STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by   File No. 2010-084
Daniel Garrett, Hamden

FINDINGS AND CONCLUSIONS

Complainant brings this Complaint pursuant to Connecticut General Statutes § 9-7b and alleges that during the referendum held in the town of North Haven on June 15, 2010, Elaine LaVelle violated General Statutes § 9-236 by improperly placing the markers indicating the 75 foot boundary line enumerated in General Statutes § 9-236 (a) more than 75 feet away from the outside entrances of the polling place for the Ridge Road School polling place.

After an investigation of this matter, the following findings and conclusions are made.

1. Connecticut General Statutes § 9-236, provides in pertinent part:

    > (a) On the day of any . . . referendum . . . no person shall solicit in behalf of or in opposition to . . . any question being submitted at the . . . referendum, or loiter or peddle or offer any advertising matter, ballot or circular to another person **within a radius of seventy-five feet of any outside entrance in use as an entry to any polling place** . . . .

    > (b) (1) The selectmen shall provide suitable markers to indicate the seventy-five-foot distance from such entrance. . . . (3) . . . **The moderator and his assistants shall meet at least twenty minutes before the opening of a primary, referendum or an election in the voting district, and shall cause to be placed by a police officer or constable, or such other primary or election official as they select, a suitable number of distance markers.** Such moderator or any police officer or constable shall prohibit loitering and peddling of tickets within that distance. [Emphasis added.]

2. The Commission has held that, pursuant to the aforementioned provision, the moderator of each polling place is responsible for ensuring that the markers are placed at the proper distance from the polling place. *E.g., In the Matter of a Complaint by Tony Clark*, File No. 1988-195.

3. In the present case, on June 15, 2010, the Ridge Road School housed the polling place for North Haven's Third Voting District. The moderator of that polling place was Elaine LaVelle.

4. The Complainant alleges, and Ms. LaVelle admits, that on the date in question, the 75 foot marker at the Ridge Road School was placed 132 feet rather than 75 feet from the outside entrance to the polling place. The Commission therefore concludes that Ms. LaVelle failed to ensure that requirements of General Statutes § 9-236 (b) were met.
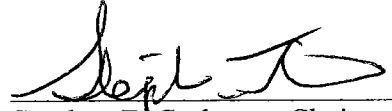
5. Ms. LaVelle maintains, however, that the error was not committed intentionally but rather was the result of her lack of familiarity with that polling place. Specifically, Ms. LaVelle asserts that, on the date in question, she was acting as a first time election official at the Ridge Road School and a second time moderator. She further maintains that, when she arrived at the polling place, the distance markers were already set up and she did not have a tape measure to ensure that they were placed a proper distance from the polling place. As such, she initially trusted that they were placed at the proper distance.

6. Ms. LaVelle acknowledges that on the morning of June 15, 2010, the Complainant did challenge the placement of the distance markers and alleged that they were placed 132 feet from the polling place rather than 75 feet. She asserts that shortly thereafter she went outside and noted that those markers were in their original location. She further asserts that she called the Registrars' Office for guidance and was instructed that the distance markers could remain in their original location if they were the proper distance from the polling place. According to Ms. LaVelle, having no tools to confirm that, she elected to permit the signs to stay in their original location and trusted that they were the proper distance from the polling place.

7. Ms. LaVelle maintains that the Complainant returned to the polling place at 2:05 p.m. with a tape measure and demanded that an election official accompany him outside and observe his measurement of the distance of the markers. She maintains that she then asked the Assistant Registrars to accompany the Complainant and that, after doing so, was informed that the distance markers were placed 132 feet rather than 75 feet from the polling place. She asserts that she then instructed the Assistant Registrars to move the markers to the correct location, which they did. The Commission has not been provided with any evidence to the contrary.

8. Nevertheless, the evidence establishes that Ms. LaVelle did not ensure the proper placement of the distance markers as required by General Statutes § 9-236. The Commission notes, however, that because the distance markers were already in place when Ms. LaVelle arrived at the polling place and because she was unfamiliar with the Ridge Road School polling place as it was her first time acting as an election official there and was not provided with a tape measure, Ms. LaVelle could not determine whether the distance markers were placed at the proper distance from the polling place. As such, she erred in trusting that they were placed properly. In addition, Ms. LaVelle ultimately ensured that the markers were moved to their proper location. The evidence also establishes that it was only the second time that Ms. LaVelle acted as a polling place moderator. Finally, the Commission notes that Ms. LaVelle has not had any prior violations of election law. The Commission therefore declines to take further action in this matter.

9. However, the Commission *strongly advises* Ms. LaVelle and the Registrars of Voters in the Town of North Haven to henceforth ensure that the requirements of General Statutes § 9-236 are met.

ORDER

The following Order is recommended on the basis of the aforementioned finding:

That no further action is taken.

Adopted this 15Th day of Dec, of 20 10 at Hartford, Connecticut

Stephen F. Cashman, Chairman
By Order of the Commission