

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Michael J. Milici, Branford

File No. 2007-158
May 9, 2007

FINDINGS AND CONCLUSIONS

Complainant filed this complaint, pursuant to Connecticut General Statutes § 9-7b, and alleged that Lonnie Reed violated Conn. Gen. Stat. § 9-360 and 9-361 in connection with the November 8, 2005 election, because she sold her home at 134 Pawson Park Road on November 1, 2005 and that she no longer resided in the 5th District where she was elected as a candidate for the Branford Representative Town Meeting.

After the investigation of the Complainant's complaint, the Commission makes the following findings and conclusions:

1. On November 1, 2005 the Respondent sold her home at 134 Pawson Park Road, where she lived for more than 25 years. The Respondent stayed at the home of friends in Branford at 21 Chapel Drive, Branford, which is located in the 2nd District, for approximately seven months after the sale of her home, including the November 8, 2005 election.
2. The Respondent looked for homes within the 5th District, where she wanted to continue to live, but did not find one, and finally purchased her new home at 60 Maple Street, Branford, which is in the 4th District, on June 30, 2006, and moved into the home in July 2006.
3. The Respondent appeared on the Town of Branford official voter list at 134 Pawson Park Road in Branford for the November 8, 2005 election, but is not crossed off as having voted from that address. Respondent is marked off as having voted on the Town of Branford official voter supplemental list for the November 8, 2005 election at 135 Pawson Park Road in Branford, which is her neighbor's house. Respondent does not claim that she stayed there, but said her neighbors insisted that she use their address for registration purposes. There is no evidence that the Respondent claimed to still reside at 134 Pawson Park Road at the November 8, 2005 election.
4. Conn. Gen. Stat. § 9-12 provides that to qualify as an elector, an individual must be a bona fide resident of the town to which he or she applies. Conn. Gen. Stat. § 9-170 provides that an individual can only vote in the district in which he or she is registered, and that such elector shall be permitted to vote unless he is not a bona fide resident of the town and political subdivision holding the election....
5. Accordingly, the issue to be determined is in which district Ms. Reed was a bona fide resident on the date of the November 8, 2005 election.
6. The Commission has recently determined that bona fide residence is the equivalent of domicile in Appeal of Gerald and Marianne Porricelli, File No. 2007-154. In

Complaint of Nancy Rossi, West Haven, File No. 2006-109, the Commission concluded:

“Bona fide residence” means a person’s genuine domicile. More specifically, that place where a person maintains a true, fixed, and principal home to which he, whenever transiently relocated, has a genuine intent to return.

7. The Commission finds that Ms. Reed had not established a new domicile as of November 8, 2005, and on that date, had a genuine intent to remain a resident and elector in the 5th District. Under those circumstances, Ms. Reed continued to be a bona fide resident of the 5th District on Election Day, November 8, 2005. The fact that she did not ultimately find a permanent residence in the 5th District does not operate retroactively to affect her status on November 8, 2005.
8. Accordingly, no violation of Conn. Gen. Stat. §§ 9-170 and 9-360 occurred under the facts and circumstances of this case. It is also concluded that Conn. Gen. Stat. §9-361, as alleged by the Complainant, does not apply to this matter as it concerns fraudulent voting in a primaries and enrollment violations, and is inapplicable to elections.
9. Complainant also alleged that the Respondent was unable to represent the 5th District on the Branford Representative Town Meeting based on her residency in another district in Branford.
10. Conn. Gen. Stat. § 9-186 provides:

Each elected municipal officer and each justice of the peace shall be an *elector of the municipality* in which he is elected, or in the case of a justice of the peace, nominated or appointed to office and, if for any reason he ceases to be an elector thereof, he shall thereupon cease to hold office therein and such office shall be deemed vacant. [Emphasis added.]

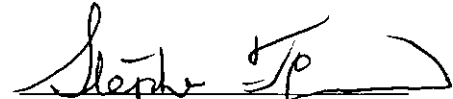
11. Respondent remained a bona fide resident of Branford at all times relevant to this complaint. Therefore, no violation of Conn. Gen. Stat. § 9-186 occurred.
12. The Complainant and the Respondent reference the Branford Town Charter, which the Commission does not have the jurisdiction to interpret or enforce. The only relevant state election law, Conn. Gen. Stat. § 9-186, provides that a municipal officer must be an elector in the municipality, but does not specify that a municipal officer must also be a resident of the political subdivision he or she was elected to represent. A town charter provision could be more restrictive, but not less restrictive than a state election law requirement on the same subject matter. The Charter indicates that a member elected in one district who relocates to another continues to serve until the next election, so long as he or she remains a resident of Branford and that the Branford RTM shall be the judge of its membership. The Branford RTM was aware of Ms. Reed’s residence status and allowed her to remain on the RTM: There is no indication that that determination was contrary to any state election law within the Commission’s jurisdiction.

ORDER

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

That the complaint be dismissed.

Adopted this 9 th day of May, 2007 at Hartford, Connecticut.

A handwritten signature in black ink, appearing to read "Stephen F. Cashman". The signature is stylized and includes a large flourish at the end.

Stephen F. Cashman

Chairman

By Order of the Commission