

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In re: Referral of the Suffield Registrars of Voters

File No. 2015-006

FINDINGS AND CONCLUSIONS

The Referring Officials brings this Referral pursuant to Connecticut General Statutes § 9-7b, alleging that Respondent Joseph M. Panasiewicz lacked bona fide residence at an address in the Town of Suffield, but falsely restored his privileges under General Statutes § 9-42 at the November 4, 2014 General Election and impermissibly voted in the Town of Suffield.

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

1. At all times relevant to the instant Referral, Respondent Joseph M. Panasiewicz was a registered voter at an address on North Grand Street in Suffield. He had been registered at that address since July 17, 2008.
2. The Referring Officials, the Republican Registrar of Voters in the Town of Suffield, submitted evidence, including but not limited to property records in the Town of Suffield, that the Respondent had sold the North Grand Street property on or about January 30, 2014.
3. The Referring Officials allege that the current owners of the North Grand Street property assert that the Respondent does not live at the North Grand Street property and has no right, claim or other legal privilege to ownership and/or occupancy at that property.
4. The Referring Officials alleged and submitted evidence in support that on or about February 19, 2014 they sent the Respondent a Confirmation of Voting Residence and that the Respondent failed to respond to such notice.
5. The Referring Officials alleged and submitted evidence in support that they put the voter on the "Inactive" list on or about May 23, 2014.
6. The Referring Officials alleged and submitted evidence in support that the Respondent appeared at his polling place at the General Election November 4, 2014 and filled out a Voter Registration Application swearing under oath that he lived at the North Grand Street property, restored his voting privileges and cast a ballot that day.

7. The Referring Officials alleged and submitted evidence in support that in January 2015 they received a National Change of Address System notice that the voter had moved to an address in Enfield on or about February 2014 at which point the Referring Officials filed the instant Referral.
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 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. The investigation in this matter confirmed the Referring Official’s allegations insofar as the evidence supported a finding that the Respondent did not appear to have a claim to bona fide residence at the North Grand Street property at the time that he restored his privileges and voted on November 4, 2014.
12. However, after significant efforts, including but not limited to background checks, interviews with out-of-state relatives, and on-site visits to potential bona fide residences, Commission staff have been unable to locate the Respondent and/or to make any contact with him in order to give him notice of the present matter and to give him the opportunity to respond to the allegations here and to be heard according to the provisions of General Statutes § 9-7b.
13. Until such time as the Commission is able to serve the Respondent with notice of this matter and the allegations against him, the Commission cannot proceed. As a significant period of time has passed since the initiation of this matter and as the Commission has exhausted the resources at its disposal, the Commission will dismiss this matter, without prejudice.
14. Should the Referring Officials obtain reliable information as to the Respondent’s location, they may re-file their allegations at that time.

ORDER

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

That the matter is dismissed without prejudice.

Adopted this 19th day of April, 2017 at Hartford, Connecticut.



Anthony J. Castagno, Chairperson
By Order of the Commission