

DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR
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March 7, 2003

Lynda Bogue, Prevailing Wage Case Manager
Local 605
United Brotherhood of Carpenters and Joiners of America
Northern California Carpenters Regional Council
Southern District
2102 Almaden Road, Suite 125
San Jose, CA 95125

Re: Public Works Case No. 2002-052
Plaza Grande Housing Project
City of Salinas

Dear Ms. Bogue:

This constitutes the determination of the Director of Industrial Relations regarding coverage of the above-referenced project under California's prevailing wage laws and is made pursuant to Title 8, California Code of Regulations, section 16001(a). Based on my review of the facts of this case and an analysis of the applicable law, it is my determination that the Plaza Grande Housing Project ("Project") is exempt from prevailing wage obligations under the tax credit exemption provided in Labor Code section 1720(d)(3).¹

The Project involves the construction of 92 single-room occupancy residential units, recreational and common area improvements and parking in the City of Salinas pursuant to a Disposition, Development and Loan Agreement ("DDLA") entered into on or about May 9, 2000 by the Salinas Redevelopment Agency ("Agency") and Plaza Grande L.P. ("Developer"). Under the DDLA, Agency is to donate the land for the Project and extend to Developer a \$250,000 40-year no-interest loan. Developer is to execute a regulatory agreement setting forth the affordability restrictions for the rental of the units and record the agreement against the property at the close of escrow. The regulatory agreement requires Developer to maintain 45 of the units as affordable to very low-income households for a period of 40 years.

Under the DDLA, Developer is to apply to the California Tax Credit Allocation Committee ("Committee") for federal low-income housing tax credits. Disbursement of all but \$55,000² of the

¹ All further statutory references are to the Labor Code.

² This figure represents the amount disbursed to Developer under the DDLA for preliminary architectural costs.

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\$250,000 loan is made contingent on Developer's receipt of a preliminary reservation of tax credits from Committee. Through the mechanism of an Option Agreement, Developer is required to transfer the property back to Agency for a purchase price of one dollar if Developer is unsuccessful in its efforts to obtain the tax credits. The DDLA and Option Agreement were amended on May 15, 2001 and then again on March 5, 2002 to extend the deadline for Developer to satisfy this condition.

Committee sent Developer a Preliminary Reservation Letter, dated May 29, 2002, reserving for the Project a portion of the year 2002 ceiling, amounting to \$868,453 in federal tax credits annually for each of ten years. On June 7, 2002, Developer accepted the tax credits by signing the Preliminary Reservation Letter and returning it to Committee.

In this determination, we need not analyze whether the Project is a public work under California prevailing wage law. Regardless of its public work status, Section 1720(d)(3) provides an exemption from prevailing wage obligations for housing projects allocated federal or state low-income housing tax credits on or before December 31, 2003. As this Project was allocated federal tax credits before December 31, 2003, it qualifies for this exemption and is not subject to the prevailing wage laws.

I hope this determination satisfactorily answers your inquiry.

Sincerely,



Chuck Cake
Acting Director