

Opinion No. 2010-061

June 16, 2010

The Honorable Ray Ragland
State Representative
Post Office Box 610
Marshall, Arkansas 72650-0610

Dear Representative Ragland:

I am writing in response to your request for my response to the following questions:

1. Is a private water association obligated to terminate the water service of delinquent Marble Falls Water, Sewer & Solid Waste Suburban Improvement District No. 1 sewer customers?
2. Is a suburban improvement district, specifically a sewer system, a municipality for purposes of A.C.A. 14-229-103?
3. Can a public sewer service in an unincorporated portion of Newton County require a private water association to terminate service for nonpayment of a sewer bill?

RESPONSE

I must respectfully decline to answer your questions, which are the subject of current litigation in Newton County Circuit Court Case No. CV2010-10-1. The referenced case involves both the potential liability of the referenced suburban improvement district under applicable environmental laws and the private water association's potential obligations with regard to the provision of water services in

The Honorable Ray Ragland
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Opinion No. 2010-061
Page 2

light of alleged environmental offenses. Resolving such issues is a task traditionally left to the courts. In order to avoid encroaching upon exclusively judicial prerogatives, it has long been the policy of this executive-branch office to avoid rendering opinions on matters that are pending in the courts.

I regret I could not be of assistance in this matter.

Assistant Attorney General Jack Druff prepared the foregoing opinion, which I hereby approve.

Sincerely,

DUSTIN McDANIEL
Attorney General

DM:JHD/cyh