

STATE OF CONNECTICUT

ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint By
Keith and Patricia Sinusas, Haddam

File No. 91-169

FINDINGS AND CONCLUSIONS

On September 3, 1991, the Complainants brought their complaint pursuant to Section 9-7b, Connecticut General Statutes, and alleged that the Town Clerk of Haddam erroneously advised them that absentee ballots for a local referendum had to be applied for and picked up in person unless the applicant was ill or physically disabled. Complainants allege that this is a violation of Section 9-369c, Connecticut General Statutes, and caused Mr. Sinusas not to vote in the referendum.

After an investigation of the Complainants' complaint, the following findings and conclusions are made:

1. A referendum was held on July 19, 1991 in the Towns of Haddam and Killingworth concerning a regional school district budget. The referendum was conducted on less than three (3) weeks notice.
2. On July 15, 1991, Patricia Sinusas, a resident of Haddam, requested and applied for an absentee ballot on her own behalf for the referendum. The Town Clerk of Haddam, Ann Huffstetler, provided her with the ballot which she executed and left with the Town Clerk. Mrs. Sinusas also inquired about an absentee ballot for her husband as he was unable to apply for a ballot himself during the hours that the Town Hall was open. The Town Clerk advised her that an applicant for an absentee ballot at a referendum must apply and receive it in person unless the applicant is ill or physically disabled, in which case a designee may be appointed.
3. The Town Clerk based her response to Ms. Sinusas on printed material entitled Advisory Guidelines Concerning Municipal Referenda Not Held in Conjunction with a Regular or Special Election, which was provided to her by the Office of the Secretary of the State. In pertinent part, the guidelines provided: "When a referendum is held with less than three (3) weeks notice, absentee ballots shall be made available within four (4) business days after the questions to be voted on are finalized. In such situations, absentee ballots are issued only in person (not by mail) at the office of the municipal clerk."
4. Section 9-369c(a), General Statutes, provides that with regard to a referendum held with less than three (3) weeks notice, an applicant for an absentee ballot may designate a person to receive the ballot on his behalf. It further provides "the designee may be a licensed physician, registered or practical nurse or any other person caring for the applicant because of the applicant's illness, a member of the applicant's family or a police officer, registrar of voters or deputy registrar of voters in the municipality in which the applicant resides."

5. It is concluded that the response given by Town Clerk Ann Huffstetler was erroneous in view of the express provisions of Section 9-369c. The Town Clerk relied entirely on the guidelines issued by the Secretary of the State's Office which do not address whether an applicant for an absentee ballot can designate another person to receive it but are susceptible to the understanding of the Town Clerk that no applicant can receive a ballot by mail.
6. Based on the erroneous advice of the Town Clerk, Mrs. Sinusas did not request an application for an absentee ballot for her husband so that he could execute it and designate her to receive the ballot on his behalf. As a result, Mr. Sinusas did not vote at the referendum.
7. According to the Election Services Division of the Office of the Secretary of the State, there has been a considerable misunderstanding concerning the applicability of Section 9-369c relating to the designation of persons to receive absentee ballots. The Town Clerk of Killingworth also indicated that it was her understanding that an applicant could designate another person to receive the ballot only if that applicant were ill or physically disabled. She further indicated that no one in her town raised the question in connection with the referendum.
8. The Commission believes that it is indeed regrettable that there was confusion concerning the applicability of Section 9-369c but that the loss of one's voting rights, even as a result of a good faith mistake, cannot be condoned.
9. The Commission's duty, however, is to apply the facts found to the law. Therefore, it is concluded that the Town Clerk did not violate Section 9-369c, General Statutes, as no executed application was ever presented to her which designated Mrs. Sinusas to receive the absentee ballot on behalf of her husband.

ORDER

The following order is recommended on the basis of the aforementioned findings:

That the complaint is dismissed.

Adopted this 9th day of October, 1991 at Hartford, Connecticut.

Robert S. Orcutt

Robert S. Orcutt
 Acting Chairperson
 By Order of the Commission