

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In re: Referral by Westport Registrars of Voters

File No. 2013-101

FINDINGS AND CONCLUSIONS

The Referring Officials referred this matter pursuant to Connecticut General Statutes § 9-7b and alleged that Respondent Henry C. Rapp, a registered voter in the Town of Westport, appeared to lack bona fide residence in Westport, as although his property is partially in Westport, the dwelling is located within the City of Norwalk. The Referring Officials request that the Commission make a determination under General Statutes § 9-7b (a) (3) (E)¹ of the Respondent's right to remain as an elector in Westport.

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

1. From on or about August 11, 2004 until on or about September 28, 2006, the Respondent was a registered voter at a home on Short Street in Westport.
2. In 2006, the Respondent moved to a single-family residential property with a mailing address of 3 Bumpy Lane, Westport and registered to vote at that address in Westport on or about September 28, 2006.
3. Subsequent to a town wide review of properties along the Westport border, the Westport Registrars of Voters Office reviewed the Bumpy Lane property at which the Respondent had moved and determined that roughly 30% of the property is located in Westport, including but not limited to the mailbox and much of the driveway leading from the

¹ General Statutes § 9-7b (a) (3) (E), provides:

(a) The State Elections Enforcement Commission shall have the following duties and powers:

...

(3) . . . (E) To issue an order following the commission's determination of the right of an individual to be or remain an elector when such determination is made (i) pursuant to an appeal taken to the commission from a decision of the registrars of voters or board of admission of electors under section 9-311, or (ii) following the commission's investigation pursuant to subdivision (1) of this subsection;

dwelling unit to Bumpy Lane. However, the remainder of the property, including the portion containing the entire dwelling unit, is located within the City of Norwalk.

4. An elector is eligible to register and 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.)

5. Public Act 07-194 of the 2007 Public Acts added the language “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.”
6. The above language was added subsequent to the Commission’s final determination in In the Matter of an Appeal of Gerald J. Porricelli and Marianne Porricelli against the Board for Admission of Electors and Registrars of the Town of Greenwich, File No. 2007-154.
7. In Porricelli, the appellants, electors in Greenwich, owned a single-family home located on property within both the Town of Greenwich and the City of Stamford. However, the entire house in which they resided was located within the City of Stamford and only a portion of the driveway, including street frontage, was located in Greenwich. The electors had a Greenwich postal address and considered themselves residents of Greenwich for all purposes, including voting.
8. Looking to the common law in the area of domicile for tax purposes, the Commission determined in Porricelli that the location of an individual’s dwelling unit determines where that person is permitted to claim bona fide residence. This common law standard was then codified in the aforementioned amendment to General Statutes § 9-12 (a) in Sec. 41 of Public Act 07-194 of the 2007 Public Acts.

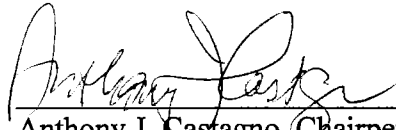
9. The above standard was applied recently in In re: Referral by Westport Registrars of Voters, File No. 2013-102, in which the postal address and a portion of the property was located within the Town of Westport, but the actual dwelling unit, a single-family home, was entirely located within the geographic boundaries of the Town of Weston. The Commission determined in that case that because the dwelling unit was located entirely in Weston, the Respondent was indeed a bona fide resident of Weston and not the town through which she received her postal mail.
10. After investigation, including but not limited to a review of the GIS map data, the assessor's records in each town, as well as interviews with the parties, the Commission finds that the house in which the Respondent resides is located entirely within the geographic boundaries of the City of Norwalk and that no portion of such "dwelling unit" is located within the geographic boundaries of the Town of Westport.
11. 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 a "bona fide resident" of the City of Norwalk and not the Town of Westport.
12. The Respondent here does not dispute the above finding that the entire dwelling unit is located within the City of Norwalk and also dispute the Commission's application of the law here. However, he does take issue with the fairness of the statute itself, as the majority of the municipal services that he receives, including but not limited to fire rescue, police and garbage collection, come from the Town of Westport, to which he pays a proportional share of property taxes, but in which he is now no longer permitted to cast a ballot.
13. The Commission empathizes with the Respondent's unusual situation, but such considerations are not relevant to the Commission's determination where, as here, the legislature has drawn a clear statutory line.

ORDER

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

The Commission, pursuant to its authority under General Statutes § 9-7b (a) (3) (E), orders the Westport Registrars of Voters to immediately remove from its rolls the registration of Dr. Henry Conrad Rapp III, CVRS Voter ID#: 003454905.

Adopted this 15th day of January, 2014 at Hartford, Connecticut.



Anthony J. Castagno, Chairperson
By Order of the Commission