

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In re: Referral by Westport Registrars of Voters

File No. 2013-119

FINDINGS AND CONCLUSIONS

The Westport Registrars of Voters referred this matter pursuant to Connecticut General Statutes § 9-7b (a) (3) (E) and request that the Commission make a determination whether Respondents Stacy L. Moeller and Michael A. Moeller, registered voters in the Town of Westport, are bona fide residents in Westport, as although their property is partially located within Westport, the dwelling unit appears to be located entirely within the City of Norwalk.

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

1. Respondents have been registered voters in Westport at 100 Partrick Road since October 2007.
2. Subsequent to a town wide review of properties along the Westport border, the Westport Registrars of Voters Office reviewed the Partrick Road property at which the Respondent had moved and determined that roughly 15% of the property is located in Westport, including but not limited to the mailbox and a portion of the driveway leading from the dwelling unit to Partrick Road. However, the remainder of the property, including the portion containing the entire dwelling unit, appeared to be located within the City of Norwalk.
3. An elector is eligible to register and 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.)

4. Public Act 07-194 of the 2007 Public Acts added the language “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.”
5. The above language was added subsequent to the Commission’s final determination in In the Matter of an Appeal of Gerald J. Porricelli and Marianne Porricelli against the Board for Admission of Electors and Registrars of the Town of Greenwich, File No. 2007-154.
6. In Porricelli, the appellants, electors in Greenwich, owned a single-family home located on property within both the Town of Greenwich and the City of Stamford. However, the entire house in which they resided was located within the City of Stamford and only a portion of the driveway, including street frontage, was located in Greenwich. The electors had a Greenwich postal address and considered themselves residents of Greenwich for all purposes, including voting.
7. Looking to the common law in the area of domicile for tax purposes, the Commission determined in Porricelli that the location of an individual’s dwelling unit determines where that person is permitted to claim bona fide residence. This common law standard was then codified in the aforementioned amendment to General Statutes § 9-12 (a) in Sec. 41 of Public Act 07-194 of the 2007 Public Acts.
8. The above standard was applied recently in In re: Referral by Westport Registrars of Voters, File No. 2013-102, in which the postal address and a portion of the property was located within the Town of Westport, but the actual dwelling unit, a single-family home, was entirely located within the geographic boundaries of the Town of Weston. The Commission determined in that case that because the dwelling unit was located entirely in Weston, the Respondent was indeed a bona fide resident of Weston and not the town through which the she received her postal mail.
9. In In re: Referral by Westport Registrars of Voters, File No. 2013-100, a small portion of the dwelling unit was located within the Town of Westport, while the vast majority was located within the City of Norwalk. In that case, the Commission determined that if a dwelling unit is split between towns, an elector living in such dwelling unit has a *geographic* claim to bona fide residence in *both* towns, so long as such elector meets the other criteria, including but not limited to age, citizenship, and legitimate, significant, and continuing attachments to the town claimed as such elector’s place of voting.

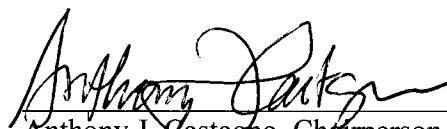
10. Turning to the facts of this case, after an initial investigation, including but not limited to a review of the GIS map data, the assessor's records in each town, as well as interviews with the parties, the Commission finds that the dwelling unit on the Partrick Road property appears to the Commission to be located very near the border of the Town of Westport, but entirely within the geographic boundaries of the City of Norwalk and that no portion of such "dwelling unit" is located within the geographic boundaries of the Town of Westport.
11. However, the Commission notes that in In re: Referral by Westport Registrars of Voters, File No. 2013-100, the dispositive piece of evidence that swayed the Commission was a survey submitted by the respondents that showed that a small portion of the property was located within the Town of Westport. Here, while the Commission concludes that the evidence found in this matter is sufficient to conclude that it is more likely than not that no portion of the dwelling unit is located within the Town of Westport, this decision does not preclude present or future owners of the property on Partrick Road from coming forward with additional evidence that may supersede this decision.
12. Considering the aforesaid, the Commission concludes pursuant to its authority under General Statutes § 9-7b (a) (3) (E) that for purposes of admission as an elector, residents at the property whose mailing address is 100 Partrick Road may not claim the Town of Westport at this address.
13. Finally, the Commission notes that subsequent to the filing of the instant Referral, the Respondents provided evidence, which the investigation confirmed, that they have sold the property, moved out of state, and withdrew their registrations. As such, no further action is necessary in this matter.

ORDER

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

That no further action be taken

Adopted this 14th day of May, 2014 at Hartford, Connecticut.


Anthony J. Castagno, Chairperson
By Order of the Commission