

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral by Newtown Registrar of Voters LeReine Frampton File No. 2022-016

FINDINGS AND CONCLUSIONS

The Referring Official, the Democratic Party Registrar of Voters in the Town of Newtown, alleged that Newtown elector Diane DeLillo unlawfully registered at an address of a commercial property at which she was not a bona fide resident.

Law

1. 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.)
2. "In addition to the statutory prongs of age, citizenship and geographic location identified above, an individual's bona fide residence must qualify as the place where that individual maintains a *true, fixed, and principal* home to which he or she, whenever transiently relocated, has a genuine intent to return." See, e.g., *In the Matter of a Referral by Manchester Registrars of Voters, Manchester*, File No. 2013-077 (emphasis added); *In the Matter of a Complaint by Gary Amato, North Haven*, File No. 2009-158 (2010); *In the Matter of a Complaint by Cicero Booker, Waterbury*, File No. 2007-157.

3. In other words, “bona fide residence” is generally synonymous with domicile. *Id.*; cf. *Hackett v. The City of New Haven*, 103 Conn. 157 (1925); *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. 2007-054.
4. The Commission has concluded, however, that “[t]he traditional rigid notion of ‘domicile’ has . . . given way somewhat but only to the extent that it has become an impractical standard for the purposes of determining voting residence (i.e., with respect to college students, the homeless, and individuals with multiple dwellings).” (Emphasis added.) *In the Matter of a Complaint by James Cropsey, Tilton, New Hampshire*, File No. 2008-047 (Emphasis added.). See also *Wit v. Berman*, 306 F.3d 1256, 1262 (2d Cir. 2002) (stating that under certain circumstances the domicile rule for voting residency can give rise to administrative difficulties which has led to a pragmatic application of that rule in New York); *Sims v. Vernon*, Superior Court, Fairfield County, No. 168024 (Dec. 22, 1977) (concluding that an absentee ballot of an individual should be counted as that individual was a bona fide resident of the town in which the ballot was cast.); *Farley v. Louzitis*, Superior Court, New London County, No. 41032 (Oct. 4, 1972) (considering issue of voter residency with respect to college students and stating that “a student, and a nonstudent as well, who satisfies the . . . residence requirement, may vote where he resides, without regard to the duration of his anticipated stay or the existence of another residence elsewhere. It is for him alone to say whether his voting interests at the residence he selects exceed his voting interests elsewhere.”) (Emphasis added.)
5. The Commission has previously concluded that “[a]n individual does not, therefore, have to intend to remain at a residence for an indefinite period for that residence to qualify as that individual’s bona fide residence.” *Referral by Manchester Registrars of Voters*, Manchester, File No. 2013-081; (quoting *In the Matter of a Complaint by James Cropsey, Tilton, New Hampshire*, File No. 2008-047). Rather, the individual only has to possess a present intention to remain at that residence. *Id.*; see also *Maksym v. Board of Election Com'rs of City of Chicago*, Illinois Supreme Court, Docket No. 111773 (January 27, 2011), 2011 WL 242421 at *8 (“[O]nce residency is established, the test is no longer physical presence but rather abandonment. Indeed, once a person has established residence, he or she can be physically absent from that residence for months or even years without having abandoned it. . . .”)
6. However, in order for a multiple-dwelling examination to be made, the person still must have sufficiently established that such person meets the criteria for bona fide residency in the first instance. See *Farley*, above. Then, and only then, may the person choose between such multiple dwellings. *Id.*

7. In *Poricelli*, the Commission acknowledged that in determining whether a dwelling is a person's "true, fixed, and principal home to which he or she, whenever transiently relocated, has a genuine intent to return" the Commission acknowledged that Connecticut follows the common law "bedroom rule."

8. The Commission determined in *Poricelli* that:

In the absence of 'liner' statutes, which Connecticut does not have for voting purposes, the general rule under the common law had been *where the individual rests his or her head at night*, or the 'bedroom rule,' and not the square footage rule utilized by the Registrars. See *Abington v. North Bridgewater*, 40 Mass. 170, 179 (1830): '[I]f a man has a dwellinghouse, situated partly within one jurisdiction and partly in another . . . he shall be deemed an inhabitant within that jurisdiction, within the limits of which he usually sleeps.' See also *Whitehouse v. Commissioner of Internal Revenue*, 963 F.2d 1 (1st Cir. 1992), *Blaine v. Murphy*, 265 F. 324 (D. Mass 1920); 25 Am. Jur. 2d Domicil §29 (1996). (Emphasis added.)

