets the residential criteria for height.

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

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- 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*

September 8, 2008

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

Dear Mr. Soma:

RE: La Posada East & West, Pasco, WA

I am writing to you on behalf of Sea Mar Farmworker and Community Housing Development to respectfully confirm that the La Posada farmworker housing development, proposed for Pasco, falls under "residential construction" State Prevailing Wage Rates. The La Posada East and West project consists of the rehabilitation of two existing structures in Pasco, WA that will serve as seasonally-occupied farmworker housing. Our understanding is that La Posada East & West falls under "residential construction" rates per WAC 296-127-010(9). The development meets the residential construction definition as detailed below:

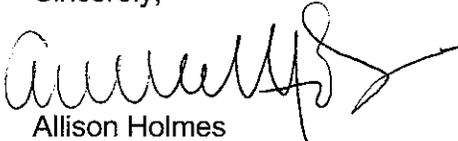
- La Posada East & West will be **less than four stories in height (including the basement)**;
- The residency duration will range from approximately one month to six months; and
- La Posada East & West's sole, permanent use is residential.

We note that, although WAC 296-127-010(9) does not define "permanent residences," the International Building Code (and Washington State Building Code) defines occupancy that is transient in nature (i.e., non-permanent) as occupancy of "not more than 30 days." (IBC Section 310.2) The average length of stay at La Posada is expected to be longer than 30 days.

The State of Washington has made farmworker housing a priority, with former Governor Locke declaring farmworker housing as the State's first housing priority. His ten-year capital budget plan included \$40 million for this purpose. Governor Gregoire and the state legislature have continued this strong support of farmworker housing, backed-up by a state budget that increased the state's Housing Trust Fund to record levels to support the development of farmworker housing, as well as other types of affordable housing. (La Posada has secured state Housing Trust Fund dollars, as well as federal USDA and other funds.) The imposition of commercial rates would drive up construction costs and act as a regulatory impediment to the development of this much needed housing. We believe it has been the intent of the legislature, the Governor's office and CTED to assure the development of safe, sanitary, affordable housing for our state's essential agricultural workforce.

For all of the above reasons, we believe residential wage rates would apply to the La Posada development. We would appreciate your immediate attention to this matter and look forward to hearing from you at your earliest convenience. Please feel free to contact me with any questions you might have.

Sincerely,



Allison Holmes
Housing Development Specialist

Cc: Mike Leong, Sea Mar Community Health Centers
Rod Butler, Zeck Butler Architects
Jose Bazan, Bazan and Associates

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