

IN THE CIRCUIT COURT OF BENTON COUNTY, ARKANSAS

TOWN OF SPRINGTOWN, ARKANSAS Petitioner

vs. Case No. 04CV-2017-2127-4

MICHAEL M. EVANS, LISA TAYLOR, TRUSTEE
OF THE ELNORA KAY TAYLOR REVOCABLE TRUST,
PAUL I. LEMKE, and JOHNNY RAY TAYLOR, TRUSTEE
OF THE TAYLOR LIVING TRUST DATED APRIL 20, 2018 DEFENDANTS

ORDER GRANTING PETITIONER’S MOTION FOR SUMMARY JUDGMENT,
GRANTING DECLARATORY JUDGMENT,
AND
ORDER FOR PAYMENT OF COSTS IN THE APPEAL

Following remand from the Arkansas Court of Appeals, the Motion for Summary Judgment of the Petitioner, Town Of Springtown, Arkansas, comes on for hearing, and the Court, being fully advised in the premises and consistent with the decision of the opinion of the Arkansas Court of Appeals, finds:

1. That this Court has jurisdiction over the parties hereto and the subject matter hereof.
2. That the Petitioner is an incorporated town in Benton County, Arkansas and seeks a declaratory judgment as to the validity of an ordinance adopted by the Town of Springtown, Arkansas on October 10, 2014 as Ordinance No. 2014-03.

3. That the Petitioner has alleged that Ordinance No. 2014-03 should be declared void, arguing that the reading requirement of Ark. Code Sec. 14-55-202 was not satisfied.

4. That the Defendants have argued that the reading requirement of Ark. Code Sec. 14.55-202 did not apply to Ordinance No. 2014-03 because the Ordinance was not of a general or permanent nature. Alternatively, the Defendants have argued that the reading requirement of Ark. Code Sec. 14.55-202 was dispensed with pursuant to a vote of the Town Council in compliance with the statute.

5. That it is undisputed that Ordinance No. 2014-03 narrowed and abandoned a certain portion of a street within the Town of Springtown.

6. That it is undisputed that two members of the Town Council had personal interests in the property at issue in Ordinance No. 2014-03 and did not vote on the motion to dispense with the reading requirement or on the passage of the Ordinance because of their conflict of interest.

7. That Ordinance No. 2014-03 was recorded in Deed Book 2014 at Page 64289 in the office of the Circuit Clerk of Benton County, Arkansas and contains no expiration or end date; so Ordinance No. 2014-03 is permanent for purposes of Ark. Code Sec. 14-55-202(a), and therefore the reading requirements of Ark. Code 14-55-202 applied to Ordinance No. 2014-03.

8. That Ark. Code Sec. 14-55-202 required a two-thirds vote of the entire Town Council to suspend the requirement of three readings of Ordinance No. 2014-03.

9. That the motion to suspend the requirement of three readings of Ordinance No. 2014-03 received three yes votes from the five person Springtown Town Council, which vote was 3/5 or 60% of the entire Town Council

10. That a 3/5 or 60% vote is less than the 2/3 or 66.66% vote required by Ark. Code Sec. 14-55-202; so the motion to suspend the requirement of three readings of Ordinance No. 2014-03 failed.

11. That the subsequent vote to pass Ordinance No. 2014-03 passed the ordinance only on first reading.

12. That the Springtown Town Council never passed the ordinance on a second or a third reading.

13. That Ordinance No. 2014-03 was not legally adopted by the Springtown Town Council and is therefore void.

14. That the Petitioner is entitled to a declaratory judgment that Ordinance No. 2014-03 is void.

15. That the mandate from the Arkansas Court of Appeals ordered the Appellees therein (Lisa Taylor, Trustee of The Elnora Kay Taylor Revocable Trust, and Paul I. Lemke) to pay to the Appellant therein (the Petitioner herein) the sum of \$2,191.25 for costs in the appeal, and Lisa Taylor, Trustee of The Elnora Kay Taylor Revocable Trust, and Paul I. Lemke should be ordered to pay the Petitioner such costs in the appeal.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Motion For Summary Judgment of the Petitioner, Town of Springtown, Arkansas be, and hereby is, granted, that declaratory judgment be, and hereby is, granted to the Petitioner, Town of Springtown, Arkansas, that Springtown Ordinance No. 2014-03 recorded in Deed Book

2014 at Page 64289 in the office of the Circuit Clerk of Benton County, Arkansas is void, and that Lisa Taylor, Trustee of The Elnora Kay Taylor Revocable Trust, and Paul I. Lemke be, and hereby are, ordered to pay to the Petitioner, Town of Springtown, Arkansas, the sum of \$2,191.25 for costs in the appeal.

(electronically signed on the next page)
Hon. John R. Scott, Circuit Judge



Arkansas Judiciary

Case Title: TOWN OF SPRINGTOWN V EVANS

Case Number: 04CV-17-2127

Type: JUDGMENT/DECREE/ORDER

So Ordered

John R. Scott



JUDGE JOHN SCOTT