

**PREVAILING WAGE PROGRAM – (360) 902-5335
SPECIALTY COMPLIANCE SERVICES DIVISION
PO BOX 44540, OLYMPIA, WA 98504-4540**

September 12, 2006

Mark P. Wittman
8195 166th Avenue N.E, Suite 204
Redmond, Washington 98052

RE: Public Works Project--City of Bellevue – Lake Hills Boulevard Improvements

Dear Mr. Wittman:

This is to acknowledge receipt of your letter in reference to the above project and determination regarding the correct scope of work made during an investigation by Beatriz Hart, Industrial Relations Agent.

I am not certain why you mentioned that there is no WAC code for a modular block wall as the issue is whether or not the work involved is landscape construction or not. The type of blocks used in the wall is not determinative. The purpose for constructing the wall is. The fact that the wall was constructed as part of a road and sidewalk improvement project and its purpose is to retain soil from encroaching on the sidewalks determines what scope the work falls under. In this case, the work is not landscaping but general construction (laborer) in conjunction with the road and sidewalk construction.

As the determination referenced above is supported by the facts surrounding this work, the plain language contained in both the Laborers and Landscape Construction Scopes of Work and the materials gathered for reference, there is no need to find references to modular block walls in order to support the determination.

However, in order to be as responsive and cooperative as possible, I did look for any relevant decisions relating to the assembly or building of modular block walls that might assist you and your client.

The only decision I could find that is on point is court of Appeals of Washington, Division 1 case. Alpine Rockeries, Inc. v. Department of Labor and Industries 1995 WL 788079 (Wash. App. Div. 1). I have enclosed a copy. The court clearly states that the scope of work for landscape construction is partially defined in terms of location: “All functions performed in placement of ... rock walls ... and other minor site improvements as required in site development for parks, golf courses, athletic fields, school grounds and grounds for commercial and industrial buildings and multiple family

and single family residences” Clearly, this project was not for the beautification of a plot of land but to aid in the installation of sidewalks in conjunction with a road project.

It is my understanding that you have been provided with correspondence from Jim Christensen, the former Industrial Statistician, dated 11-23-93, 9-27-95 and 11-26-96 related to this issue.

I hope this letter serves to address your concerns. If you have any questions or need further clarification, feel free to contact me at 360-902-5330.

Sincerely,

David J. Soma
Prevailing Wage Program Manager
Department of Labor and Industries

cc: Patrick Woods, Assistant Director, Specialty Compliance Services