

DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR
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June 30, 2003

The Honorable Victor Lopez
Mayor, City of Orange Cove
633 Sixth Street
Orange Cove, CA 93646

Re: Public Works Case No. 2003-017
Farm Worker Housing Assistance
City of Orange Cove

Dear Mayor Lopez:

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 under Labor Code¹ section 1720(c)(6)(C), the requirements of Division 2, Part 7, Chapter 1 of the Labor Code (sections 1720-1861) do not apply to the construction of single-family homes in Orange Blossom Estates in the City of Orange Cove ("City"), where the buyers of the homes receive down-payment assistance from the Department of Housing and Community Development ("HCD").

Mission Homes, a developer specializing in the construction of affordable housing, plans to build several homes in Orange Blossom Estates that are designated as available for low-income families. In pursuit of its desire to provide home ownership opportunities to low-income farm worker families, City has applied to HCD for a commitment of funds to provide down-payment assistance to these families under the Joe Serna, Jr. Farm Worker Housing Grant Program administered by HCD. On February 15, 2002, HCD authorized an overall grant in the amount of \$1.47 million, which is conditioned upon City finding eligible families for the down-payment assistance. The actual payment of funds will be made after eligible families have entered into purchase contracts. HCD will pay the sum of \$30,000 to the escrow company involved in each sale. City does not receive nor disburse funds. The prospective homeowners must execute a Standard Agreement and

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

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a Grant Agreement and Lien, and must agree to reside in the homes for 20 years to receive the entire grant amount.²

Section 1720(b) provides:

(b) For purposes of this section, "paid for in whole or in part out of public funds," means all of the following:

. . . .
(4) Fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived, or forgiven by the state or political subdivision.

Section 1720(c)(6)(C) provides:

Notwithstanding subdivision (b):

(6) Unless otherwise required by a public-funding program, the construction or rehabilitation of privately-owned residential projects is not subject to the requirements of this chapter if one or more of the following conditions are met:

(C) Assistance is provided to a household as either mortgage assistance, down-payment assistance, or for the rehabilitation of a single-family home.

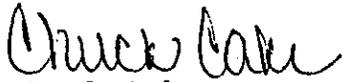
Here, the down-payment mortgage assistance provided by HCD constitutes public funds because it is grant funds provided by a public agency. Under Section 1720(c)(6)(C), however, the construction of the houses for which the buyers receive the down-payment mortgage assistance is exempt from prevailing wage requirements.

² Homeowners selling the homes in years 1 through 10 of ownership must repay the lien in full. For homeowners residing in the homes greater than 10 years, the lien is reduced by 10 percent per year until the entire amount is extinguished at the end of year 20.

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I hope this determination satisfactorily answers your inquiry.

Sincerely,



Chuck Cake
Acting Director

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