

BEFORE THE CANVASSING BOARD
THURSTON COUNTY, WASHINGTON

John Clabaugh Voter Registration Challenge of
Anesh Andrus Voter Registration

DECISION

I. Introduction

A voter registration challenge was filed on September 11, 2023, under the provisions of RCW 29A.08.810. John Clabaugh (Challenger) filed the challenge alleging that Anesh Andrus (Challenged Voter) does not reside at 7113 Rothenberg Dr SW, Tumwater, WA 98512, the address listed on his voter registration record. The Challenger provided notification of this challenge to the Challenged Voter via certified mail on July 7, 2023.

The hearing on the challenge was convened on October 17, 2023 at 3:45 p.m. The required Notice of hearing was provided to the Challenged Voter and to the Challenger. The purpose of the hearing was to allow all parties the opportunity to present their facts and arguments.

Present at the hearing was Mary Hall, Thurston County Auditor, Karen Horowitz, Senior Deputy Prosecuting Attorney, Lynnette Milton, Elections Supervisor, Tillie Naputi-Pullar, Elections Manager, the Challenger, and members of the public. The Challenged Voter did not appear at the hearing, nor did he submit any documentation disputing the Challenger's evidence.

II. Evidence and Argument

The Challenger alleges that the Challenged Voter does not reside at the address listed on his voter registration, 7113 Rothenberg Dr SW, Tumwater, WA 98512. The Challenger submitted the documents, listed in the Evidence Log attached and incorporated in this Order, into the record to support his challenge. In addition, the Challenger testified under oath at the hearing.

The Elections Staff submitted into the record the current voter registration records on file in the Auditor's Office of the Challenged Voter. In addition, Elections Staff submitted additional evidence of their continued attempts of their efforts to reach the Challenged Voter. Staff received information from the Challenged Voter's mother clarifying that the address where her son lives is *not* 7113 but instead is **7115**

Rothenberg DR SW, Tumwater, WA 98512. The Challenged Voter's registration address of 7113 Rothenberg DR SW, Tumwater, WA 98512 was essentially a scrivener's error. Staff has since updated the Challenged Voter's registration card to reflect the correct address to 7115 Rothenberg DR SW, Tumwater, WA 98512. The Elections Staff's documents are listed in the Evidence Log attached to this Order.

III. Legal Principles, Findings and Conclusions

The issue before the Thurston County Auditor is whether the Challenged Voter has a right to vote in the precinct associated with the address 7113 Rothenberg Dr SW, Tumwater, WA 98512. A voter may lose his right to vote if they do not live at the residential address provided on their voter registration. RCW 29A.08.810(1) (a-c) and RCW 29A.08.840 (5).

Before the Challenged Voter can lose their right to vote in the assigned precinct, the Challenger has the burden to prove by clear and convincing evidence that the Challenged Voter does not reside at the address on their voter registration. RCW 29A.08.840. "Residence" for purposes of registering and voting means "a person's permanent address where he or she physically resides and maintains his or her abode." RCW 29A.04.151. Residency is a fact specific inquiry and requires physical presence and an intention to make a place one's home. *Freund v. Hastie*, 13 Wn. App. 731, 734-35 (1975). If either physical residence or the intent to presently make that place a permanent home is lacking, residence will not be established. *Id.*

"If the challenger fails to prove by clear and convincing evidence that the registration is improper, the challenge must be dismissed and the pending challenged ballot must be accepted as valid." RCW 29A.08.840(6). The courts of this state have described clear and convincing evidence as sufficient to convince the trier of fact that the "fact in issue is 'highly probable.'" *Colonial Imports v. Carlton N.W.*, 121 Wn.2d 726, 735 (1993). Therefore, the ultimate question to be answered in this matter is whether the Challenger has proven, based on the evidence, that it is highly probable that the Challenged Voter does not live at 7113 Rothenberg Dr SW, Tumwater, WA 98512 and does *not* reside at the 7713 Rothenberg Dr SW address for voter registration purposes.

Having reviewed the undisputed documents and testimony submitted by the Challenger, we find that the Challenger did not meet the high burden of proof set forth in RCW 29A.08.810(1)(c)(ii) (A-E). The Challenged Voter does live at the residence listed in his current updated voter registration records.

IV. Decision

For the reasons stated above, the challenge to the Challenged Voter's voter registration is denied.

DATE:

Oct 27, 2023

ATTEST:

L. Milton

Lynnette Milton (Oct 27, 2023 14:54 PDT)

Clerk of the Board

Mary Hall

Mary Hall (Oct 27, 2023 15:05 PDT)

Mary Hall, Auditor