

OFFICE OF THE
GENERAL COUNSEL

The Commonwealth of Massachusetts

Executive Office of Labor

Department of Labor and Industries

Leverett Saltonstall Building, Government Center

100 Cambridge Street, Boston, 02202

file

May 16, 1990

Maurice J. Ferriter, Esquire
Begley, Ferriter, Lavelle & Welch, P.C.
One Court Plaza
Post Office Box 711
Holyoke, MA 01041

**COPY FOR YOUR
INFORMATION**

RE: TREE TRIMMING WAGE RATES

Dear Mr. Ferriter:

Commissioner James F. Snow has asked that I respond to your request that the Department of Labor and Industries reconsider the method that is used in setting the predetermined wage rate for workers who engage in tree trimming for the various municipal electric and gas companies throughout the state.

Representatives of the Department met with you and Mr. George Leary, of the Holyoke Gas and Electric company on October 23, 1989, at which time you expressed your concern that the wage rates that the department has set for tree trimming and related work is incorrect, because it does not reflect the rate that similarly situated private laborers in the area are receiving.

You submitted a copy of the collective bargaining agreement between the Taunton Municipal Lighting Plant Commission of the City of Taunton and the American Federation of State, County and Municipal Employees, AFL-CIO, State Council 93, Local No. 1729, and a letter regarding the union contract with the Parks and Recreation Department of the City of Holyoke.

The department searched our files to determine whether there were any contracts not being considered, that should be included in the calculation of the wage rate. We found no such contract.

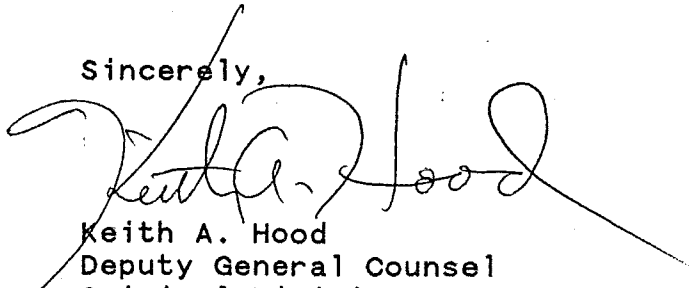
The Department sets the subject wage rates as directed by the plain language of Massachusetts General Law Chapter 149, Section 26, which directs the Commissioner to set the wage rates on wage rates as "established in certain trades and occupations in the private construction industry..."

The contracts that you have proffered will not be considered because they are not the type of contracts contemplated by the statute. The department is not free to consider changing the way that the wage rates are established, and therefore must decline your invitation to consider

"other agreements" when setting the wage rate.

Please contact me if I may be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Keith A. Hood". The signature is written in dark ink and is positioned above the typed name and title.

Keith A. Hood
Deputy General Counsel
Criminal Division

cc: Commissioner
Assistant Commissioner