

State Elections Enforcement Commission



2014 REGISTRAR OF VOTERS CONFERENCE

Kevin M. Ahern – Staff Attorney
Law Enforcement Unit

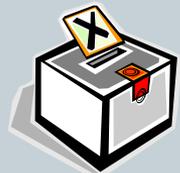
Duties and Responsibilities of Commission Staff



- Assist candidates and campaign staff
- Research and answer questions about campaign finance compliance
- Provide Campaign Finance Education Seminars
- Perform Audits
- Recommend Legislative Changes
- Administer and Maintain Electronic Campaign Reporting Information System (eCRIS)
- Investigate Complaints and Enforce Law



Elections Ecosystem



	<i>Compliance</i>	<i>Execution</i>	<i>Law Enforcement</i>
<i>Campaign Finance</i>	SEEC	SEEC & Town Clerks	SEEC (& State's Attorney/FBI)
<i>Election Administration</i>	SOTS	SOTS, <u>Registrars</u> & Town Clerks	SEEC (& State's Attorney/FBI)

Discussion Points

- Key SEEC cases from the past year.
- Anonymity of Cases
- Questions/Hypotheticals



Bona Fide Residence—Dwellings in More than One Town



- General Statutes § 9-12
 - (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 . . . be an elector, . . . 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**



Bona Fide Residence—Dwellings in More than One Town



- Registration requirements:*

<i>Category</i>	<i>Requirement</i>	<i>Legal Authority</i>
Citizenship	U.S. Citizen	C.G.S § 9-12
Age	18	C.G.S § 9-12
Residency	Bona Fide Resident of Town Dwelling Unit Located w/in Town	Common Law & C.G.S § 9-12



* (Unless disenfranchised due to felony)

Bona Fide Residence—Dwellings in More than One Town



- *Porricelli v. SEEC*
- Public Act No. 07-194
 - Geographic Area Sub-Prong Codified into § 9-12
 - SEEC Given Authority to Determine Residency and Take Appeals of Residency Determinations



Bona Fide Residence—Dwellings in More than One Town



- Common law still controls all other aspects of bona fide residency.
 - “The place where [an] individual maintains a true, fixed, and principal home to which he or she, whenever transiently relocated, has a genuine intent to return.”



Bona Fide Residence—Dwellings in More than One Town



- Geographic Location of Dwelling Unit.
 - “if such person’s dwelling unit is located within the geographic boundaries of such town.”
- *In re: Referral by Westport Registrars of Voters*
File Nos. 2013-100, 2013-101, 2013-102
- File Nos. 2013-101, 2013-102 straightforward



Bona Fide Residence—Dwellings in More than One Town



- File No. 2013-100, portion of dwelling unit (house), located in TWO towns
- Key Facts:
 - Approx. 10% in Town B, 90% in Town A
 - *Professional Survey*
 - Mailing Address in Town A
 - Significant connections to Town A
 - Voters registered in Town A



Bona Fide Residence—Dwellings in More than One Town



- Key Questions:
 - What is a dwelling unit?
 - How much of the dwelling unit needs to be located within the town?
 - What evidence is sufficient to establish dwelling unit's physical presence within town?
 - If dwelling unit is located within more than one town, which town wins?



