



New York State Department of Labor
David A. Paterson, Governor
M. Patricia Smith, Commissioner

May 1, 2009



Re: Request for Public Work Prevailing Wage Opinion
Our File No. RO-09-0060

Dear [REDACTED]:

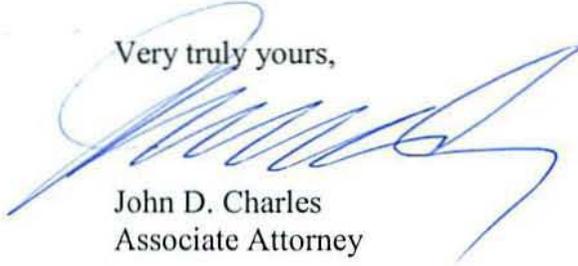
Your letter dated April 15, 2009, asks for our opinion as to whether the Prevailing Wage Law would apply to any contractor who might bid on Village contracts for (1) snow removal and related services and (2) road and storm sewer maintenance including sweeping, crack repair, basin and culvert cleaning and related work. This Office has consistently determined that snow removal operations are not subject to the Prevailing Wage Law. On the other hand, we have just as consistently determined that road and storm sewer maintenance, including crack repair and culvert cleaning is a maintenance function covered by Article 8 of the Prevailing Wage Law (see *Sewer Environmental Contractors, Inc. v Goldin*, 98 A.D. 2d 606 (First Dept. 1983)). Since the Village is proposing to enter into a contract which will involve the employment of laborers, workers and mechanics, for the purpose of maintaining a public structure, the statute provides that prevailing wages must be paid (Labor Law Section 220 (3)(a)).

Please be aware that Article 9 covers those maintenance and other functions related to buildings and service work associated with those buildings, such as grounds keepers, janitors, watchmen and garbage collectors. In that regard, reference should be made to the case of *Feher Rubbish Removal, Inc. v. New York State Department of Labor*, 28 A.D.3d 1, 807 N.Y.S.2d 494, (Fourth Dept. 2005).

Phone: (518) 457-4380 Fax: (518) 485-1819
W. Averell Harriman State Office Campus, Bldg. 12, Room 509, Albany, NY 12240

This opinion is specific to the facts described in your letter and, were those facts to vary from those set forth in the letter, or if additional facts and circumstances exist of which we are not currently aware, this opinion could be changed accordingly. Please let us know if you need any further clarification on this issue.

Very truly yours,



John D. Charles
Associate Attorney

cc: Pico Ben-Amotz
Chris Alund
David Bouchard
Fred Kelley
Dayfile