

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Complaint of
Norman Gauthier, Preston

File No. 2011-060

FINDINGS AND CONCLUSIONS

The Complainant brings this complaint pursuant to Connecticut General Statutes § 9-7b and alleges that on or about April 4, 2011, the Preston Redevelopment Agency (the "PRA") expended town funds to advocate that electors of the town vote "No" on questions at a Preston Town Meeting held on April 7, 2011. The Complainant alleges that these acts violated General Statutes § 9-369b.

After the investigation of the complaint, the Commission makes the following findings and conclusions:

1. The Town of Preston held a Special Town Meeting on April 7, 2011 convened by the Preston Board of Selectmen pursuant to General Statutes § 7-1.
2. At no time relevant hereto, was a referendum pending regarding the questions discussed at the Special Town Meeting and the questions discussed at such meeting were not submitted to a vote of the electors pursuant to General Statutes § 7-7 or pursuant to any charter or special act. Thus, a referendum was not held.
3. General Statutes § 9-369b (a) provides, in relevant part:

Except as provided in subsection (b) of this section, any municipality may, by vote of its legislative body, authorize the preparation and printing of concise explanatory texts of *local proposals or questions approved for submission to the electors of a municipality at a referendum. . . . [N]o expenditure of state or municipal funds shall be made to influence any person to vote for approval or disapproval of any such proposal or question.* [Emphasis added.]

4. General Statutes § 9-1 (n) provides:

"Referendum" means (1) a question or proposal which is submitted to a vote of the electors or voters of a municipality at any regular or special state or municipal election, as defined in this section, (2) a question or proposal which is submitted to a vote of the electors or voters, as the case may be, of a municipality at a meeting of such electors or voters, which meeting is not an election, as defined in subsection (d) of this section, and is not a town meeting, or (3) a question or proposal which is submitted to a vote of the electors or voters, as the case may be, of a municipality at a meeting of such electors or voters pursuant to section 7-7 or pursuant to charter or special act[.]

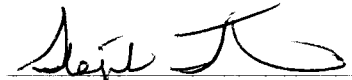
5. The Commission has consistently held that the General Statutes § 9-369b prohibition on the use of public funds to advocate a position on a referendum only applies when a referendum is "legally pending." See, e.g., *Complaint of Thomas A Kahrl, Old Lyme, File No. 2007-185*.
6. It is therefore concluded that the PRA could not have violated General Statutes § 9-369b, as alleged, as there was no referendum pending regarding the questions discussed at the Special Town Meeting of April 7, 2011.

ORDER

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

That the case be dismissed.

Adopted this 27th day of July, 2011 at Hartford, Connecticut.



Stephen F. Cashman, Chairperson
By Order of the Commission