

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Sharon Wyatt-Giesing, et al, New London File No. 2015-092

FINDINGS AND CONCLUSIONS

The Complainants, Sharon Wyatt-Giesing and Patricia McCarthy here made two separate categories of allegations addressed here. In Count One they alleged that the manner in which Barbra Major and Michael Doyle were replaced as New London Republican Registrar of Voters was improper. In Count Two, they alleged that the New London Republican Town Committee held a fundraiser and did not properly report the proceeds.¹

COUNT ONE: Improper Appointment of a Registrar

Background

1. The City of New London is unique in that it appoints its registrars rather than electing them. This authority to appoint springs forth from a special act of the legislature, S.A. No. 378 of 1965, § 12.
2. Article II, Section 8A of the New London City Charter cedes the appointing authority of the Republican and Democratic registrars to their respective New London Town Committees and reads, as follows:

Not later than sixty days before the first Monday in December, 1967, and biennially thereafter, each of the two political parties which at the preceding state election received the largest number of votes shall, at a meeting of their own committees, appoint one elector to serve as registrar of voters for a term of two years from the next succeeding first

¹ The following are the Commission's findings and conclusions based on those portions of the Complainant's statement of complaint which the Commission could reasonably construe as alleging facts amounting to a specific violation of those laws within the Commission's jurisdiction. Any statements within the Complaint not addressed herein either did not specifically allege a violation or alleged facts which if proven true would not have amounted to a violation within the Commission's jurisdiction. For instance, here a number of allegations concern the New London Republican Town Committee's bylaws, which are not within the Commission's jurisdiction. See, General Statutes § 9-387.

Monday in December, and until his successor shall have qualified. The term of each of the registrars of voters of said city, in office at the time of the passage of this act, shall terminate on the first Monday of December, 1967. If a vacancy shall occur in the office of registrar, the town committee of the political party of which such registrar was a member shall appoint a qualified elector to fill the place for the unexpired portion of the term. No provision of the charter of said city prohibiting, restricting or limiting participation in political activities, or serving as a member, agent or officer of a political organization, shall be construed to apply to registrars of voters. Those holding this office at the time this act takes effect shall continue to hold office until his successor has qualified.

3. The following events are generally not in dispute:

July 2014	New London Republican Registrar of Voters Barbra Major passes away. RTC does not vote on a vacancy successor pursuant to Article II, Section 8A of the New London City Charter. RTC Chair asserts that General Statutes § 9-192 controls and as such, Deputy Republican Registrar Michael Doyle immediately becomes Registrar for the remainder of Ms. Major's term ending in December 2015.
June 2, 2015	RTC votes to appoint Robert Pero, at the time the Republican Deputy Registrar of Voters, to become the Republican Registrar of Voters at the expiration of Michael Doyle's term in December 2015.
July 31, 2015	Michael Doyle submits resignation as Republican Registrar of Voters, effective July 31, 2015. Again, RTC does not vote on a vacancy successor pursuant to Article II, Section 8A

	of the New London City Charter. Again, RTC Chair asserts that General Statutes § 9-192 controls and as such, Deputy Republican Registrar Robert Pero immediately becomes Registrar for the remainder of the term ending in December 2015.
December 7, 2015	Robert Pero begins first full term as New London Republican Registrar of Voters.

Allegations

4. The Complainants allege that the Republican Town Committee (“RTC”) should have appointed both Ms. Major’s and Mr. Doyle’s successor per Article II, Section 8a of the New London City Charter, rather than defer to General Statutes § 9-192, as was done.

Law & Analysis

5. Except for the City of New London, all other municipalities elect their registrars by a vote of the electors of the municipality.
6. The default manner of choosing registrars in the State of Connecticut is by a vote of the electors of the municipality. General Statutes § 9-185, reads, in pertinent part:

Unless otherwise provided by special act or charter . . . (7) registrars of voters . . . shall be elected, . . . (Emphasis added.)

7. However, § 12 Special Act No. 378 of the 1965 Special Acts (“the Special Act”) established, *inter alia*, that the town committees would appoint their registrars, both for full terms and in the case of a vacancy. Article II, Section 8A of the New London City Charter (“the Charter Provision”) is a word for word reproduction of the Special Act.
8. Here, instead of appointing replacements for both Ms. Major and Mr. Doyle pursuant to the Special Act and Charter, the RTC relied on General Statutes § 9-192, which specifically addresses the process of filling a vacancy in the office of Registrar of Voters. It reads, in pertinent part:

. . . Each deputy registrar of voters shall assist his principal when required, discharge his duties in his absence or inability to act and, *in case of the death, removal or resignation of such principal, shall become registrar of voters and appoint a deputy*, and shall file with the town clerk a certificate of such appointment, which shall be recorded with the records of town meetings. If a vacancy exists in the office of registrar of voters in consequence of a refusal or failure to accept the office or a failure of the registrar to appoint a deputy registrar, the town committee of the same political party as the registrar of voters who so refused, failed to accept or failed to appoint, or other appointing authority specified in local party rules shall fill such vacancy by the appointment of some suitable person, who shall belong to the same political party as the registrar of voters who so refused, failed to accept or failed to appoint. Each registrar of voters in any town may, as needed, appoint and employ not more than four assistant registrars of voters for each voting district therein, who shall serve at the pleasure of the registrar of voters and assist such registrar in the performance of his duties, and, for purposes of any admission session held pursuant to section 9-19b or subsection (a) of section 9-19c, as many special assistants as are necessary to carry out the duties of such session. Such registrar shall file with the town clerk a certificate of each such appointment, which shall be recorded with the records of the town, and shall appoint such other assistants as are necessary for the performance of duties required by sections 9-12 to 9-45, inclusive, on election day and the six days preceding. *Unless otherwise provided by subsection (b) of section 9-19b, in the absence of either registrar of voters, his deputy or any of his assistants, except special assistants, shall have all the powers conferred, and may perform any of the duties imposed, upon such registrar by any of the provisions of the statutes.* Each deputy, assistant or special assistant registrar shall be an elector of the municipality in which he is appointed. Each deputy registrar shall also, at the time of his appointment and during the six months immediately preceding his appointment, be an enrolled member of the same party as the registrar who makes such appointment.

