

**STATE OF CONNECTICUT**  
**STATE ELECTIONS ENFORCEMENT COMMISSION**

Complaint by Judith Rajala, East Windsor

File No. 2012-096

**FINDINGS AND CONCLUSIONS**

The Complainant brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging violations by Respondent Denise Menard, the First Selectman of the town of East Windsor surrounding the November 2011 General Election, in which Respondent was a candidate for re-election.

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

1. At all times relevant to the instant matter, the Respondent was the First Selectman of the Town of East Windsor and the incumbent candidate for the 2011 municipal election, at which she was re-elected to an additional term.
2. At all times relevant to the instant matter, the Complainant was the Respondent's opponent in the campaign for First Selectman of the Town of East Windsor.
3. As an initial matter, the Complainant here makes a number of allegations against the Respondent. The Commission has referred all those allegations that the Respondent violated General Statutes § 9-365, a criminal statute, to the Chief State's Attorney and will not address them herein. Of the remaining allegations, two counts allege facts that if proven true, would constitute a violation over which Commission has authority; they are discussed below.

**Count One: Emoluments in Exchange for Votes**

4. The Commission takes notice as an initial matter that on or about October 29, 2011, 10 days prior to the day of the November 8, 2011 General Election, a late fall snowstorm created power outages across the state, including but not limited to the Town of East Windsor. Numerous polling places across the state were without power after the storm.
5. The District 1 polling place in the town of East Windsor is located within the Town Hall Annex.
6. The Town Hall Annex suffered a loss of power after the storm due to a fallen tree on the property that severed the building's power lines leading from the street.

7. The Complainant here alleges that Registrar of Voters Linda Sinisgallo told her

on several occasions that she believed that Ms. Menard was continually trying to prevent the District 1 polls from being open on Election Day. Ms. Menard attempted to stall the removal of a fallen tree that the town crew was readily available to remove. Ms. Menard also tried to stall the acquisition of a rental generator to power the polling place. It is widely believed that since Ms. Menard lives in District 2 and has always received more votes there, that if District 1 were moved or not opened at all, this would surely have benefitted Ms. Menard in her re-election efforts.”

8. The Complainant further alleges that Respondent Menard engineered a pay raise for Town Engineer Leonard Norton as an emolument in exchange for Mr. Norton’s assistance in Ms. Menard’s purported attempt to suppress the votes of District 1 voters.

9. General Statutes § 9-622 reads, in pertinent part:

The following persons shall be guilty of illegal practices and shall be punished in accordance with the provisions of section 9-623:

...

(6) Any person who, in order to secure or promote the person's own nomination or election as a candidate, or that of any other person, directly or indirectly, promises to appoint, or promises to secure or assist in securing the appointment, nomination or election of any other person to any public position, or to any position of honor, trust or emolument; but any person may publicly announce the person's own choice or purpose in relation to any appointment, nomination or election in which the person may be called to take part, if the person is nominated for or elected to such office;

...

(8) Any person who knowingly and wilfully violates any provision of this chapter;

...

10. Respondent Menard denies the Complainant’s allegations in full and asserts that at no time did she ever attempt to close down or slow down the repairs to the District 1 polling place in East Windsor. Respondent asserts that in light of the power failure at the Town Hall Annex and a fallen tree blocking the driveway, she and Mr. Norton recommended to Mrs. Sinisgallo, the registrar, that she consider moving the District 1 polling place to East Windsor High School, which had power and was being used as an emergency shelter for the

- town. She asserts that Mrs. Sinisgallo disagreed with the proposal, so Respondent Menard and Mr. Norton took steps to safely remove the tree, obtain a generator and attempt to get power to the building restored before Election Day.
11. In response to the Complainant's allegation that Mr. Norton's raise six months after the election was an emolument in exchange for trying to shut down the District 1 polling place, Respondent Menard asserts that no evidence has been presented or exists supporting the allegation. She further asserts that she actually opposed the raise when it was presented to the Board of Selectmen.
  12. Finally, Respondent Menard asserts that the District 1 polling place in the Town Hall Annex ultimately was opened on time and without delay or inconvenience to any voter. The driveway and parking lot were cleared of blockages and debris. The town was unable to restore power from the grid to the building by Election Day, so the Board of Selectmen allocated funds for a generator, which powered the building for the day.
  13. In support, Respondent Menard submitted, *inter alia*, statements from both Mr. Norton and Mrs. Sinisgallo.
  14. Mrs. Sinisgallo states that while she may have made a general statement of concern over getting power to the District 1 polling place before Election Day, she has no memory of the statements attributed to her by the Complainant. She corroborates the Respondent's assertion that she opposed moving the polling place.
  15. Mr. Norton states that given the extreme and statewide nature of the October 29<sup>th</sup> snowstorm, it took several days before he, with the help of Respondent Menard, was able to even convince representatives of the electric utility to come out and assess the damage to the Town Hall Annex. Once the damage was assessed, the repair estimates from the town's electrical contractor made it clear that the repair was extensive, required electric code upgrades and could not be completed prior to Election Day. It was at this point that Mr. Norton and Respondent Menard proposed moving the polling place. Upon Mrs. Sinisgallo's opposition, the electrical engineer was ordered to set up a short term solution involving a generator, which was completed prior to the day of the election.
  16. Mr. Norton further states that his raise was something that he engineered on his own, without telling any selectman or Respondent Menard, by requesting that a personnel matter be added to the Board of Selectman's agenda. It was only when the Board took up the matter that he revealed his request for a raise. He corroborates Respondent Menard's assertion that she openly opposed his request.

