

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by David Godbout, East Lyme

File No. 2015-161

FINDINGS AND CONCLUSIONS

The Complainant alleged that at the November 3, 2015 General Election held in the town of East Lyme, Respondents Mark C. Nickerson and Holly H. Cheeseman, violated General Statutes § 9-236 by electioneering within the 75 foot zone leading to the entrance to the East Lyme Community Center polling place during the hours of voting.¹

BACKGROUND

1. On November 3, 2015 a municipal General Election was held in the town of East Lyme.
2. At all times relevant to the instant Complaint, Respondent Mark C. Nickerson was the incumbent candidate for First Selectman.
3. At all times relevant to the instant Complaint, Respondent Holly Cheeseman was an incumbent candidate for Selectman.
4. During all hours of voting, the East Lyme Community Center was utilized as a polling place.

LAW

5. General Statutes § 9-236 enumerates certain prohibitions on electioneering in and around a polling place, and reads, in pertinent part:

(a) On the day of any primary, referendum or election, *no person shall solicit on behalf of or in opposition to the candidacy of another or*

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.

himself or on behalf of or in opposition to any question being submitted at the election or referendum, or loiter or peddle or offer any advertising matter, ballot or circular to another person within a radius of seventy-five feet of any outside entrance in use as an entry to any polling place or in any corridor, passageway or other approach leading from any such outside entrance to such polling place or in any room opening upon any such corridor, passageway or approach. Nothing contained in this section shall be construed to prohibit (1) parent-teacher associations or parent-teacher organizations from holding bake sales or other fund-raising activities on the day of any primary, referendum or election in any school used as a polling place, provided such sales or activities shall not be held in the room in which the election booths are located, (2) the registrars of voters from directing the officials at a primary, referendum or election to distribute, within the restricted area, adhesive labels on which are imprinted the words "I Voted Today", or (3) the registrars of voters in a primary, election or referendum from jointly permitting nonpartisan activities to be conducted in a room other than the room in which the election booths are located. The registrars may jointly impose such conditions and limitations on such nonpartisan activity as deemed necessary to ensure the orderly process of voting. The moderator shall evict any person who in any way interferes with the orderly process of voting. . . .

...

(c) No person except those permitted or exempt under this section or section 9-236a and primary or election officials and party checkers appointed under section 9-235 shall be allowed within any polling place except for the purpose of casting his vote. Representatives of the news media shall be allowed to enter, remain within and leave any polling place or restricted area surrounding any polling place to observe the election, provided any such representative who in any way interferes with the orderly process of voting shall be evicted by the moderator. A number of students in grades four to twelve, inclusive, not to exceed four at any one time in any one polling place, may enter any polling place between twelve o'clock noon and three o'clock p.m. for the purpose of observing the activities taking place in the polling place, provided there is proper parental or teacher supervision present, and provided further, any such student who in any way interferes with the orderly process of voting shall be evicted by the moderator. An elector may be accompanied into any polling place by one or more children who are fifteen years of age or younger and supervised by the elector if

the elector is the parent or legal guardian of such children. (Emphasis added.)

ALLEGATIONS

6. The Complainant alleged that based on his personal observation, as well as photographs taken by the newspaper, The Day of New London, both Respondents were seen actively campaigning with the 75' zone enumerated in General Statutes § 9-236.
7. In support of his allegations, the Complainant included the photograph from The Day in which the Respondents are depicted standing with campaign signs in front of an East Lyme Community Center building and a doorway to that building.
8. Additionally, the Complainant included photographs, apparently taken on a day other than Election Day, depicting the 75' distance from a doorway to the East Lyme Community Center and depicting the Respondents' alleged placement within the 75' zone. He also included drawings of the East Lyme Community Center depicting his calculations of the 75' radii from three doorways leading from the building.

Respondents' Answer

9. The Respondents provided timely and detailed responses to the Complainant's allegations. In summary, the Respondents generally deny the allegations and specifically offer that the Complainant leaves out of his Complaint the fact that 3 doors were being used by voters on Election Day, but only 1 door was utilized by the voters as an entrance.
10. The Respondents assert that the measurements that the Complainant took and depicted in his photographs were from exit doors, not the entrance door, which was the only door that mattered for the purposes of General Statutes § 9-236.

Investigation

11. The investigation into this matter confirms the Respondents' assertions. Three doors were utilized at the East Lyme Community Center on Election Day November 3, 2015, but only one door was utilized as an entrance.
12. Moreover, the investigation revealed that in the photograph taken by The Day, the required 75' sign is obscured behind the Respondents, as they were in front of the sign, more than 75' from the entrance to the East Lyme Community Center.

Conclusion

13. General Statutes § 9-236 (a) only prohibits electioneering within 75' of any outside entrance leading to the polling place. This restriction does not apply to doorways in which voters are only exiting and/or doorways to the same building that are not being used as a designated entrance to access the polling place.
14. Considering the aforesaid, the Commission concludes that the evidence is insufficient to establish any violation by the Respondents. Accordingly, this matter 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