2014
REGISTRAR OF VOTERS CONFERENCE

Kevin M. Ahern – Staff Attorney
Law Enforcement Unit
Duties and Responsibilities of Commission Staff

- Assist candidates and campaign staff
- Research and answer questions about campaign finance compliance
- Provide Campaign Finance Education Seminars
- Perform Audits
- Recommend Legislative Changes
- Administer and Maintain Electronic Campaign Reporting Information System (eCRIS)
- Investigate Complaints and Enforce Law
# Elections Ecosystem

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SEEC (& State’s Attorney/FBI)
Discussion Points

- Key SEEC cases from the past year.
- Anonymity of Cases
- Questions/Hypotheticals
Bona Fide Residence—Dwellings in More than One Town

- General Statutes § 9-12

  (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 . . . be an elector, . . . 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.
# Bona Fide Residence—Dwellings in More than One Town

- Registration requirements:*

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* (Unless disenfranchised due to felony)
Bona Fide Residence—Dwellings in More than One Town

- *Porricelli v. SEEC*
- Public Act No. 07-194
  - Geographic Area Sub-Prong Codified into § 9-12
  - SEEC Given Authority to Determine Residency and Take Appeals of Residency Determinations
Bona Fide Residence—Dwellings in More than One Town

- Common law still controls all other aspects of bona fide residency.

- “The place where [an] individual maintains a true, fixed, and principal home to which he or she, whenever transiently relocated, has a genuine intent to return.”
Bona Fide Residence—Dwellings in More than One Town

- Geographic Location of Dwelling Unit.
  - “if such person’s dwelling unit is located within the geographic boundaries of such town.”

- *In re: Referral by Westport Registrars of Voters*

Bona Fide Residence—Dwellings in More than One Town

• File No. 2013-100, portion of dwelling unit (house), located in TWO towns

• Key Facts:
  • Approx. 10% in Town B, 90% in Town A
    • Professional Survey
  • Mailing Address in Town A
  • Significant connections to Town A
  • Voters registered in Town A
Bona Fide Residence—Dwellings in More than One Town

• Key Questions:
  • What is a dwelling unit?
  • How much of the dwelling unit needs to be located within the town?
  • What evidence is sufficient to establish dwelling unit’s physical presence within town?
  • If dwelling unit is located within more than one town, which town wins?
Bona Fide Residence—Dwellings in More than One Town

- What is a dwelling unit?
- SEEC looked to other statutes:
  - General Statutes §§ 47a-1 (c), 7-148hh, 47a-50 (3)
  - General Statutes §§ 47a-1 (c)
    - (c) “Dwelling unit” means any house or building, or portion thereof, which is occupied, is designed to be occupied, or is rented, leased or hired out to be occupied, as a home or residence of one or more persons. . . .
Bona Fide Residence—Dwellings in More than One Town

• How much of the dwelling unit needs to be located within the town?
  
  • No limitation.
Bona Fide Residence—Dwellings in More than One Town

• If dwelling unit is located within more than one town, which town wins?
  • Geographic location is *compelling*, but not *wholly* determinative
  • Bona fide residence analysis determines.
  • If voter has legitimate, significant, and continuing attachments to both jurisdictions such that either could qualify as a bona fide residence town, voter may choose.*

*(But only one!)*
Bona Fide Residence—Dwellings in More than One Town

- Open Questions
  - E.g., what structures constitute a dwelling unit or a portion of a dwelling unit? Attached garage? Birdfeeder?
Conflict of Laws and Curbside Voting

• Case Citation: File No. 2012-097

• Facts:
  • Children barred from polling place by asbestos mitigation.
  • ROVs instituted curbside voting for voters.
    • General Statutes § 9-261 (b)
Conflict of Laws and Curbside Voting

• HOLDINGS:

  • ROVs shouldn’t enforce laws outside of Title 9 when those laws conflict with their statutory responsibilities. See also, File No. 2013-133.

  • Curbside voting only for those voters who experience a temporary physical/mental incapacity at the polling place.
ROV vs. ROV and Unilateral Task Performance

• Case Citations: File Nos. 2013-105 & 2013-040A:

• Key facts:
  • ROV A performing shared duties without involving ROV B
  • ROV B files SEEC complaint against ROV A
ROV vs. ROV and Unilateral Task Performance

• HOLDING:
  • Majority of duties of registrars required to be performed by both.
    • A breach of decorum/best practice not necessarily a breach of law.
    • Some must be performed bilaterally. E.g., testing machines.
  • SEEC Complaints against your fellow registrar not encouraged.
    • May blow back on you if duty is shared.
Candidates as Election Official

- General Statutes § 9-258
- Key Facts:
  - 2011-151
    - ROV was also candidate for BOE, spotted near AB Central Counting
  - 2014-021
    - Head moderator was also candidate for Town Committee
    - Had moderator for his district report the results involving his candidacy
Candidates as Election Official

• HOLDINGS
  • General holding in both cases was that General Statutes § 9-258 does not permit a candidate to be an election official except registrars and town clerks
  • 2011-151: ROV may act as ROV, but not in another other role
  • 2014-021: Head moderator is an “election official” under General Statutes § 9-258 and there is no exception.
75’ Signs and Purely Local Elections and Referenda

- Case Citation: File No. 2013-089B

- Key Facts:
  - Small town held election to fill vacancy on BOE after adjourned town meeting per town ordinance.
  - Vote taken by paper ballot.
  - Very small turnout.
  - ROVs did not post 75’ signs, but did orally advise candidates, when prompted, to keep electioneering an approximate distance away.
75’ Signs and Purely Local Elections and Referenda

• HOLDING
  • General Statutes § 9-236 (b) requires that signs be posted for all elections, primaries and referenda.
  • Does not matter how small and/or local the vote or that the vote was taken by paper ballot.
Supervised AB: Designees as Assistors and Notification of Conservators

- Case Citation: 2013-001
- General Statutes §§ 9-159q, 9-159r and 9-159s
- Key Facts:
  - Voter permanently mentally and physically disabled, living in institution.
  - Voter’s conservator unaware that he was registered to vote and voting for years.
    - Conservator questioning voter’s capacity
  - Supervised AB designees assisted voter in marking his ballot, but did not sign “declaration of person proving assistance” section.
Supervised AB: Designees as Assistors and Notification of Conservators

• HOLDINGS
  • Institutions required to notice conservators of registration and/or voting opportunities
  • Elections officials do not have authority to decide capacity.
    • Capacity for a probate judge to decide.
  • All assistors must sign AB as an assistor, even elections officials.
Supervised AB: Marking AB Outside of Presence of Elections Officials

- Case Citation: 2014-006
- General Statutes §§ 9-159q and 9-159r
- Key Facts
  - AB voter at institution wished to take ballot back to her room to mark in private.
  - Supervised AB designees refused to allow marking of ballot outside of designated area.
    - Voter required to mark ballot at table.
  - AB voter accused Supervised AB designees of violating her right to a secret ballot.
Supervised AB: Marking AB Outside of Presence of Elections Officials

- HOLDINGS
  - Supervised ABs must be marked in presence of the Supervised AB designees
  - Right to secret ballot means the right to keep your selections private/secret NOT that you get to mark your ballot in seclusion.
Where to Find SEEC Cases

• Online
  • www.ct.gov/seec
    • Click “Commission Decisions” in left nav bar
    • Search by keyword, or pick case from list.
    • E-mail “seec@ct.gov” if you can’t find a case

• SEEC Library
  • 20 Trinity St., Hartford, CT
  • Every SEEC legal decision bound and organized by year and category.