

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Referral by the Ledyard Town Clerk

File No. 2013-002

FINDINGS AND CONCLUSIONS

The Ledyard Town Clerk referred this matter pursuant to Connecticut General Statutes § 9-7b (a) (3) (E) requesting that the Commission make a determination as to whether Respondent Ernest Adams is a bona fide resident at his registered voting address in the Town of Ledyard. Additionally, the Referring Official asserts that Mr. Adams may have improperly voted in elections and primaries in the Town of Ledyard using such registered address, without being legally qualified to vote to do so.

After an investigation of the Referral, the Commission makes the following findings and conclusions as to *only* the question of the Respondent's right to remain on the Ledyard voting lists at his presently registered address; the second question in this matter will be addressed separately:

1. Respondent has been a registered voter in Ledyard at an address on Gallup Hill Road since changing his registration from Groton in October 2007.
2. From October 2007 until November 2012, the Respondent voted from the Ledyard address 6 times.
3. The Respondent has not voted using the Ledyard address since the November 6, 2012 general election and the registration has since been moved to "inactive" status.
4. The Referring Official alleges that postal mail to the Respondent's registered address was being returned not deliverable, which prompted him to inquire as whether the Respondent was a bona fide resident at the Gallup Hill Road address on his registration. He alleges that he researched the property records for the Gallup Hill Road address and spoke with the listed co-owner, Gary Oddo, who told him that the Respondent had lived at the property for a time, but had not resided therein since approximately October 2008. The Referring official further asserts that he confronted the Respondent, who is a Ledyard justice of the peace, about the matter and that the Respondent would not offer any third-party proof of a bona fide residence in the Town of Ledyard. As a result, the matter was referred here for determination.
5. The investigation here confirms the Referring Official's allegations regarding a lack of bona fide residence at the Gallup Hill Road property. Commission investigators

interviewed Gary Oddo, one of the current co-owners of the home. The property at Gallup Hill Road is owned by Gary and Donna Oddo, who inherited it from Mrs. Oddo's mother Arlene Brown. Ms. Brown rented space at the property to the Respondent until the property came into the Oddos' possession, at which point the Respondent moved out permanently. Mr. Oddo confirmed that the Respondent has not lived at the property until approximately 2008, as asserted by the Referring Official.

6. Many attempts were made by Commission staff to contact the Respondent in this matter. Communications to the Respondent's mailing address, a post office box in Ledyard, were successful, but correspondence to physical addresses associated with the Respondent were returned undeliverable.
7. The Respondent here, after being reached by postal mail through the post office box address, generally asserted that he lives in Ledyard, but that "[d]ue to past harassment of me and my family, I do not want my street address (physical location of my home) published in any public place." The Respondent offered no other assertions or proof in support of his claim. Efforts by Commission staff were unsuccessful in determining the Respondent's actual physical address.
8. An elector is eligible to register to vote in a particular town only if such voter is a bona fide resident of such town. General Statutes § 9-12, provides in pertinent part:

(a) Each citizen of the United States who has attained the age of eighteen years, and who is a bona fide resident of the town to which the citizen applies for admission as an elector shall, on approval by the registrars of voters or town clerk of the town of residence of such citizen, as prescribed by law, be an elector, except as provided in subsection (b) of this section. For purposes of this section a person shall be deemed to have attained the age of eighteen years on the day of the person's eighteenth birthday and a person shall be deemed to be a bona fide resident of the town to which the citizen applies for admission as an elector if such person's dwelling unit is located within the geographic boundaries of such town. No mentally incompetent person shall be admitted as an elector. . . .(Emphasis added.)

9. In addition to the statutory prongs of age, citizenship and geographic location identified above, an individual's bona fide residence must qualify as the place where that individual maintains a true, fixed, and principal home to which he or she, whenever transiently relocated, has a genuine intent to return. See, e.g., *Referral by Manchester Registrars of Voters, Manchester*, File No. 2013-077; *In the Matter of a Complaint by Gary Amato, North Haven*, File No. 2009-158 (2010); *In the Matter of a Complaint by Cicero Booker*,

