

MAS

0-12

Ordered: That the attached letter from the New England Regional Council of Carpenters and the Mass Pile Drivers Local Union #56 requesting that the City terminate its contract with Revoli Construction for violation of the Responsible Employer Act be referred to the City Manager for investigation and action; and be it further

0 That the CM report back to the City Council



# City of Cambridge

O-12.

**IN CITY COUNCIL**

November 20, 2000

COUNCILLOR SULLIVAN  
COUNCILLOR BORN  
COUNCILLOR BRAUDE  
COUNCILLOR DAVIS  
COUNCILLOR DECKER  
MAYOR GALLUCCIO  
VICE MAYOR MAHER  
COUNCILLOR REEVES  
COUNCILLOR TOOMEY

ORDERED: That the attached letter from the New England Regional Council of Carpenters and the Massachusetts Pile Drivers Local Union #56 requesting that the City terminate its contract with Revoli Construction for violation of the Responsible Employer Ordinance be referred to the City Manager for investigation and action; and be it further

ORDERED: That the City Manager be and hereby is requested to report back to the City Council on this matter.

In City Council November 20, 2000.

Adopted by the affirmative vote of nine members.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

A handwritten signature in black ink that reads "D. Margaret Drury".

ATTEST:-

D. Margaret Drury  
City Clerk

NEW ENGLAND REGIONAL COUNCIL OF CARPENTERS, AFL-CIO  
United Brotherhood of Carpenters and Joiners of America



MARINE INDUSTRIAL PARK/EDIC  
22 DRYDOCK AVENUE, 3RD FLOOR  
BOSTON, MA 02210-2386

PILE DRIVERS  
LOCAL UNION 56

TELEPHONE (617) 443-1988  
FAX (617) 443-4566

DAVID WOODMAN  
SENIOR REGIONAL COUNCIL REPRESENTATIVE

DAN KUHS  
REGIONAL COUNCIL REPRESENTATIVE

*Councilor Sullivan*  
*Order*

November 10, 2000

The Hon. Anthony D. Gallucio, Mayor  
The City of Cambridge  
City Hall, 795 Mass. Avenue,  
Cambridge, MA 02139

Dear Mayor Gallucio,

I am writing to respectfully request that the City of Cambridge terminates its contract with Revoli Construction for the Massachusetts Avenue Storm Drain Project #3421.

Revoli Construction appears to have violated Massachusetts General Law c. 149 involving the timely payment of prevailing wages and or the timely payment of wages with respect to at least one employee on the above mentioned site. They may also have violated the Workers' Compensation statutes by mis-classifying employees as independent contractors. All of these issues are addressed in the City of Cambridge Responsible Employer Ordinance, of which you are rightfully proud.

We understand that the Cambridge Responsible Employer Ordinance does not currently require the removal of an irresponsible contractor from this kind of work. However, with minimal investigation into this project we are confident that you will agree that Revoli is not a responsible contractor and that it is in the best interest of the City of Cambridge to take swift action.

On October 26, 2000 I observed Revoli Construction and its Pile Driving Sub-Contractor, Gynan Construction, performing extremely unsafe crane operations, including holisting while overloaded, while working on the Massachusetts Avenue Storm Drain Project #3421. I also interviewed the pile drivers and discovered that they were in fact being paid as 1099 "independent contractors" and thus carried no insurance of any kind.

Mr. Jonathon Fisher informed me that he was told by Revoli to "bill them as an independent contractor" for \$40.00/ hour. He was very concerned because he had no Workers Compensation insurance and was told not to bill at an overtime rate for work performed in excess of 40 hours per week. Mr. Fisher will speak freely about this, and I can provide you with his telephone number.

Mr. Marty White, who is the Pile Driving Foreman, also told me he was an "independent contractor" responsible for his own insurance and billed Revoli for his time.

PILE DRIVERS, BRIDGE, WHARF, DOCK BUILDERS, BURNERS, DIVERS, WELDERS & UNDERPINNERS

Page 2 of 3 (Mass Avenue Storm Drain Project #3421)

A truly frightening accident was reported to me by the Operating Engineer Bill Monteiro. This may also have been witnessed and reported by city employees: Mr. Monteiro reported that the Pile Driver Foreman neglected or forgot to rig a safety cable to a pile during extraction operations. The pile, an H-beam approximately 40' in length and weighing two tons, was released from the vibratory hammer, and with no safety cable to arrest it, went into free-fall from its full height. Fortunately, it crashed onto a Jersey barrier, and not onto a pedestrian or motorist a few feet away on Mass Avenue. Mr. Bill Monteiro, the crane operator, is still upset over this incident, and will speak freely to you about it. I can provide you with his telephone number as well.