(Emphasis added)

9. The Commission has made it clear that in the other municipalities whose registrars are elected via the General Statutes and not any special act, § 9-192 controls when a vacancy occurs. See, e.g., *In the Matter of a Complaint by Linda Szyrkowicz, Middletown*, File No.

2015-048 (deputy registrar became registrar by operation of law immediately upon the resignation of the registrar).

10. The main question in this case is whether the RTC's reliance on General Statutes § 9-192 was proper or whether the Special Act and Charter Provision exclusively controlled.
11. This question is one of first impression. "When construing a statute, [the] fundamental objective is to ascertain and give effect to the apparent intent of the legislature. . . . In other words, we seek to determine, in a reasoned manner, the meaning of the statutory language as applied to the facts of [the] case, including the question of whether the language actually does apply. . . . In seeking to determine that meaning, General Statutes § 1-2z directs us first to consider the text of the statute itself and its relationship to other statutes. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered. . . ." *State v. Tabone*, 292 Conn. 417, 431-32 (2009)
12. As an initial matter, the Commission finds that the Special Act was enacted subsequent to the enactment of General Statutes § 9-192.
13. The vacancy provisions in General Statutes § 9-192 create a system by which, provided a deputy is in place, there is no gap in between successive registrars. The duties and responsibilities of the registrar immediately transfer to the deputy without delay.
14. Indeed, § 9-192 goes further and even addresses the contingency of when a registrar is merely *temporarily unavailable*: "in the absence of either registrar or voters, his deputy or any of his assistants, except special assistants, shall have all the powers conferred, and may perform any of the duties imposed, upon such registrar by any of the provisions of the statutes."
15. However, the vacancy provisions in the Special Act require an act of the town committee in order to fill any vacancy. Depending on the party rules of the town committee, this could result in a potentially lengthy gap between registrars.
16. Reading General Statutes § 9-192 and the Special Act together, the Commission believes that these statutes are not incompatible, but *complimentary* and accomplish what appears to be a clear intent of the legislature to avoid situations in which no individual can discharge the duties of the office of registrar. Interpreting the Special Act to completely occupy the space would create an absurd result that does not appear to be within the legislature's intent when it conferred the special authorities contained in the Special Act.

17. Moreover, even if the Commission determined that the vacancy provisions in § 9-192 were completely superseded by the Special Act, the provisions concerning a deputy's authority to act in the registrar's absence clearly were not. The Special Act is silent on absences.
18. Turning to the facts of this case, after the vacancies of both Ms. Major and Mr. Doyle, the RTC failed to name a successor to fill the position. In both instances, the deputy stepped in and performed the duties of the registrar. Under either of the above analyses, it was appropriate for the deputy to act as such. Moreover, under both analyses, the RTC was still free to make a vacancy appointment at any time. They simply chose not to.
19. Accordingly, under these facts, § 9-192 acted as a backstop to the Special Act; the RTC was free to pursue its process—or not, it is not for the Commission to opine on a purely municipal issue—while the Office of the Registrars remained staffed and fully operational.
20. Considering the aforesaid, Count One should be dismissed.

COUNT TWO: Failing to Report the Proceeds of a Fundraiser

21. In Count Two, the Complainants allege that the RTC held a fundraiser on or about July 18th, and failed to report \$280 in proceeds raised by the fundraiser.
22. General Statutes § 9-608 reads, in pertinent part:
 - (a) (1) Each treasurer of a committee, other than a state central committee, shall file a statement, sworn under penalty of false statement with the proper authority in accordance with the provisions of section 9-603, (A) on the tenth calendar day in the months of January, April, July and October, . . .
 - (c) (1) Each statement filed under subsection (a), (e) or (f) of this section shall include, but not be limited to: (A) An itemized accounting of each contribution, if any, including the full name and complete address of each contributor and the amount of the contribution; . . . Each treasurer shall include in such statement (i) an itemized accounting of the receipts and expenditures relative to any testimonial affair held under the provisions of section 9-609 or any other fund-raising affair, which is referred to in subsection (b) of section 9-601a, and (ii) the date, location and a description of the affair, . . .

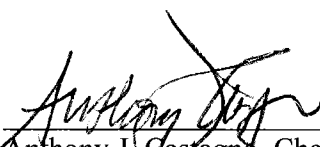
23. Respondent Jefferson Harris was at all times relevant to the instant Complaint the treasurer of the RTC.
24. Respondent Harris denies the allegation and asserts that each individual contribution from the event, totaling \$320, was accurately recorded by him at the event and reported in the RTC's October 10 quarter Campaign Finance Disclosure Statement. Respondent Harris provided copies of contemporaneous documentation of each contribution from the event.
25. After investigation, including but not limited to review of the reports and filings of the RTC, the Commission concludes that the RTC met its burden under General Statutes § 9-608. Accordingly, Count Two should be dismissed.

ORDER

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

Dismissed

Adopted this 15th day of June, 2016 at Hartford, Connecticut.



Anthony J. Castagno, Chairperson
By Order of the Commission