

The Commonwealth of Massachusetts

DEPARTMENT OF LABOR AND INDUSTRIES

LEVERETT SALTONSTALL BUILDING
100 CAMBRIDGE STREET, ROOM 1107
BOSTON, MASSACHUSETTS 02202-0003

May 4, 1994

Bruce Trager, Esq.
Office of the Massachusetts Attorney General
Fair Labor and Business Practices Division
Room 1101
100 Cambridge Street
Boston, MA 02202


Dear Bruce:

As we discussed in our telephone conversation of May 3, 1994, I am sending you this letter to articulate the Department of Labor and Industries' ("DLI") position that the obligation to determine the applicability of the wage requirements of Mass. Gen. Laws ch. 149, §§ 26 and 27 to particular projects rests exclusively with DLI. As you know, this issue was raised as the result of an inquiry posed to DLI and your office by a representative of the Town of Duxbury concerning whether the wage requirements and public bidding requirements of chapter 149 apply to certain proposed construction work on a Duxbury school to be performed pursuant to an insurance contract.

Mass. Gen. Laws ch. 149, § 27 requires DLI to make determinations concerning prevailing wage for public works projects. In addition, the sole administrative body designated in ch. 149, § 27A to hear appeals of prevailing wage determinations is DLI. Indeed, the legislation which transferred to the Attorney General's office the enforcement of wage laws, 1993 Mass. Acts ch. 110, §§ 269 and 331 (the "Transfer Legislation"), is devoid of any language indicating that the Attorney General is responsible for determining the applicability of the prevailing wage requirements of ch. 149, §§ 26 and 27 to particular projects. Even the 1993 amendment to Mass. Gen. Laws ch. 149, § 27, which was enacted concurrently with the Transfer Legislation, reiterates DLI's power to make certain determinations concerning prevailing wage and references your office's power to enforce DLI's determinations.

If the interpretation of the relevant legislation as stated herein is inconsistent with that of your office, I would be happy to meet with you or any member of your department to discuss this matter further. I look forward to working with you and the other members of your office in the future.

Very truly yours,


Spencer C. Demetros,
General Counsel/DLI

Brian E. Burke, Esq.