

Water Company Acquisition Study Committee

The objective of this report is to update Town citizens regarding the status of the Town's Complaint—filed by the Board of Selectmen on July 3, 2013—being heard in the Suffolk County Superior Court Business Litigation Session. The Town's Complaint against the Aquarion Water Company of Massachusetts, Inc. and Aquarion Water Capital of Massachusetts, Inc. ('Aquarion') seeks a declaration of the purchase price and the right to purchase the water treatment plant under the 1879 statute which formed the company.

As directed by the Board of Selectmen, various Committee members have provided support in pursuit of the Town's Complaint throughout 2014. The litigation has proceeded in a stepwise manner, beginning with the exchange of a multitude of documents and information, continuing with depositions of non-expert fact witnesses, followed by the exchange of expert reports and the depositions of expert witnesses. There have been conferences with the Judge along the way to ensure the litigation stayed on schedule.

Following written discovery and non-expert depositions by both the Town and Aquarion during early 2014, the Town's expert, Mr. Carl Jenkins of Duff & Phelps, LLC delivered his Expert Report on June 30, 2014. Mr. Jenkins' opinions calculated the purchase price of the entire Hingham Water System—including the water treatment plant—to be between \$51,700,000 and \$58,700,000, depending upon the calculation method utilized. Aquarion's Expert Report, delivered on September 15, 2014, calculated the purchase price to be approximately \$192,100,000.

In August 2014, Aquarion served a Motion for Partial Summary Judgment, requesting the Court to find that certain terms of the 1879 statute must be interpreted in their favor. The Town opposed that motion. In October, the Judge denied Aquarion's Motion for Partial Summary Judgment. The Court concluded that interpretation of the 1879 statute's terms could only be resolved at trial. As of this writing, the trial is scheduled for late February 2015. After the trial, the Judge will issue a written decision.

The Committee intends to continue keeping the Town updated with many of the relevant documents on the Town website under the Committee's "Document and Links" tab. Ultimately, a Town Meeting vote would be necessary to approve any purchase of the water company.

Jonathan R. Asher, Chair
Joshua C. Krumholz, Secretary
Joseph L. Bierwirth
Michael A. Salerno
Edward R. Siegfried