17. Considering the aforesaid, the Commission concludes that the evidence is insufficient to support this allegation. The sole basis of the Complainant's allegation about an intentional delay in restoring power to the District 1 polling place is a statement attributed to Mrs. Sinisgallo, the registrar; no other evidence was offered in support. However, Mrs. Sinisgallo does not acknowledge making such a statement. This allegation fails. Accordingly, the allegation of an emolument to Mr. Norton also fails. This count should be dismissed.

**Count Two: Impermissible Entry into a Polling Place**

18. Complainant here alleges that she and "countless other people" witnessed Respondent Menard entering both the District 1 and District 2 polling places for purposes other than voting throughout the hours of voting on Election Day, November 8, 2011.

19. Specifically, the Complaint alleges that Respondent Menard was observed at the District 2 polling place "[walking] past the voting area and down the hallway into the First Selectman's office." It states that the window to the First Selectman's office faces the main entrance to the District 2 polling place and that Respondent Menard was observed during voting hours working at her desk, including but not limited to using her work telephone.

20. The Complaint provides no specific statements or evidence supporting the allegation that Respondent entered the District 1 polling place, but rather includes the names of the polling place workers at each polling place as witnesses to the facts alleged.

21. General States § 9-236 prescribes the limitations on activity in and around a polling place during the hours of voting, and reads, in pertinent part:

(a) On the day of any primary, referendum or election, no person shall solicit on behalf of or in opposition to the candidacy of another or himself or on behalf of or in opposition to any question being submitted at the election or 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 or in any corridor, passageway or other approach leading from any such outside entrance to such polling place or in any room opening upon any such corridor, passageway or approach.

...

(c) No person except those permitted or exempt under this section or section 9-236a and primary or election officials and party checkers appointed under section 9-235 shall be allowed within any polling place except for the purpose of casting his vote. Representatives of the news media shall be

allowed to enter, remain within and leave any polling place or restricted area surrounding any polling place to observe the election, provided any such representative who in any way interferes with the orderly process of voting shall be evicted by the moderator. A number of students in grades four to twelve, inclusive, not to exceed four at any one time in any one polling place, may enter any polling place between twelve o'clock noon and three o'clock p.m. for the purpose of observing the activities taking place in the polling place, provided there is proper parental or teacher supervision present, and provided further, any such student who in any way interferes with the orderly process of voting shall be evicted by the moderator. An elector may be accompanied into any polling place by one or more children who are fifteen years of age or younger and supervised by the elector if the elector is the parent or legal guardian of such children. Any person who violates any provision of this section or, while the polls are open for voting, removes or injures any such distance marker, shall be fined not more than fifty dollars or imprisoned not more than three months, or both.

22. Respondent Menard does not deny that she entered Town Hall through the main entrance and walked immediately past the entrance to the District 1 polling place on her way to her office down the hallway. However, she denies ever entering either the District 1 or District 2 polling place other than to cast her ballot in District 2. Moreover, she denies entering her office to place a telephone call, but rather asserts that she entered her office around the time that the polls closed to drop off her belongings and pick up a pad of paper to take notes during the publicly observed count of the votes. Finally, she asserts that she did not at any time solicit on behalf of herself, offer any advertising matter or loiter within the 75' distance from the entrance to the polling place.
23. After investigation, including but not limited to taking statements from polling place officials within both the District 1 and District 2 polling places, the Commission finds that there is no evidence placing Respondent Menard inside either polling place—that is, the room in the building in which the voting machines were located—during the hours of voting other than when she cast her ballot at District 2.
24. As concerns the Complainant's allegation that the Respondent walked into Town Hall—that is, the building housing the polling place—and worked in her office during voting hours, the Commission finds as an initial matter that merely walking by the entrance to the polling place on the way to another part of the building in which a person has official, non-election-related business is not per se a violation of General Statutes § 9-236 (a). If a polling place is located within a building that houses other activities, such as a town hall, school or community center, § 9-236 (a) does not foreclose all other activity in the building on that day.

25. However, the Commission notes that any person with other business in the building must take care to avoid triggering § 9-236 (a), especially the clause on loitering within the statutory zone. This danger is particularly acute for candidates.
26. Turning to the specific facts of this case, the Commission finds that the location of Respondent's office was within the 75' distance of the outside entrance leading to the polling place. Immediately to the right of the front door of Town Hall is a floor-to-ceiling exterior window that looks into the First Selectman's office. If the Respondent were in her office, especially at night, she would be clearly visible to anyone entering Town Hall, including voters.
27. Under the circumstances then, the Commission would have to consider, despite a colorable defense that she had a legitimate non-election reason for being in the office, whether a candidate could remain so visible within the statutory 75" zone without triggering a violation.
28. However, the Commission need not consider this question under the facts of this case. The evidence, including the statements of the polling place workers, is not sufficient to establish that Respondent Menard was in her office at the time and in the manner described in the Complaint. As such, Count Two should also be dismissed.

**ORDER**

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

That the matter is dismissed.

Adopted this 19th day of December, 2012 at Hartford, Connecticut.

A handwritten signature in black ink, appearing to read "Stephen F. Cashman", with a long horizontal flourish extending to the right.

Stephen F. Cashman, Chairperson  
By Order of the Commission