
TO: Truro Town Manager Darrin Tangeman (*By Electronic Mail Only*)

FROM: Lauren F. Goldberg, Esq.

RE: Residence for Voting Purposes

DATE: October 10, 2023

Question

You have requested information concerning the standards applicable to residency for voting purposes.

Short Answer

The definition of “residency for voting purposes” is both complicated and complex. A person may have only one residence for voting purposes - the place the person eats and sleeps and that serves as the center of their social and civic life. A person retains their residence for voting purposes until the objective facts concerning that person’s domicile demonstrate that they have established a new residence for voting purposes. In other words, each case depends directly on the relevant facts.

Detailed Analysis

Under state law, a person must register to vote in the municipality in which they reside. See G.L. c.51. “The words ‘resided’ and ‘inhabitant’ in constitutional and statutory provisions relating to voting have long been construed to require that the voter have [her] ‘domicil’ in the appropriate city or town.” Hershkoff v. Ballot Law Commission of Registrars, 366 Mass. 570, 576 (1974).

Established case law defines the concept of “domicil” as follows:

Every person must have a domicil, and [s]he can have only one domicil at a time, at least for the same purpose. A person's domicil is usually the place where [s]he has [her] home. Home is the place where a person dwells and which is the center of his domestic, social and civil life. A change of domicil takes place when a person with capacity to change [her] domicil is physically present in a place and intends to make that place [her] home for the time at least; 'the fact and intent must concur.'

See Hershkoff, 366 Mass. 576-77; See also Coulombre v Board of Registrars of Voters of Worcester, 3 Mass.App.Ct. 206, 208 (1975), and Dane v. Board of Registrars of Concord, 374 Mass. 152, 161 (1978).

Stated differently, “domicil,” for purposes of G.L. c.51, §1 means the place a person subjectively thinks of as “home” and which, based on objective evidence, appears to be her “home,” as that term is commonly understood. In order for a voter to lose her residence for voting purposes, she must establish residence for voting purposes in another location.

“The right to vote is a sacred exercise. Every rational intendment is to be made in favor of its rightful exercise.” O'Brien v. Election Commissioners of Boston, 257 Mass. 332, 338 (1926). The Secretary of the Commonwealth, in the booklet entitled “Residence for Voting Purposes”, advises further that:

After turning eighteen . . . a person may acquire a new residence unless the person lacks the necessary mental capacity. In order to gain such a new residence at a place two things are necessary:

1. The person must be physically present at the place, that is, the person must eat and sleep there; and
2. The person must actually intend to make the place “home at least for the time being”.

Thus, there must be evidence of residency based on objective factors. Evidence of domicile may include, for example:

- ✓ the amount of time spent in various places,
- ✓ former residences,
- ✓ current and former voter registrations,
- ✓ current and former street listings,
- ✓ future plans,
- ✓ income taxes,
- ✓ bank accounts,
- ✓ telephone listings,
- ✓ places of employment,
- ✓ Homestead or residential exemption documents,
- ✓ library, gym and club memberships,
- ✓ location of important memorabilia and documents,
- ✓ religious, social and political affiliations, such as clubs, board positions, membership in associations, involvement in municipal activities,
- ✓ children’s attendance at local schools,
- ✓ location of health care providers,
- ✓ vehicle registration,
- ✓ attendance at town meetings and meetings of boards and committees,
- ✓ business interests,
- ✓ address for telephone, gas, and other bills, and
- ✓ charitable interests.

Based on these standards generally, consideration may be given to the following scenarios:

College students – as noted, most college students retain their domicile at their parents' address, but can change their residency, for example, by renting and living in an apartment in the college town for the entire year, provided that there is other objective evidence that they have “moved” to the college town, such as working locally, a library card, bank account, etc.

Snowbirds – having a second residence in Florida or Arizona, for example, that a couple travels to each year for several months would not likely constitute a change in domicile from a Massachusetts town to the new location; if, for example, the individuals do not plan to spend all of their time at the other location, spend most of their time in the town and have other objective evidence of domicile in the town, such as serving on elected or appointed boards, serving in local non-profits, state license and insurance at the Massachusetts town address, etc.

Sabbaticals – typically, a sabbatical would not create a change in residence; a sabbatical is for a limited period of time, there is typically no intent to “stay” at the other location and instead the plan is to return “home” after the allotted period of time.

Similarly, scenarios involving divorce or separation, world travel, hospitalizations, and other instances where a person has a second or part-time residence may raise such issues.

Summary

In short, whether a person's domicile is in one place or another requires subjective intent, and more importantly, objective facts so demonstrating.

Please let me know if I can answer any further questions.