



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

**Division of Highways**

**Legal Division**

1900 Kanawha Boulevard East • Building Five • Room A-517  
Charleston, West Virginia 25305-0430 • (304) 558-2823

Earl Ray Tomblin  
Governor

Paul A. Mattox, Jr., P. E.  
Secretary of Transportation/  
Commissioner of Highways

July 29, 2014

Mr. Jeff Mikorski  
Morgantown City Manager  
389 Spruce Street  
Morgantown, West Virginia 26505

BY FACSIMILE TRANSMISSION  
(304) 284-7430

Dear Mr. Mikorski,

I would like to thank you for taking the time to meet with Secretary Mattox and Jonathan Storage, Esq. on Friday, July 25, 2014. As was discussed during the meeting, this Division has further reviewed the City of Morgantown's proposal to regulate the operation of heavy trucks on state roads in the City's business district and has come to the conclusion that current statutes do not allow for such municipal regulations without the approval of the West Virginia Commissioner of Highways.

When read in context, West Virginia Code Sections 17-4-27 and 17C-17-12 do not allow for local management of roads within the state road system. The Legislature has granted the Commissioner of Highways plenary power to manage and control the use of public highways comprising the state road system. Therefore, without the permission of the Commissioner, any such municipal regulation would be invalid.

The City's broad reading of one specific statutory provision allowing municipalities to regulate traffic directly conflicts with several other express powers granted to the Commissioner. Even where such municipal regulation of local roadways is proper, the municipality's authority is subject to West Virginia Code § 17-2A-8(11), which grants the Commissioner broad authority to exercise jurisdiction, control, and supervision over local roads, outside of the state road system, to the extent determined by him to be expedient and practicable. Therefore, any regulatory authority that the City may have over the local roads within its jurisdiction may also be subject to the approval of the Commissioner of Highways. In this specific factual instance, the Division of Highways maintains proper jurisdiction over the roadways at issue.

**Jeff Mikrorski**  
**July 29, 2014**  
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**Should you have any further questions, please feel free to contact Jonathan Storage,  
Esq. at (304) 558-2823.**

**Very truly yours,**

A handwritten signature in cursive script that reads "Anthony G. Halkias".

**Anthony G. Halkias, Director  
Legal Division**

**AGH:Ss**

**cc: Jonathan Storage**