

The Commonwealth of Massachusetts

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION
DEPARTMENT OF PUBLIC WORKS
OFFICE OF THE COMMISSIONER
100 NASHUA STREET
BOSTON, MASSACHUSETTS 02114, JANUARY 7, 1982

Mr. Wallace C. Mills, Clerk, *House of Representatives*
State House, Room 145, Boston, Massachusetts 02133

Dear Mr. Mills:

Under date of April 2, 1981, pursuant to the Law's provisions, this Department reported to you on the rules, regulations and conditions established herein for implementation of Chapter 671 of the Acts of 1979, "An Act Authorizing the Department of Public Works to Erect Signs on State Highways Indicating the Availability of Certain Services for the Convenience of the Public." Our submission eventuated as a report under House No. 6503.

At this time I would like to submit two modifications to the aforesaid rules, regulations and conditions. Under Section 10 "Fee Schedule" provision was made for a 50%-50% division of the fabrication and erection costs between the petitioner and the Department with an annual 10% maintenance fee to be paid by the petitioner to the Department. Fiscal constraints of the Great and General Court left this program unfunded. Existing applicants under the program have since indicated a willingness to pay 100% of the fabrication and erection costs and, under a legal agreement, to properly maintain the structure. I am convinced the program and full intent of the legislature could be effectively carried out in this manner and at no further cost to the Commonwealth.

All of the criteria and stipulations contained in our original submission were intended to be in the best interests of the Commonwealth and its constituents. However, we do encounter applicants of merit who fail to meet an expressed standard by the slightest of margins and whom we feel should not be penalized therefor. I can assure that if some flexibility

ty in judgment were afforded this Department governed by the reasonable standard of "substantial conformance", execution of it would be to the sense and desire of your honorable body and without sacrifice of our engineering principles.

Therefore, respectfully, let the instrument heretofore outlined be amended as follows:

(a) Strike out Sections A, B, C and D under Section 10 "Fee Schedule" and substitute therefor: The approved applicant shall cause to be constructed and erected at his sole expense and according to Department agreement or permit such sign as described herein indemnifying and saving harmless the Commonwealth from any present or future costs attendant thereto or any liability arising from its construction now or in the future.

(b) Add a Section 11 which shall read: The Department is reserved the right to grant approval for such signing herein described not totally in conformance with these rules, regulations and conditions but which is found to be in substantial conformance by decision of the Department's Board of Commissioners.

Very truly yours,

SANDINO J. TERSIGNI
Commissioner.