



THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF OCCUPATIONAL SAFETY
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JANE C. EDMONDS
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ROBERT J. PREZIOSO
Deputy Director

March 10, 2003

Mr. Mark Bobrowski
Attorney at Law
37 Main Street
Concord, MA 01742

Re: Prevailing Wage Applicability; Hamilton Estates Subdivision-Town of Holbrook

Dear Mr. Bobrowski:

This letter responds to your letter dated January 23, 2003 to the Division of Occupational Safety ("DOS") as to whether the Massachusetts prevailing wage law, G.L. c.149, sections 26-27F, applies to the construction work necessary to complete the installation of roadways and other improvements at the Hamilton Estates.

According to your request, the Planning Board of the Town of Holbrook will be hiring a contractor to perform work with private funds acquired from an escrow account made available when the developer failed to complete the work in a timely basis. You also state in your letter that the roads in the Hamilton Estates are private and have not been dedicated to nor accepted by the Town of Holbrook.

As you mention in your letter, DOS has consistently stated that when private funds from an escrow account are available to complete a project on privately-owned land, the project cannot be considered "public works construction" under the prevailing wage law, G. L. c.149, sections 26-27F. However, if the Town of Holbrook decides to take possession of the roadways in the Hamilton Estates Subdivision, then prevailing wage rates would be required for any construction work or alteration to the road or other appurtenant structures after the town takes over possession of the property.

This determination is based on the facts provided in your letter. 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 any further questions concerning this matter, please do not hesitate to contact me.

Sincerely,



Ronald E. Maranian
Program Manager

cc: Robert J. Prezioso
Deputy Director
Division of Occupational Safety

Kathryn B. Palmer
General Counsel
Division of Occupational Safety

Daniel Field
Division Chief
Office of the Attorney General
