

DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR
455 Golden Gate Avenue, Tenth Floor
San Francisco, CA 94102
(415) 703-5050



March 7, 2003

Arlene Adlin, Development Director
Area Housing Authority of the
County of Ventura
1400 West Hillcrest Drive
Newbury Park, CA 91320-2721

Re: Public Works Case No. 2003-009
Oak Creek Senior Villas
County of Ventura

Dear Ms. Adlin:

This letter constitutes the determination of the Director of the Department 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 upon my review of the documents submitted and an analysis of the relevant facts, it is my determination that the construction of the Oak Creek Senior Villas ("Project") is exempt from prevailing wage obligations under the bond fund and tax credit exemptions provided in Labor Code section 1720(d)(1) and (3).¹

The Area Housing Authority of the County of Ventura ("Authority") is the managing general partner of the Oak Creek Housing Investors, LLP, which is developing the Project. The Project is a 57-unit low-income, affordable rental housing project in Ventura County. It is financed, in part, by a combination of bonds and tax credits. Construction is expected to commence in March 2003, with a total project cost projected at \$10.95 million. Construction will be financed by tax-exempt bonds, allocated by the California Debt Limit Allocation Commission on October 10, 2002, and a 3.6 percent federal tax credit allocated by the California Tax Credit Allocation Commission on November 20, 2002. The housing units will be one and two bedroom units with rents set for those earning not more than 60 percent of the area median income and will be rented to individuals and families earning between 50 and 60 percent of the area median income. Pursuant to a regulatory agreement, these units will remain low-income for a period of 55 years.

¹ All further statutory references, unless otherwise noted, are to the Labor Code.

000624

Labor Code section 1720(d) states in relevant part:

Notwithstanding any provision of this section to the contrary, the following projects shall not, solely by reason of this section, be subject to the requirements of this chapter:

- (1) Qualified residential rental projects, as defined by Section 142 (d) of the Internal Revenue Code, financed in whole or in part through the issuance of bonds that receive allocation of a portion of the state ceiling pursuant to Chapter 11.8 of Division 1 (commencing with Section 8869.80) of the Government Code on or before December 31, 2003
.....

- (3) Low-income housing projects that are allocated federal or state low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code, Chapter 3.6 of Division 31 (commencing with Section 50199.4) of the Health and Safety Code, or Section 12206, 17058, or 23610.5 of the Revenue and Taxation Code, on or before December 31, 2003.

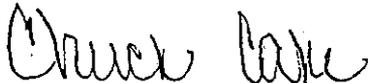
Because the Project was allocated a federal tax credit from the California Tax Credit Allocation Committee and is financed, in part, with bond funds described above allocated by the California Debt Limit Allocation Committee, the exemptions in Section 1720(d)(1) and (3) insulate the Project from the requirement to pay prevailing wages.²

² An exception is contained in Section 1720(e), which states: "If a statute, other than this section, or a regulation, other than a regulation adopted pursuant to this section, or an ordinance or a contract applies this chapter to a project, the exclusions set forth in subdivision (d) do not apply to that project." The Department is not aware of any local or contractual requirement to pay prevailing wages that would vitiate the exemption claimed here by the Authority.

Letter to Arlene Adlin
Re: Public Works Case No. 2003-009
Page 3

I hope this determination satisfactorily answers your inquiry.

Sincerely,


Chuck Cake
Acting Director

000626