Bona Fide Residence—Dwellings in More than One Town



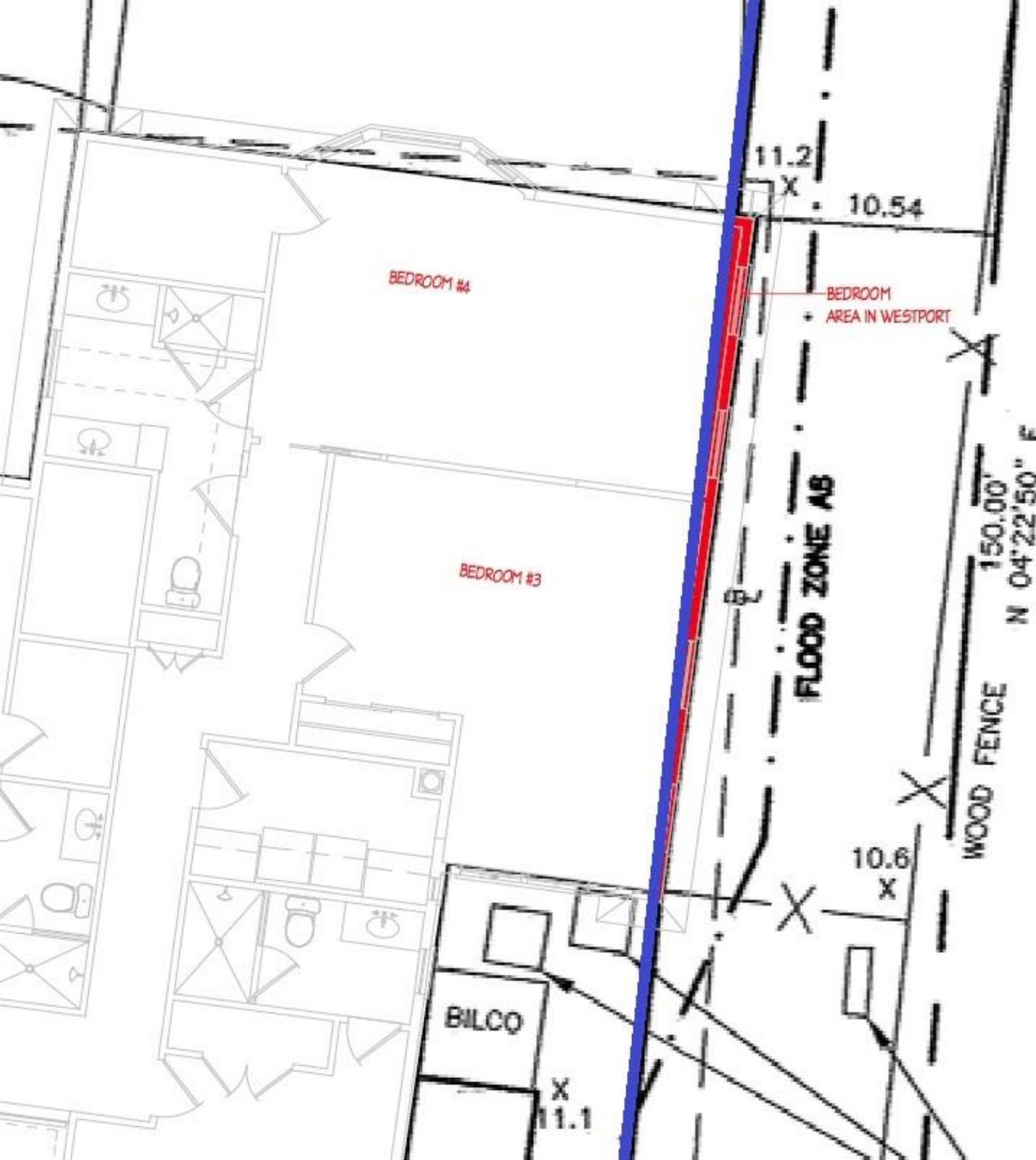
- **What is a dwelling unit?**
- SEEC looked to other statutes:
 - General Statutes §§ 47a-1 (c), 7-148hh, 47a-50 (3)
- General Statutes §§ 47a-1 (c)
 - (c) “Dwelling unit” means any house or building, or portion thereof, which is occupied, is designed to be occupied, or is rented, leased or hired out to be occupied, as a home or residence of one or more persons. . . .



Bona Fide Residence—Dwellings in More than One Town

- **How much of the dwelling unit needs to be located within the town?**
 - No limitation.





N/F
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23 COWLEE DRIVE (WESTPORT)
A02/040

Bona Fide Residence—Dwellings in More than One Town

- If dwelling unit is located within more than one town, which town wins?
 - Geographic location is *compelling*, but not *wholly* determinative
 - Bona fide residence analysis determines.
 - If voter has legitimate, significant, and continuing attachments to both jurisdictions such that either could qualify as a bona fide residence town, voter may choose.*



*(But only one!)

Bona Fide Residence—Dwellings in More than One Town



- **Open Questions**

- E.g., what structures constitute a dwelling unit or a portion of a dwelling unit? Attached garage? Birdfeeder?



