
TO: Truro Board of Registrars
FROM: Lauren F. Goldberg, Esq.
RE: Residency Challenge Hearings
DATE: November 3, 2023

Basic Election Law Issues

1. The right to vote is sacred
2. The law places significant responsibility on the voter through signing of affidavit
3. Removing a voter from the Register against their wishes is a significant act and must be supported by evidence personal and specific to that voter that they are no longer eligible to vote in Truro
4. Election laws create a framework to protect the right to vote and to prevent fraud
5. The state process for identifying people that may have moved includes the voter responding to an annual census and/or failing to take a voting action for four years; there are many checks and balances, including direct communication to the voter
6. A person can have only one domicile at a time for voting purposes, their “home”
7. They can establish a new domicile if they eat and sleep at the new location and intend to stay
8. A domicile is the center of a person’s “domestic, social and civil life”
9. Residency for voting purposes is not only about subjective intent, it must also be demonstrated through objective evidence
10. A person who is forced to leave a place may not have established a new domicile, because they intend to go back to the first location and evidence of that intent is objectively demonstrated (e.g., a person is forced to leave their home during a separation but rents for a short period while things are sorted)
11. A person who spends time in two places can only be “domiciled” in one place for purposes of voting (e.g., snow birds)
12. A person who lives elsewhere, but evidence demonstrates an intent to return, will keep their original domicile (e.g., on sabbatical)

Standards of Evidence

1. The Registrars' findings are based on "substantial evidence", which is defined as "such evidence as a reasonable mind might accept as adequate to support a conclusion." G. L. c.30A, § 1(6); Capezutto v. State Ballot Law Commission, 407 Mass. 949, 952 (1990); Hershkoff v. Registrars of Voters of Worcester, 366 Mass. 570, 574 (1974).
2. In proceedings before the Registrars, the objector has the burden of going forward. Hamill v. Sawyer, State Ballot Law Commission ("SBLC") 90-14 (June 27, 1990).
3. The objector must meet his burden of proof by proving his allegations by a preponderance of the evidence, i.e., in this context, demonstrating that it is more likely than not that a person is not properly registered in the Town. DeJong v. Owens, SBLC 90-10 (June 22, 1990).

Alternative Motions

(Testimony from Voter – Remain on List)

I move, based upon the testimony provided today by _____, and the documents from the Objector and the Board of Registrars entered into evidence, that the Complainant has failed to demonstrate facts that _____ is improperly registered in Truro and further that this challenge be dismissed

Facts: 1

2

3

(NO Testimony from Voter – Remain on List)

I move, based solely upon the documents supporting the complaint and submitted by the Objector, and those from the Board of Registrars entered into evidence, that the Complainant has failed to demonstrate facts that _____ is improperly registered in Truro, and further that this challenge be dismissed.

Facts: 1

2

3

(Testimony from Voter – Remove from List)

I move, based upon the testimony provided today by _____, and the documents supporting the complaint and submitted by the Objector and Board of Registrars entered into evidence, that sufficient facts exist to make out a prima facie case that _____ be struck from the Truro Register of Voters.

Facts: 1

2

3

(NO Testimony from Voter – Remove from List)

I move, based solely upon the documents supporting the Complaint and submitted by the Objector and Board of Registrars entered into evidence, that the Complainant entered into evidence that sufficient facts exist to make out a prima facie case that , _____ be struck from the Truro Register of Voters.

Facts: 1

2

3

Possible Next Steps, if any:

1. Registrars look further into this allegation after the Town Meeting; bring their own complaint challenging residency pursuant to G.L. c.51, §47.
2. Registrars ask Town Clerk about flagging voters where the Board has concerns, such as asking for ID
3. Registrars ask Town Clerk to challenge voter at polls based upon facts personal and specific to the voter that suggest that the voter is not living in Truro and may be ineligible to vote.
4. Registrars could refer issue to the DA for further investigation