I immediately informed Ms. Andrea Spears about the insurance situation. A copy of the letter I sent is enclosed. She was quite helpful and arranged for me to speak to Mr. Owen O'Riordan of the Public Works Department about the unsafe working conditions and practices. I appreciate that Mr O'Riordan met with me promptly. He informed me that he would be meeting with Revoli managers later that day (Oct 27), and I observed no construction activity on that site the following week.

However, Revoli resumed Pile Driving operations on November 6th on Mass Avenue. Again I observed unsafe operations which endangered workers, motorists, and pedestrians.

In one instance, on November 7, a steel street plate approximately 10' by 20' in length, was hoisted vertically to its full height with a bare hook and chain (no safety cable, no positive shackle) in an attempt to insert it between two soldier piles. When the plate became hung up on an in-ground obstacle, the resulting lack of tension caused the hook to fall out, and the plate free-fell to the ground. Once again, this all occurred within a few feet of workers, pedestrians and motorists at the intersection of Massachusetts Avenue and Memorial Drive.

Additionally, unsafe rigging and overloading of the PC600 excavator resulted in significant damage to a large pre-cast corner manhole section. Photographs of the rigging and damage are being developed. According to the operator, the PC 600 does not have the capacity to lift this piece, so Revoli can only maneuver it by dragging or pushing it.

Finally, I have enclosed copies of the OSHA report on Revoli for Willful and Serious Citations for Trenching Operations issued in January of this year.

Quite frankly, OSHA rarely issues "Willful Citations", and Revoli's 56 PRIOR Health and Safety Violations speak volumes about their regard for their own employees.

The City of Cambridge can take pride in being the first in the Commonwealth to enact a Responsible Employer Ordinance, as mentioned in your letter to the Boston Herald.

Revoli Construction is NOT a responsible employer.

They do not participate in an approved Apprenticeship Program. They apparently do not provide workers with adequate Workers Compensation Insurance. They may be cheating employees, the state, and taxpayers by unlawful use of 1099 "independent contractors". They repeatedly endanger employees and the public with dangerous work practices.

11-13-00: 3:20PM; PILE DRIVERS LOCALS

**Page 3 of 3 (Mass Avenue Storm Drain Project #3421)**

**On behalf of the New England Regional Council of Carpenters and Mass. Pile Drivers Local Union # 56, I urge you to terminate this contract with Revoli Construction. I call to your attention that the second Low Bidder for this project, Webster Engineering Company, is a Responsible Employer and a Minority Business Enterprise as well.**

**Please inform us of actions you plan to take in this matter.**

**Sincerely,**

**David Borus  
Council Representative  
New England Regional Council of Carpenters  
Mass Pile Drivers Local Union # 56**

**cc: Cambridge City Councilors:**

<b>Kathleen L. Bom</b>	<b>David P. Maher</b>
<b>Jim Braude</b>	<b>Kenneth E. Reeves</b>
<b>Henrietta Davis</b>	<b>Michael A. Sullivan</b>
<b>Marjorie Decker</b>	<b>Timothy J. Toomey, Jr.</b>

**Robert Healy, City Manager  
Andrea Spears, Purchasing Dept.  
Owen O'Riordan, Public Works Dept.**

## OSHA Regional News Release

U.S. Department of Labor  
Office of Public Affairs

Region 1

Region 1 News Release: BOS 2000-010  
Friday, January 21, 2000  
Contact: John M. Chavez  
PHONE: (617) 565-2075

### OSHA CITES NORTH READING, MASS., CONSTRUCTION COMPANY FOR ALLEGED WILLFUL & SERIOUS TRENCHING SAFETY VIOLATIONS AT A WILMINGTON, MASS., EXCAVATION SITE; \$81,000 IN PENALTIES PROPOSED

The Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor has cited Revoli Construction Co., Inc., of North Reading, Massachusetts, for alleged WILLFUL and SERIOUS violations of the Occupational Safety and Health Act at an excavation site opposite 271 Main Street, Wilmington, Mass. The agency is proposing a total of \$81,000 in penalties for the alleged violations.

According to K. Frank Gravitt, OSHA area director for northeastern Massachusetts, the alleged violations were discovered during an inspection of the construction site on November 17, 1999. "What our compliance officer found," he said, "included employees working in an unprotected 7 foot deep trench, not wearing hard hats and having no safe means of egress. These employees were exposed to serious injuries or death since the sides of an unprotected trench can collapse with great force and without warning, stunning and burying workers beneath tons of soil before they have a chance to react or escape. Though no collapse occurred in this case, that in no way relieves this employer of the responsibility of providing this required safeguard."

