

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Jennifer Buchanan, et. al, Bridgeport

File No. 2013-130B

FINDINGS AND CONCLUSIONS

The Complainant, along with 7 other co-Complainants allege that during the September 10, 2013 Democratic primary held in the City of Bridgeport Respondent Democratic Registrar of Voters Santa Ayala failed to conduct supervised absentee balloting at 40-52 George Pipkin's Way and 376 E. Washington Avenue, which they claim was required under General Statutes §§ 9-159q and 9-159r.¹

LAW

1. General Statutes § 9-159q, reads, in pertinent part:

(a) As used in this section:

(1) "Institution" means a veterans' health care facility, residential care home, health care facility for the handicapped, nursing home, rest home, mental health facility, alcohol or drug treatment facility, an infirmary operated by an educational institution for the care of its students, faculty and employees or an assisted living facility; and

(2) "Designee" means an elector of the same town and political party as the appointing registrar of voters which elector is not an employee of the institution at which supervised voting is conducted.

(b) Notwithstanding any provision of the general statutes to the contrary, if less than twenty of the patients in any institution in the state are electors, absentee ballots voted by such electors shall, upon request of either registrar of voters in the town of such electors' voting residence or the administrator of such institution, be voted under the supervision of such registrars of voters or their designees in accordance with the provisions of this section.

¹ The Complainants make a third allegation that will be addressed separately in File No. 2013-130A.

The registrars of voters of a town other than the town in which an institution is located may refuse a request by the administrator of such institution when, in their written opinion, the registrars agree that such request is unnecessary, in which case this section shall not apply. Such registrars shall inform the administrator and the town clerk of the electors' town of voting residence of their refusal.

(c) Except as provided in subsection (e) of this section, such request shall be made in writing and filed with the town clerk and registrars of voters of the town of such electors' voting residence, not more than forty-five days prior to an election or thirty-four days prior to a primary and not later than the seventh day prior to an election or primary. The request shall specify the name and location of the institution and the date and time when the registrars of voters or their designees shall supervise the casting of absentee ballots at the institution. The request shall also specify one or more alternate dates and times when supervised voting may occur. No request shall specify a date or an alternate date for supervised voting which is later than the last business day before the election or primary.

(d) The town clerk shall not mail or otherwise deliver an absentee ballot to an applicant who is a patient in any institution if a request for supervision of absentee balloting at that institution has been filed with the clerk during the period set forth in subsection (c) of this section. The clerk shall instead deliver such ballot or ballots to the registrars of voters or their designees who will supervise the voting of such ballots in accordance with this section.

(e) Except in the case of a written refusal as provided in subsection (b) of this section, upon receipt of a request for supervision of absentee balloting during the period set forth in subsection (c) of this section, the registrar or registrars of voters who received the request shall inform the registrar or administrator who made the request and the town clerk as to the date and time when such supervision shall occur, which shall be the date and time contained in the request or the alternate date and time contained in the request. If the registrar or registrars fail to select either date, the supervision shall take place on the date and time contained in the request. If a request for supervision of absentee balloting at an institution is filed during the period set forth in subsection (c) of this section and the town clerk receives an application for an absentee ballot from a patient in the institution after the date when supervised balloting occurred, either registrar of voters may request, in writing, to the appropriate town clerk and registrars of voters that

the supervision of the voting of absentee ballots at such institution in accordance with this section be repeated, and in such case the registrars or their designees shall supervise absentee balloting at such institution on the date and at the time specified in the subsequent request, which shall be not later than the last business day before the election or primary.

...

(l) Notwithstanding any provision of the general statutes, if a town clerk receives twenty or more absentee ballot applications from the same street address in a town, including, but not limited to, an apartment building or complex, absentee ballots voted by the electors submitting such applications may, at the discretion of the registrars of voters of such town, be voted under the supervision of such registrars of voters or their designees in accordance with the same procedures set forth in this section for supervised absentee voting at institutions.

2. General Statutes § 9-159r reads, in pertinent part:

(a) Notwithstanding any provision of the general statutes to the contrary, if twenty or more of the patients in any institution in the state are electors, absentee ballots voted by such electors shall be voted under the supervision of the registrars of voters or their designees of the town in which the institution is located, in accordance with the provisions of this section. As used in this section, the term "institution" shall be construed as defined in section 9-159q.

(b) Application for an absentee ballot for any such patient shall be made to the clerk of the town in which such patient is eligible to vote. The application procedure set forth in section 9-140 shall apply, except that the clerk shall deliver the absentee voting set for any such application to the clerk of the town in which the institution is located, who shall deliver all such voting sets he receives to the registrars of such town, on the date when the supervision of absentee balloting is to occur. The ballots and envelopes shall be prepared for delivery to the applicant as provided in sections 9-137 to 9-140a, inclusive. The registrars or their designees shall furnish the town clerk a written receipt for such ballots. The registrars of the town in which an institution is located and the administrator of the institution shall mutually agree on a date and time for such supervision of absentee balloting, which shall be not later than the last business day before the election or primary.

(c) The supervision of absentee balloting under this section shall be carried out in accordance with the provisions of subsections (g), (h), (i) and (k) of section 9-159q. (Emphasis added.)

INVESTIGATORY FINDINGS

52 George Pipkin's Way

3. The Complainants allege that 52 George Pipkin's Way is an "institution" under General Statutes § 9-159q (a) with 20 or more registered voters and that 27 residents voted by absentee ballot for the September 10, 2013 primary. As such, they allege, Respondent Registrar Santa Ayala was required to conduct supervised absentee balloting at the institution.
4. Respondent Santa Ayala asserts that the property at 52 George Pipkin's Way is not an "institution" as defined specifically under General Statutes § 9-159q (a)(1). She asserts that it is a housing complex, but does not fall under any of the categories in the statute that would require her office to conduct supervised absentee balloting.
5. The investigation of this property substantiated the Respondent's assertion that the facility is not an "institution" under § 9-159q (a) (1). 52 George Pipkin's Way, also known as "Hall Commons" is a government-subsidized low-income apartment building, but it does not fall into any of the categories enumerated under the statute.
6. As 52 George Pipkin's Way was not an "institution" under General Statutes § 9-159q (a) (1), Respondent Ayala was not required to conduct supervised absentee balloting at that location. Considering the aforesaid, this allegation should be dismissed.

376 E. Washington Avenue

7. The Complainants here do not allege that 376 E. Washington Avenue is an "institution" under General Statutes § 9-159q (a), but rather assert that Respondent Ayala had an affirmative duty to conduct absentee balloting because 42 absentee ballots were cast from that apartment building and that candidate Maria Valle requested that she do so.
8. The Complainants do not assert that any requests came from management at this building to conduct absentee balloting and the investigation revealed no such requests.
9. The Complainants' allegation fails on its face. General Statutes § 9-159q (l) allows registrars within their discretion to conduct supervised absentee balloting at addresses from

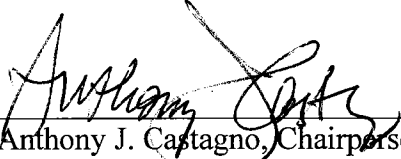
which 20 or more individual voters request an absentee ballot, but there is no affirmative duty, as is asserted by the Complainants. There are no facts here that suggest that the Respondent abused her discretionary authority or otherwise acted improperly in denying the individual request. This allegation should be dismissed as well.

ORDER

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

That the matter is dismissed.

Adopted this 17th day of March, 2015 at Hartford, Connecticut.



Anthony J. Castagno, Chairperson
By Order of the Commission