



# 2015-039

STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

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Honorable Dennis Welch  
Mayor, Town of Oakman  
Post Office Box 267  
Oakman, Alabama 35579

Municipalities – Utility Boards – Water  
Boards – Boards of Directors – Residence  
Requirements – Walker County

The Oakman Town Council may appoint a  
nonresident to the Water Works Board of  
the Town of Oakman.

Dear Mayor Welch:

This opinion of the Attorney General is issued in response to your request  
on behalf of the Town of Oakman.

### QUESTION

May a nonresident serve on the Water Works  
Board of the Town of Oakman?

### FACTS AND ANALYSIS

Your request states that the Oakman Town Council appoints members to  
the Water Works Board of the Town of Oakman (“Board”). This Office  
understands that the Board is incorporated as a public corporation pursuant to  
section 11-50-230, *et seq.*, of the Code of Alabama. ALA. CODE §§ 11-50-230 to  
11-50-241 (2008).

This Office has twice addressed the residency requirements for members  
of a board created under section 11-50-230, *et seq.* Opinions to Honorable  
William H. Dobbins, Jr., Mayor, City of Bay Minette, dated January 25, 2001,  
A.G. No. 2001-085; Honorable Gregory L. Harris, Attorney at Law, dated March  
8, 1991, A.G. No. 91-00182. The *Dobbins* opinion concluded that nonresidents  
could be appointed to the board. That opinion reasoned that “[s]ection 11-50-  
234, which discusses the board of directors . . ., does not mandate that Board  
members be residents or electors of the town or city in which they serve . . .”

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and that neither the certificate of incorporation nor the bylaws in question included such a provision. *Dobbins* at 2.

The *Harris* opinion was relied on by another opinion of this Office that considered the residency of members of incorporated airport authority boards under a statute that was similarly silent as to such requirements. Opinion to Honorable Denise Blue Poe, Attorney, Bessemer City Council, dated June 8, 2005, A.G. No. 2005-143. The *Poe* opinion explained that, under *Harris*, "where a statute fails to contain certain specifications with regard to directors, such requirements may be set by municipal ordinance." *Id.* at 2. The *Poe* opinion then determined that, absent an ordinance establishing a residency requirement for the Bessemer Airport Authority Board of Directors by the Bessemer City Council, which appoints the board, members need not reside in the municipality.

The certificate of incorporation of the Water Works Board of the Town of Oakman, which has been furnished to this Office, does not contain a residency requirement. Moreover, this Office understands that the Board's bylaws do not require, and there is no local ordinance requiring, residency. Consistent with these opinions, the town council may appoint persons to the Board who do not live in the town.

#### CONCLUSION

The Oakman Town Council may appoint a nonresident to the Water Works Board of the Town of Oakman.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Ward Beeson of my staff.

Sincerely,

LUTHER STRANGE  
Attorney General  
By:



BRENDA F. SMITH  
Chief, Opinions Division

LS/GWB

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