

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Peter W. Quercia, Willimantic

File No. 2010-057

FINDINGS AND CONCLUSIONS

The Complainant brings this complaint pursuant to Connecticut General Statutes § 9-7b and asserts that the Town of Windham is in violation of General Statutes § 9-622 (1) by providing the electorate with two free 95 gallon garbage receptacles in exchange for votes at a May 11, 2010 budget referendum. The Complainant also asserts that the Town of Windham was in violation of General Statutes § 9-369b by allowing "certain organizations" to attempt to distribute a flyer to students at North Windham Elementary and Middle Schools that encouraged their parents to approve the proposed budget.

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

1. General Statutes § 9-622 (1) provides as follows:

The following persons shall be guilty of illegal practices and shall be punished in accordance with the provisions of section 9-623:

(1) Any person who, directly or indirectly, individually or by another person, gives or offers or promises to any person any . . . gift . . . other valuable thing for the purpose of inducing or procuring any person to . . . vote or refrain from voting for or against . . . any measure at any election . . . or referendum

2. With respect to the alleged violation of General Statutes § 9-622 (1), the Commission has not uncovered nor has the Complainant provided any evidence in support of this allegation. Instead, there is evidence that the Town of Windham did roll out a trash barrel initiative in July of 2010 whereby the Town provided *all residents* with two *free* trash barrels.

3. In addition, General Statutes § 9-369b further provides in relevant part as follows:

(a) Except as provided in subsection (b) of this section, any municipality may, by vote of its legislative body, authorize the preparation and printing of concise explanatory texts of local proposals or questions approved for submission to the electors of a municipality at a referendum. In a municipality that has a town meeting as its legislative body, the board of selectmen shall, by majority vote, determine whether to authorize an explanatory text or the dissemination of other neutral printed material Except as provided in subsection (d) of this section, **no expenditure of state or municipal funds shall be made to influence any person to vote for approval or disapproval of any such proposal or question.** Any municipality may, by vote of its legislative body and subject to the approval of its municipal attorney, authorize the preparation and printing of materials concerning any such proposal or question in addition

to the explanatory text if such materials do not advocate the approval or disapproval of the proposal or question. This subsection shall not apply to a written, printed or typed summary of an official's views on a proposal or question, which is prepared for any news medium or which is not distributed with public funds to a member of the public except upon request of such member. [Emphasis added.]

4. With respect to the alleged violation of General Statutes § 9-369b, the Complainant admits that he does not know if a flyer was actually distributed. He also admits that he did not have the alleged flyer and had not seen it. Moreover, he could not name any witnesses to the alleged violation.
5. The Commission therefore concludes that the evidence is insufficient to establish a violation of General Statutes §§ 9-622 (1) or 9-369b.

ORDER

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

That the case be dismissed.

Adopted this 22nd day of September, 2010 at Hartford, Connecticut.


Stephen F. Cashman, Chairperson
By Order of the Commission