Conflict of Laws and Curbside Voting



- Case Citation: File No. 2012-097
- Facts:
 - Children barred from polling place by asbestos mitigation.
 - ROVs instituted curbside voting for voters.
 - General Statutes § 9-261 (b)



Conflict of Laws and Curbside Voting



- HOLDINGS:
 - ROVs shouldn't enforce laws outside of Title 9 when those laws conflict with their statutory responsibilities. See also, File No. 2013-133.
 - Curbside voting only for those voters who experience a temporary physical/mental incapacity at the polling place.



ROV vs. ROV and Unilateral Task Performance



- Case Citations: File Nos. 2013-105 & 2013-040A:
- Key facts:
 - ROV A performing shared duties without involving ROV B
 - ROV B files SEEC complaint against ROV A



ROV vs. ROV and Unilateral Task Performance



- HOLDING:
 - Majority of duties of registrars required to be performed by both.
 - A breach of decorum/best practice not necessarily a breach of law.
 - Some must be performed bi-laterally. E.g., testing machines.
 - SEEC Complaints against your fellow registrar not encouraged.
 - May blow back on you if duty is shared.



Candidates as Election Official



- Case Citations: File Nos. 2011-151 & 2014-021
- General Statutes § 9-258
- Key Facts:
 - 2011-151
 - ROV was also candidate for BOE, spotted near AB Central Counting
 - 2014-021
 - Head moderator was also candidate for Town Committee
 - Had moderator for his district report the results involving his candidacy

Candidates as Election Official



- HOLDINGS
 - General holding in both cases was that General Statutes § 9-258 does not permit a candidate to be an election official except registrars and town clerks
 - 2011-151: ROV may act as ROV, but not in another other role
 - 2014-021: Head moderator is an “election official” under General Statutes § 9-258 and there is no exception.

75' Signs and Purely Local Elections and Referenda



- Case Citation: File No. 2013-089B
- Key Facts:
 - Small town held election to fill vacancy on BOE after adjourned town meeting per town ordinance.
 - Vote taken by paper ballot.
 - Very small turnout.
 - ROVs did not post 75' signs, but did orally advise candidates, when prompted, to keep electioneering an approximate distance away

75' Signs and Purely Local Elections and Referenda



- HOLDING

- General Statutes § 9-236 (b) requires that signs be posted for all elections, primaries and referenda.
- Does not matter how small and/or local the vote or that the vote was taken by paper ballot.

Supervised AB: Designees as Assistors and Notification of Conservators



- Case Citation: 2013-001
- General Statutes §§ 9-159q, 9-159r and 9-159s
- Key Facts:
 - Voter permanently mentally and physically disabled, living in institution.
 - Voter's conservator unaware that he was registered to vote and voting for years.
 - Conservator questioning voter's capacity
 - Supervised AB designees assisted voter in marking his ballot, but did not sign "declaration of person proving assistance" section.

Supervised AB: Designees as Assistors and Notification of Conservators



- HOLDINGS

- Institutions required to notice conservators of registration and/or voting opportunities
- Elections officials do not have authority to decide capacity.
 - Capacity for a probate judge to decide.
- All assistors must sign AB as an assistor, even elections officials.

Supervised AB: Marking AB Outside of Presence of Elections Officials



- Case Citation: 2014-006
- General Statutes §§ 9-159q and 9-159r
- Key Facts
 - AB voter at institution wished to take ballot back to her room to mark in private.
 - Supervised AB designees refused to allow marking of ballot outside of designated area.
 - Voter required to mark ballot at table.
 - AB voter accused Supervised AB designees of violating her right to a secret ballot.

Supervised AB: Marking AB Outside of Presence of Elections Officials



- HOLDINGS
 - Supervised ABs must be marked in presence of the Supervised AB designees
 - Right to secret ballot means the right to keep your selections private/secret NOT that you get to mark your ballot in seclusion.

Where to Find SEEC Cases



- Online

- *www.ct.gov/seec*
 - Click “Commission Decisions” in left nav bar
 - Search by keyword, or pick case from list.
 - E-mail “seec@ct.gov” if you can’t find a case

- SEEC Library

- 20 Trinity St., Hartford, CT
- Every SEEC legal decision bound and organized by year and category.