Gravitt explained that OSHA's excavation safety standard requires that excavations five feet or deeper must have a protective system in place to prevent cave-ins. Such protection can be supplied by shoring the trench's sidewalls or by sloping those sidewalls at a shallow angle. Yet, he noted, neither safeguard was in place or in use in the excavation at the time of the inspection.

"Most troubling," he said, "is the fact that this employer is quite familiar with OSHA's excavation safety requirements as evidenced, unfortunately, by their past history of safety violations. Over the past 13 years, OSHA has inspected this company's job sites 14 times and has cited this employer for 56 alleged safety and health violations, including around 30 involving trenching safety. Therefore, we have no choice but to cite Revoli Construction Co. for an alleged willful violation of the law."

He explained that OSHA defines a "willful" violation as one committed

<http://www.osha.gov/media/oshnews/jan00/reg1-20000121a.html>

11/7/00

11-14-00 3:20PM PILE DRIVERS LOCAL56  
 11/2000 - OSHA CITES NORTH READING, MASS., CONSTRUCTION COMPANY FOR Page 2 of 3

with an intentional disregard of, or plain indifference to, the requirements of the Occupational Safety and Health Act and the law's regulations. It is, he noted, the most severe category of OSHA violation.

Specifically, the company is being cited for the following alleged safety violations:

- One alleged WILLFUL violation, carrying a \$63,000 proposed penalty, for: exposing employees to serious injuries or death while working within an excavation 7 feet deep without sloping, bracing or shoring to prevent collapse of the sidewalls.
- Four alleged SERIOUS violations, including proposed penalties totaling \$18,000 for: allowing employees to work within a 7 foot deep trench without hard hats; allowing employees to work within a 7 foot deep trench without a safe means of egress; exposing employees working in a 7 foot deep trench to the hazards of excavated materials stored at the edge of the trench; and, exposing employees to a trench cave-in hazard by failing to have a competent person regularly and frequently inspect the work area. [A serious violation is defined as one in which there is substantial probability that death or serious physical harm could result, and the employer knew, or should have known, of the hazard.]

Gravitt urged Northeastern Massachusetts employers and employees with questions regarding safety and health standards to contact the OSHA area office in Methuen. He added that OSHA's toll-free nationwide hotline -- 1-800-321-OSHA (1-800-321-6742) -- may be used to report workplace accidents and fatalities or situations posing imminent danger to workers, especially those situations which occur outside of normal business hours.

OSHA is empowered by the Occupational Safety and Health Act of 1970 to issue standards and rules requiring employers to provide their employees with safe and healthful workplaces and jobsites, and to assure through workplace inspections that those standards are followed.

The company has 15 working days from receipt of the citations and proposed penalties to either elect to comply with them, request and participate in an informal conference with the OSHA area director, or contest them before the independent Occupational Safety and Health Review Commission.

# # #

The information in this release will be made available to sensory impaired individuals upon request. Voice phone: (617) 565-2072. TDD (Telecommunications Device for the Deaf) Message Referral Phone: 800-347-8029.

**| USDOL | CONTACT INFORMATION | DISCLAIMER |**

<http://www.osha.gov/media/oshnews/jan00/reg1-20000121a.html>

11/7/00

CAMBRIDGE CITY COUNCIL  
CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4280  
FAX (617) 349-4287

FACSIMILE TRANSMITTAL SHEET

TO: *Margaret* FROM: *Mary*

COMPANY: DATE: *11/14*

FAX NUMBER: *x 42 69* TOTAL NO. OF PAGES INCLUDING COVER:

PHONE NUMBER: YOUR REFERENCE NUMBER:

RE:

- URGENT  FOR REVIEW  PLEASE COMMENT  PLEASE REPLY  PLEASE RECYCLE

*Please put in for Councilor Sullivan  
as an order - see attached letter  
from Carpenters Union*

NOV 17 10 51 AM '00

CITY OF CAMBRIDGE, OFFICE OF THE CITY COUNCIL  
795 MASSACHUSETTS AVENUE, CAMBRIDGE, MA 02139



# City of Cambridge

O-12.

**IN CITY COUNCIL**

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COUNCILLOR SULLIVAN

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**ORDERED:** That the City Manager be and hereby is requested to report back to the City Council on this matter.

CM 369

**Order #12**

Investigate Ravoli Construction for  
violation of the Responsible  
Employer Ordinance.

**Councillor Sullivan**

**In City Council November 20, 2000**

**ORDER ADOPTED**