

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

ANGELO R. BUONOPANE
DIRECTOR

ROBERT J. PREZIOSO
DEPUTY DIRECTOR

February 25, 2002

Edward D. McCarthy
McCarthy Bouley & Barry, P.C.
One Main Street
Cambridge, MA 02142

Re: Cambridge Public Health Commission; Applicability of the Massachusetts Prevailing Wage Law

Dear Mr. McCarthy:

This letter responds to your request for a determination of the applicability of the Massachusetts prevailing wage law, M.G.L. ch. 149, §§ 26 - 27F, to projects undertaken by the Cambridge Health Commission.

As you know, the Cambridge Health Commission was created by Chapter 147 of the Acts and Resolves of 1996. Section 12(a) of Chapter 147 reads, in relevant part:

... the provisions of sections twenty-six to twenty-seven F, inclusive, and section twenty-nine of chapter one hundred and forty-nine of the General Laws shall apply to construction contracts procured by the commission.

This statement clearly indicates an affirmative response to your question.

As for your other question about whether the law covers renovation or remodeling work performed on existing buildings as well as new construction, please see Section 27D of the prevailing wage law, which reads, in relevant part:

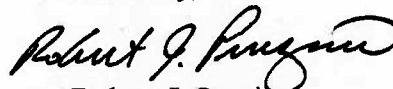
Whenever used in sections twenty-six to twenty-seven C, inclusive, the words "construction" and "constructed" as applied to public

buildings and public works shall include additions to and alterations of public works, the installation of resilient flooring in, and the painting of, public buildings and public works ...

Irrefutably, the phrase "additions to and alterations of public works" covers renovation and remodeling work, including the painting of existing buildings.

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

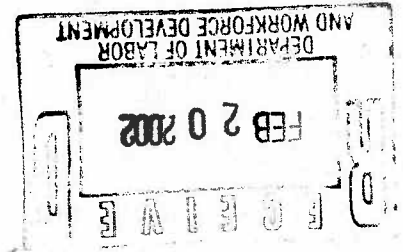
Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Prezioso", written in a cursive style.

Robert J. Prezioso
Deputy Director

cc: Angelo Buonopane, Director, DLWD
Kathryn B. Palmer, General Counsel, DOS
Ronald E. Maranian, Program Manager, DOS
Daniel Field, Office of the Attorney General

McCARTHY BOULEY & BARRY, P.C.



February 29, 2002

Honorable Angelo Buonopane
Director
Department of Labor and Work Force Development
1 Ashburton Place, Suite 2112
Boston, MA 02108

Re: Cambridge Public Health Commission

Dear Mr. Buonopane:

I am the attorney for the Cambridge Public Health Commission which was created by Chapter 147 of the Acts of 1996. I am enclosing a copy of that special Act for your easy reference. We have a recurring question as to whether the prevailing wage law contained in G.L. ch. 149, §26-27h, is applicable to work done by the Commission, particularly on existing buildings. It is not clear to me from the statute precisely what falls within the definition of renovations or remodeling rather than construction. For example, the statute talks about painting. Does that apply only to painting of new construction or does it apply to re-painting of an existing building that needs routine upgrading?

Recognizing that this statute carries criminal implications we are writing to request a ruling by your office as to whether projects done by the Cambridge Public Health Commission on existing buildings owned, operated and/or controlled or leased by it are subject to the prevailing wage law. By nature of the prevailing wage law these projects would tend to be 20 to 25% more expensive for us as a public authority.

If you need more detailed information as to any particular examples, please let me know.

Very truly yours,

Edward D. McCarthy

EDM:sd.1/Camb.Hlth.All.

Enclosure

cc: Paul T. O'Neill, Esquire