Poricelli at ¶ 51

9. Falsely registering at an address at which a person lacks bona fide residence, is a potential violation of General Statutes § 9-19j, 9-19k, 9-20, 9-23g, and/or 9-23h, depending on the method by which such person submits their registration.

Allegation

10. The Referring Official here alleged that on about October 15, 2020, her office received a Voter Registration Application ("VRA") for the Respondent, a previously registered Newtown elector, changing her address from a residential property to 274 South Main Street, Unit C5, which is an address of a commercially zoned strip mall in Newtown. The Referring Official asserted that Ms. DeLillo did not vote from this address.

11. According to the Referring Official, she contacted Ms. DeLillo's husband, Andy DeLillo, who asserted that the address was a business address for he and his wife at the time and that and that they moved to Florida within a few days of the registration date.

Investigation

The DeLillos

12. The property records in Palm Beach County Florida show that Andy and Diane DeLillo purchased a home in Boca Raton in 2016 and remain residents and owners at that address.
13. Despite best efforts, the investigation here was unable to obtain reliable contact information for Diane DeLillo or Andy DeLillo in Boca Raton, FL to confirm the information gleaned during the instant investigation.
14. However, the information obtained during the instant investigation suggests that the registration at the commercial address may have been inadvertent.

274 South Main Street, Unit C5, Newtown

15. The investigation here revealed that 274 South Main Street, Unit C5 was at the time of the registration the address of Towne & Country Health & Wellness, a retail shop owned by Mr. DeLillo.
16. Towne & Country Health & Wellness is no longer in business at that location. Florida and Connecticut corporate records show that the location was shut down and the business was moved to Boca Raton, FL, in 2020.
17. The investigation revealed that 274 South Main Street is a large retail property that is entirely commercially zoned, with no residential allowances.

Ms. DeLillo's History as a Connecticut Elector

18. As concerns Ms. DeLillo's history as an elector in Connecticut Ms. DeLillo first registered to vote in 2016 at a residential address in Newtown. Ms. DeLillo remained registered at this address until the aforementioned change in October 2020.
19. In 2017, Ms. DeLillo failed to respond to a canvass and was placed on the inactive registry list, where she remained until the October 15, 2020 change of address, which then caused her registration to become active again.
20. The records of the Newtown Registrars of Voters show that they received a change of address request for Ms. DeLillo through the Department of Motor Vehicles on or about October 13, 2020, which they implemented or about October 15, 2020.

21. After the October 15, 2020 change of address to the commercial location, the records of the Newtown Registrars of Voters show that Ms. DeLillo responded to a canvass card generated by the National Change of Address System (“NCOA”) on or about May 11, 2021, which flagged her as moving out of town.
22. Ms. DeLillo returned the card on or about April 29, 2021, confirming that she no longer lived in Newtown, at which point the Newtown Registrars of Voters took her off the registry list.
23. The records of the Newtown Registrars of Voters show that Ms. DeLillo never voted in Connecticut using this registration.

Analysis

24. Turning to the question here, while the Commission investigation was unable to reach either Ms. DeLillo or her husband, Ms. DeLillo’s registration history provides sufficient information to make a determination.
25. The records of the Newtown Registrars of Voters strongly evidence that Ms. DeLillo was unaware that the October 13, 2020 change of address with the DMV would affect a change to her voter registration address and/or status.
26. Further, the records strongly suggest that Ms. DeLillo may have been altogether unaware that such a registration even continued to exist in her name until the Referring Official reached her husband Andy after receiving the DMV change of address on or about October 15, 2020. .
27. The evidence establishes that Ms. DeLillo knowingly registered to vote once in 2016, became an inactive voter less than a year later, and remained inactive through the fall of 2020, which appears to be the time where she made her permanent home in Boca Raton, FL.
28. By default, a change of address at the DMV effects a change of address of an elector’s voter registration, unless the elector specifically opts out. It is not uncommon for electors to fail to realize this, despite the warnings on the DMV form.
29. Notwithstanding the above, upon receiving the NCOA notice in spring of 2021, Ms. DeLillo almost immediately returned the card confirming that she was not a resident of Connecticut.

30. Considering the aforesaid, Ms. DeLillo's actions could constitute a potential violation of General Statutes § 9-19k, 9-20, 9-23g, and/or 9-23h. It is impermissible to register to vote at an address at which you do not reside.

31. However, considering the available evidence and the totality of the circumstances here, it is unnecessary to take any further action.

ORDER

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

No Further Action.

Adopted this 20th day of April, 2022 at Hartford, Connecticut.



Stephen T. Penny, Chairperson
By Order of the Commission