

STATE OF LOUISIANA  
PARISH OF OUACHITA  
IN THE  
FOURTH DISTRICT COURT

TOWN OF STERLINGTON

FILED: \_\_\_\_\_

*versus*

NO. 17-2573

GREATER OUACHITA  
WATER COMPANY (GOWC)

\_\_\_\_\_  
DY. CLERK OF COURT

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**RULING & REASONS FOR JUDGMENT**

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**Introduction**

Pending for determination is an action sounding in “expropriation”. The original Petition in this cause was filed on or about 4 August 2017. After several procedural “twists and turns”, the “necessity hearing” aspect of this effort came on for hearing on 4 December 2017 and lasted through 7 December 2017. At some point, this Court allowed briefs to be submitted by 5:00 p.m. on 11 December 2017 with a view toward this Court ruling within five days from 7 December 2017.\*

**Background**

The background of this case shows that the town of Sterlington is seeking to expropriate a water distribution center that is currently owned by GOWC.

\* Under our counting rules, the five day period within which this Court sought to rule began on the 8th. Because of the weekend, those days were not counted. The counting resumed on Monday (the 11th) and ended on the 14th. Therefore, this Court’s intended 5 day time period was met.

The expropriation efforts began by way of a *Petition For Expropriation* being filed by the Town of Sterlington in early August of this year. In that *Petition For Expropriation*, the Town of Sterlington prayed that the property consisting of the water distribution of GOWC be adjudicated to the Town of Sterlington after just compensation is paid to GOWC - subject to the stipulation that GOWC continue service to current water customers of GOWC outside of the Town of Sterlington.

#### **Issue**

The broad issue for this Court to decide is whether the Town of Sterlington has carried its burden of proof by showing that expropriation serves a public purpose and whether that stated public purpose is necessary for the public interest.

#### **Applicable Law**

As a general rule, issues such as the one framed above are evaluated under the provisions of *La. R.S. 19:101, et. seq.* and supporting case law. It is by this “yardstick” that the inquiry before this Court, today, will be measured.

#### **Witnesses / Testimony**

Several witnesses were presented to this Court by all counsel of record. Those witnesses provided testimony live and (in at least one instance) by deposition.

Those witnesses included: (1) *Christopher Patrick* (2) *Wil Merritt* (3) *Bishop Johnson, III* (4) *Ken Harper* (5) *Calvin Davis* (6) *Raymond J. Lux* (7) *Cesar Valasquez* (8) *Rice W. Gregory* (9) *Charles Taylor* (10) *Tommy Sparks* (by deposition) (11) *Phillip McQueen* and (12) *Aaron Fletcher*.

### Analysis

Under the provisions of *La. R.S. 19:102*, our law sets forth the requirement that the requested expropriation be necessary for the public interest. From the testimony and other evidentiary offerings made in this hearing, it seems clear to this Court that the Town of Sterlington did not carry its burden of proof on this point. From the testimony and other evidentiary offerings made in this hearing, it seems clear to this Court that the Town of Sterlington is not in a proper posture to receive nor operate a water distribution system. This seems evident from the showings made in that the Town of Sterlington has no funds or promise of funding, the Town of Sterlington does not have a source of water at present and its targeted water source is not sufficient to produce an adequate water supply for its citizens.

Further, the Town of Sterlington does not have a water treatment plant and they cannot construct one at present because no design has been produced. This is so, perhaps, because the targeted water source has not been tested in order to establish how the water must be treated. Additionally, the Town of Sterlington's efforts do not include ground storage equipment or a booster station to deliver pumping services for proper functioning. It also appears that the Town of Sterlington has not considered a plan to satisfy the storage and pressure needs that will exist - and thus - problems may "visit" local schools and adversely impact fire protection at those schools.

Moreover, if approved, this expropriation will threaten and / or remove water service from other groups of current customers who are outside the Town limits of Sterlington and this Court heard no “real plan” for servicing those groups during the time between expropriation and the time when GOWC reconnects those groups to water service after expropriation. To that end, it appears that the Town of Sterlington’s expropriation requests fails to provide or suggest a water system that is - even - equal to that which is already in place; hence, the **need** is questioned.

While it is argued by the Town of Sterlington that GOWC cannot meet the water needs of the town’s “projected growth” (*see P5 and GO-105 at pg. 8*), the testimony of *Charles Taylor* seems to make this position of Plaintiff *ipse dixit* at best. The argument that the quality of GOWC’s water is “bad” appears to rise from an isolated incident that is / was attributable to something could happen to any supplier - GOWC, the Town of Sterlington, or anyone else. The positions relative to citizen complaints and billing problems, upon proper assessment, do not work to raise this request to the level of being “**necessary**” for the “**public interest**”.

Indeed, for this Court to find that the requested expropriation is **necessary** for the **public** interest, a “discovery” must be made manifesting a circumstance in which something is required, is very important, or essential (*ie. necessary*) to such a degree that it can be said that it works for the concerns of the people as a whole and not solely for those inside a specified boundary within the whole (*ie. public*).

Today, this Court does not find that the Town of Sterlington has carried its required burden of proof and, consequently, their request for expropriation (at this time) must be denied.

**Conclusion**

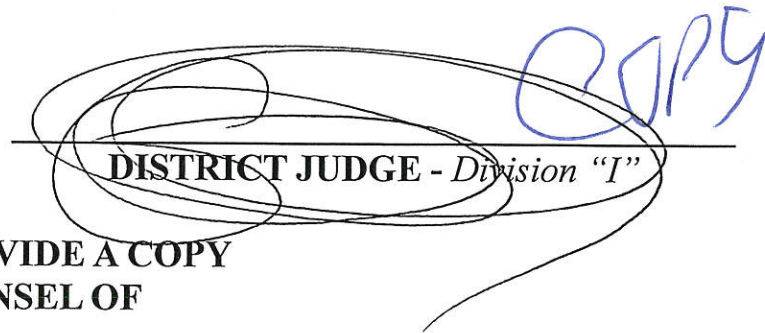
Considering the above and foregoing, and considering all of the evidence produced at the trial on the merits of this matter, and considering the law applicable to the issues at hand, this Court finds and concludes that (on the showing made), the Town of Sterlington has failed to carry its required burden of proof and has fallen short in showing that the requested expropriation is “necessary” for the “public interest” at this time.

**The request for expropriation is, hereby, DENIED.**

*These are the Court’s Written Reasons for Judgment.*

**THUS DONE AND SIGNED on this 14th day of December 2017 at 10:45**

*a.m.*

  
**DISTRICT JUDGE - Division “I”**

**PLEASE PROVIDE A COPY  
TO ALL COUNSEL OF  
RECORD.**

In summary, this Court asks and answers 3 questions: “Why does Sterlington NEED this “stuff”? The answer is - they do not need it. They want it. “What PUBLIC purpose will this serve”? The answer is - no PUBLIC purpose will be served - only the particularized purposes of those inside a defined group within the whole. “Why is this NECESSARY for the public interest”? The answer is - it’s not.

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The Motion For Involuntary Dismissal (previously made by GOWC) is, hereby, DENIED. Attorney Tom Hayes shall prepare a judgment consistent herewith and present same to this Court for signature within 15 days of today’s date. Attorney Hayes shall seek to secure all appropriate signatures on same before submitting said judgment to this Court. To the extent applicable, all costs are assessed against the Town of Sterlington.