

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

Referral by Westport Registrars of Voters

File No. 2013-102

FINDINGS AND CONCLUSIONS

The Referring Officials referred this matter pursuant to Connecticut General Statutes § 9-7b and alleged that Respondent Joan F. Webb, a registered voter in the Town of Westport, appeared to lack bona fide residence in Westport, as although her property is partially in Westport, the dwelling is located within the Town of Weston. 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 September 20, 1971 until January 15, 2013, the Respondent was a registered voter at a home on Sterling Drive in Westport.
2. At the end of 2012, the Respondent moved to a property with a mailing address of 128 Weston Road, Westport.

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;

3. After the Respondent submitted an address change with the Department of Motor Vehicles (“DMV”), that agency sent notice to the Westport Registrars of Voters pursuant to its responsibilities under General Statutes § 9-19i.²
4. After receiving the notice from the DMV about the Respondent’s address change, the Westport Registrars of Voters Office, pursuant to her responsibilities under § 9-19i, changed her voter registration to reflect a registered address of 128 Weston Road, Westport.
5. Subsequent to changing the Respondent’s registered address, the Westport Registrars of Voters Office reviewed the property at which the Respondent had moved and determined that only a small portion of the property is actually located in Westport and that the bulk, including that portion containing the entire dwelling unit, is located in the town of Weston.
6. 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.)

² General Statutes § 9-19i, provides in pertinent part:

Any change of address form submitted by a person in accordance with law for purposes of a motor vehicle operator's license shall serve as notification of change of address for voter registration for the person unless the person states on the form that the change of address is not for voter registration purposes. The Commissioner of Motor Vehicles shall forthwith transmit such change of address information to the registrars of voters of the town of the former address of the person. If the name of the person appears on the registry list of the town, and if the new address is also within such town, the registrars shall enter the name of such elector on the registry list at the place where he then resides. If the name of the person appears on the registry list of the town and if the new address is outside such town, the registrars shall remove the name of such elector from the registry list and send the elector the notice, information and application required by section 9-35.

7. 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.”
8. 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.
9. In Porricelli, the appellants, electors in Greenwich, owned a 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.
10. 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.
11. The above standard was applied recently in In the Matter of a Complaint by Edward Cook, Essex, File No. 2010-073 in which the postal address and a portion of the property was located within the Essex village of Ivoryton, but the actual dwelling units, dormitory-style employee housing at an overnight camp, were entirely located within the boundaries of the Town of Deep River. The Commission determined in that case that because the dwelling units were located entirely in Deep River, the Respondents were indeed bona fide residents of Deep River and not the town through which the Respondents received their postal mail.
12. 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 Town of Weston. While the property has a mailing address of 128 Weston Road in Westport, the town records show that the property is also 1 Weston Road in Weston.
13. Considering the aforesaid, the Commission concludes pursuant to its authority under General Statutes § 9-7b (a) (3) (E) that the Respondent is a bona fide resident of the Town of Weston and not the Town of Westport.

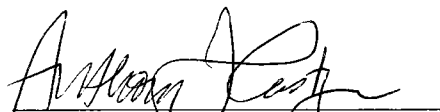
14. Subsequent to the filing of the instant matter, the Respondent changed her registered address to 128 Weston Road in Weston. While the Respondent is now registered in the correct town, her address is incorrect, as 128 Weston Road in Weston does not exist as a residential address capable of sustaining a bona fide residence at this time. As such, the Commission, pursuant to its authority under General Statutes § 9-7b (a) (3) (E), shall order the Weston Registrars of Voters to immediately amend her registration to reflect a residence address of 1 Weston Road, Weston and a mailing address of 128 Weston Road, Westport.

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 Weston Registrars of Voters to immediately amend the registration of Joan Frazier Webb, CVRS Voter ID#: 002277772, to reflect a residence address of 1 Weston Road, Weston and a mailing address of 128 Weston Road, Westport.

Adopted this 18th day of December, 2013 at Hartford, Connecticut.


Anthony J. Castagno, Chairperson
By Order of the Commission