THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF OCCUPATIONAL SAFETY

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September 7, 1999

David Niall, Chairman
Town of Templeton
Planning Board
9 Main St.
Templeton, MA 01436

Re: Prevailing wage applicability; Completion bond funding

Dear Mr. Niall:

This letter responds to a request from the Planning Board Clerk for a determination of whether the Massachusetts prevailing wage law, M.G.L. ch. 149, §§ 26-27F, applies to the construction work necessary to complete a new, privately-owned subdivision in the Town of Templeton.

According to the request, the Town of Templeton will be hiring a contractor to perform the work with private funds acquired from an escrow account made available when the developer defaulted on his obligation to complete the work. Sometime in the future, after the work is complete, the Town of Templeton will take possession of the road and other appurtenant structures.

Since the subdivision is still privately-owned, and the construction work necessary to complete the project will be funded with private funds, this project cannot be considered "public works construction" under the prevailing wage law (M.G.L. ch. 149, § 26). Thus, the contractor(s) performing the work will not be required to pay their employees prevailing wage rates. Of course, any construction work or alterations to the road or other appurtenant structures

after the Town of Templeton takes possession will require payment of prevailing wage rates.

This determination is based on the facts provided to me. If there are any changes, or if additional facts concerning this work come to your attention, please convey them to me immediately for consideration.

If you have further questions concerning this matter, please do not hesitate to contact me.

Sincerely,

Robert J. Prezioso

cc: Linda Hamel, General Counsel, DOS
Barbara Piselli, Office of the Attorney General