

THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF OCCUPATIONAL SAFETY
WWW.STATE.MA.US/DOS

Street Light Matter

JANE SWIFT
GOVERNOR

ANGELO R. BUONOPANE
DIRECTOR

ROBERT J. PREZIOSO
DEPUTY DIRECTOR

December 6, 2002

Jeff Place
Recording Secretary
International Brotherhood of Electrical Workers
Local No. 104
130 West Street
Walpole, MA 02081

Re: Outside Electric Work

Dear Mr. Place:

This letter responds to your letter dated November 25, 2002 that asserts the Division of Occupational Safety ("DOS") created a "loophole" with respect to the use of qualified workers on public projects involving street lighting work.

Your letter was prompted by the tragic death of a worker who was hanging outdoor holiday lights when his bucket truck toppled. I share your sympathy and grief for this worker and his family and I also feel compelled to make clear that your subtle insinuation that a DOS prevailing wage determination somehow contributed to this unfortunate situation is misdirected.

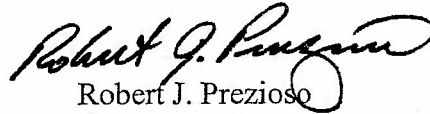
As you know, DOS issues prevailing wage rates for workers on public construction projects. In doing so, we are called upon to determine which tasks fall within the statute's definition of "construction." On August 22, 2000, DOS issued a determination stating that on outside electrical projects "photo cell and light bulb replacement work" is not "alteration of public works" (M.G.L. ch. 149, § 27D) and therefore not covered by the prevailing wage law. If the deceased worker was performing either of these tasks, he was not required to be paid prevailing wage rates, which has nothing whatsoever to do with his lack of training as a journeyman lineman or a hoisting engineer.

Please be aware that the purpose of the prevailing wage is to set minimum wage rates for workers on public construction projects. A worker's pay rate depends upon the task(s) s/he is

performing, regardless of whether they are required to hold a license or possess a license. Any suggestions you may have for requiring workers to be licensed when performing certain tasks are best directed to the Division of Professional Licensure (which licenses electricians) and/or the Department of Public Safety (which licenses hoisting engineers).

Please do not hesitate to call upon me if I may be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Prezioso". The signature is fluid and cursive, with a large loop at the end.

Robert J. Prezioso
Deputy Director

cc: Kathryn B. Palmer, General Counsel, DOS
Ronald E. Maranian, Program Manager, DOS
Joseph S. Lalli, Commissioner, Department of Public Safety
Marthe B. Kent, Regional Administrator, OSHA