

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

In the Matter of a Complaint by Joshua P. Erlanger, New Haven

File No. 2013-116

**FINDINGS AND CONCLUSIONS**

The Complainant brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that Respondents Ella D. Wood and Avani Mehta lacked bona fide residence at an address in the City of New Haven and misrepresented such residency on a petition page in violation of General Statutes §§ 9-410 & 9-8.

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

1. On or about August 5, 2013 both Respondents registered to vote at an address on Humphrey Street in New Haven and submitted in their sworn registration statements that such address was their bona fide residence.
2. At issue in this case are petition pages submitted on or about August 7, 2013, by both Respondents, for candidacies they sought in the September 10, 2013 primary for positions on the New Haven Board of Aldermen.
3. Respondent Mehta submitted 1 petition page and Respondent Wood submitted 2 petition pages that are at issue in this case.
4. On the petition pages, the Respondents, who were also acting as circulators, affirmed under penalty of false statement that their address was Humphrey Street in New Haven.
5. The Complainant here is the Respondents' former landlord at an apartment on Dwight Street in New Haven and alleges that at the time the Respondents submitted the aforementioned petitions pages, they were still bona fide residents at the Dwight Street apartment and were not bona fide residents at the Humphrey Street address.
6. Specifically, the Complainant does not deny that the Respondents moved out of the Dwight Street apartment and into the Humphrey Street apartment at some point in the month of August 2013, but rather he alleges that at the time the Respondents signed the aforementioned petitions, specifically August 7, 2013, they had not yet moved their belongings, including all furniture, clothing, kitchen wares and pets, out of the Dwight Street apartment and into the Humphrey Street apartment.

7. In support, the Complainant submitted a one-year lease between the parties signed on or about April 14, 2013, pictures of the interior of the apartment taken on August 7, 2013 supporting his assertions, as well as copies of an e-mail from him to the Respondent in which he summarizes a telephone conversation in which he asserts the Respondents state that they planned on moving their belongings into the Humphrey Street apartment “by the end of the month [of August].”
8. The Respondents here do not deny the accuracy of the evidence submitted by the Complaint, insofar as it shows that they retained residency rights to the address on Dwight Street at the time they amended their voter registrations and submitted the aforementioned petition pages in New Haven.
9. Rather, the Respondents assert, and provide evidence in support, that they also established residency at the Humphrey Street address as early as August 1, 2013, but no later than August 5, 2013.
10. In support of their assertions, the Respondents submitted a copy of a lease signed on August 5, 2013, but giving them rights an access to the apartment as early as August 1, 2013, as well as a copy of a check for the security deposit signed on or about August 5, 2013. The Respondents assert that they begin immediately, though gradually, moving their belongings into the Humphrey Street address. The Respondents assert that they spent their first overnight stay at the apartment on August 6, 2013 and that all of their belongings were removed to that address no later than on or about August 16, 2013, which is also when they relinquished rights and access to the Dwight Street address.
11. 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.)

12. 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.)
13. 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. . . .")
14. As such, where an individual truly maintains two residences to which the individual has legitimate, significant, and continuing attachments, that individual can choose either one of

those residences to be their bona fide residence for the purposes of election law so long as they possess the requisite intent. *In the Matter of a Complaint by Ralph Arena, Hartford*, 2012-030; *In the Matter of a Complaint by Anne Cushman Schwaikert, et al, Woodbury*, File No. 2011-005; *Cropsey*, File No. 2008-047, *supra*; see also *Wit*, 306 F.3d at 1262 (quoting *People v. O'Hara*, 96 N.Y.2d 378, 385 (2001) for this principle.)

15. When registering to vote, an elector must declare under penalty of perjury, his bona fide residence on a form prescribed by the Secretary of the State. General Statutes § 9-20, provides in pertinent part:

(a) Each person who applies for admission as an elector in person to an admitting official shall, upon a form prescribed by the Secretary of the State and signed by the applicant, state under penalties of perjury, his name, bona fide residence by street and number, date of birth, whether he is a United States citizen, whether his privileges as an elector are forfeited by reason of conviction of crime, and whether he has previously been admitted as an elector in any town in this or any other state. Each such applicant shall present his birth certificate, drivers' license or Social Security card to the admitting official for inspection at the time of application. Notwithstanding the provisions of any special act or charter to the contrary, the application form shall also, in a manner prescribed by the Secretary of the State, provide for application for enrollment in any political party, including, on any such form printed on or after January 1, 2006, a list of the names of the major parties, as defined in section 9-372, as options for the applicant. The form shall indicate that such enrollment is not mandatory. (Emphasis added.)

16. General Statutes § 9-410 states, inter alia, that an individual circulating a petition for a nomination to municipal office or a town committee must sign as to the authenticity of the information contained therein, including the circulator's address. It reads, in pertinent part:

(c) Each circulator of a primary petition page shall be an enrolled party member of a municipality in this state who is entitled to vote. . . . Each separate sheet of such petition shall contain a statement as to the authenticity of the signatures thereon and the number of such signatures, and shall be signed under the penalties of false statement by the person who circulated the same, setting forth such circulator's address and the town in which such circulator is an enrolled party member and attesting that each person whose name appears on such sheet signed the same in person in the presence of such circulator, that

the circulator either knows each such signer or that the signer satisfactorily identified the signer to the circulator and that the spaces for candidates supported, offices or positions sought and the political party involved were filled in prior to the obtaining of the signatures. . . . (Emphasis added.)

17. In order to establish liability in the present case, the Respondents must not have been qualified to register at the Humphrey Street address in New Haven at the time that they registered to vote and circulated the petitions. As noted above, General Statutes § 9-12 sets forth elector qualifications. In the present case, no one contests that the Respondents were citizens of the United States, had attained the age of eighteen years at the time they registered to vote, or that their apartment on Humphrey Street was located within the geographical boundaries of the City of New Haven. As such, the question to answer here is only whether the Respondents had established themselves as “bona fide residents” at the Humphrey Street address in New Haven.
18. After its own investigation, the Commission found sufficient evidence that the Respondents did have a lease for and a right to live in and access the Humphrey Street apartment no later than August 5, 2013. However, a lease alone will not establish bona fide residence. Indeed, further evidence found in the Commission’s investigation revealed that the Respondents were not yet sleeping at the Humphrey Street apartment at the time that they registered to vote and made the sworn statements on the petitions.
19. However, the evidence found in the investigation also sufficiently established that the Respondents started to move into the Humphrey Street address the day after signing the registration and the statement on the petitions. Within 11 days, the Respondents had made a complete transition from the Dwight Street apartment and into the Humphrey Street apartment.
20. Based on the investigation in this matter, the Commission concludes that the evidence is insufficient to establish that the Respondents were not bona fide residents at the Humphrey Street property in New Haven at the time that they signed the petitions and at the time that they registered to vote at that address. No evidence has been presented by the Complainants or found during the instant investigation that can establish that the Respondents had not sufficiently claimed Humphrey Street as their true, fixed, and principal home in which they, though transiently relocated for a very short period of time at the beginning of August 2013, had a right and a genuine present intent to live. Moreover, while it is certainly relevant evidence that they do not deny a potential overlapping interest in Dwight Street at the beginning of August, this fact alone did not block their claim to bona fide residence at Humphrey Street. Indeed, in the present matter, it serves only as


evidence that the Respondents may have had a legitimate claim to bona fide residence in both locations—however fleeting. In this instance, they chose Humphrey Street.

**ORDER**

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

That the matter is dismissed.

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

  
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Anthony J. Castagno, Chairperson  
By Order of the Commission