Waterbury, File No. 2007-157. In other words, “bona fide residence” is generally synonymous with domicile. *Id.*; *cf. Hackett v. The City of New Haven*, 103 Conn. 157 (1925). The Commission has concluded, however, that “[t]he traditional rigid notion of ‘domicile’ has . . . given way somewhat but only to the extent that it has become an impractical standard for the purposes of determining voting residence (i.e., with respect to college students, the homeless, and individuals with multiple dwellings).” (Emphasis added.) *In the Matter of a Complaint by James Cropsey, Tilton, New Hampshire*, File No. 2008-047 (Emphasis added.). See also *Wit v. Berman*, 306 F.3d 1256, 1262 (2d Cir. 2002) (stating that under certain circumstances the domicile rule for voting residency can give rise to administrative difficulties which has led to a pragmatic application of that rule in New York); *Sims v. Vernon*, Superior Court, Fairfield County, No. 168024 (Dec. 22, 1977) (concluding that an absentee ballot of an individual should be counted as that individual was a bona fide resident of the town in which the ballot was cast.); *Farley v. Louzitis*, Superior Court, New London County, No. 41032 (Oct. 4, 1972) (considering issue of voter residency with respect to college students and stating that “a student, and a nonstudent as well, who satisfies the . . . residence requirement, may vote where he resides, without regard to the duration of his anticipated stay or the existence of another residence elsewhere. It is for him alone to say whether his voting interests at the residence he selects exceed his voting interests elsewhere.”) (Emphasis added.)

10. The Commission has previously concluded that “[a]n individual does not, therefore, have to intend to remain at a residence for an indefinite period for that residence to qualify as that individual’s bona fide residence.” *Referral by Manchester Registrars of Voters*, Manchester, File No. 2013-081; (quoting *In the Matter of a Complaint by James Cropsey, Tilton, New Hampshire*, File No. 2008-047). Rather, the individual only has to possess a present intention to remain at that residence. *Id.*; see also *Maksym v. Board of Election Com’rs of City of Chicago*, Illinois Supreme Court, Docket No. 111773 (January 27, 2011), 2011 WL 242421 at *8 (“[O]nce residency is established, the test is no longer physical presence but rather abandonment. Indeed, once a person has established residence, he or she can be physically absent from that residence for months or even years without having abandoned it. . . .”)
11. After investigation, the Commission concludes that the evidence is sufficient to establish that the Respondent is no longer a bona fide resident at the Gallup Hill Road address in Ledyard. The current owners of the property established that his rental interest in the property is expired and that the Respondent does not have a current or future right or interest to reside therein. The Respondent himself has admitted that he does not live at the Gallup Hill Road property by declaring that he does not wish to disclose the location of his actual physical property.

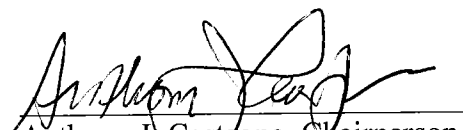
12. Considering the aforesaid, the Commission concludes pursuant to its authority under General Statutes § 9-7b (a) (3) (E) that for purposes of admission as an elector, the Respondent is not a “bona fide resident” at the Gallup Hill Road address in Ledyard listed on his voter registration record.
13. Because the Commission has determined that the Respondent is not a bona fide resident at the aforesaid address, he does not have a right to remain a registered elector there. Accordingly, pursuant to General Statutes § 9-7b (a) (3) (E), the Commission will order the Ledyard Registrars of Voters to forthwith remove the registration of the named Respondent in this matter.
14. In consideration of the Respondent’s asserted concerns, the Commission encourages the Respondent to take advantage of the “Address Confidentiality Program” administered by the Secretary of the State pursuant to General Statutes §§ 54-240a, et seq. This program allows qualifying individuals to legally use a substitute forwarding mailing address and to keep their true physical address hidden from public records such as voter registrations and marriage records. If approved under the program, the Respondent would be able to legally re-register to vote in the town of his residence and vote therein without having to record his true address on any publicly available document.

ORDER

The following Orders are recommended on the basis of the aforementioned findings:

That the Registrars of Voters of the Town of Ledyard forthwith remove the registration of Ernest Adams, Gallup Hill Road, Ledyard, CVRS Ref# 000644073.

Adopted this 19th day of March, 2014 at Hartford, Connecticut.


Anthony J. Castagno, Chairperson
By Order of the Commission