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OPINION NUMBER 03-0137

Ms. Kimberly Wooten Rosenberg
Deputy Executive Counsel
Office of the Governor
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Baton Rouge, LA 70804-9004

71 - MUNICIPALITIES
OFFICERS - Local & Municipal; Selection, Qualifications &
Tenure; vacancies
R.S. 33:342
Village of Clarks meets the requirements of law, R.S. 33:342, for
reclassification from a village to a town.

Dear Ms. Rosenberg:

We are in receipt of your request for an Attorney General's Opinion regarding the reclassification of the Village of Clarks to the Town of Clarks. You have asked us to review the submitted documents and advise whether the documents submitted on behalf of the Village of Clarks fulfill all statutory requirements and demonstrate that reclassification is warranted.

LSA-R.S. 33:342 provides:

A. Whenever a census taken by resolution of the board of aldermen of any municipality or a certified report from the federal Census Bureau shows that its population has increased or decreased so as to take the municipality out of its present municipal class, the board of aldermen shall adopt a resolution requesting the governor to change the classification of the municipality. The results of any census taken by resolution of the board of aldermen shall have been certified by the person authorized to take the census.

B. The mayor of the municipality shall transmit the resolution to the governor. The governor shall investigate the facts; in such investigation, the governor shall not be bound by the census submitted and, if he believes the findings are inaccurate, he may ascertain the facts in any manner he deems appropriate. If the governor finds that the municipality is wrongly classified, he shall issue a proclamation correctly classifying the municipality, and such proclamation shall be transmitted to the mayor of the municipality.

C. Upon receipt of the proclamation, the board of aldermen of the municipality shall adopt an ordinance changing the name of the municipality to reflect its new classification. A copy of the proclamation and the ordinance shall be transmitted to the secretary of state for recordation.

D. The courts shall take judicial notice of the class to which each municipality belongs.

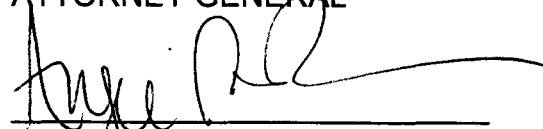
The documents submitted to our office include a resolution of the mayor and Board of Aldermen of the Village of Clarks requesting reclassification, and a copy of the July 1, 2002 population estimate by the Research Division, College of Administration and Business, Louisiana Tech University in Ruston.

After reviewing the documents, we are of the opinion that said documents are in compliance with the statutory requirements of R.S. 33:342. Further, the population estimate shows that the Village of Clarks has a total population of 1,053. R.S. 33:341 provides that those municipal corporations "[h]aving less than five thousand but more than one thousand inhabitants are towns." We find no reason why the governor should not issue a proclamation reclassifying the Village of Clarks as the Town of Clarks.

If we can be of further assistance, please advise.

Yours very truly,

RICHARD P. IEYOUB
ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "Angie Rogers Laplace", written over a horizontal line.

ANGIE ROGERS LAPLACE
Assistant Attorney General

RPI/ARL;mjb