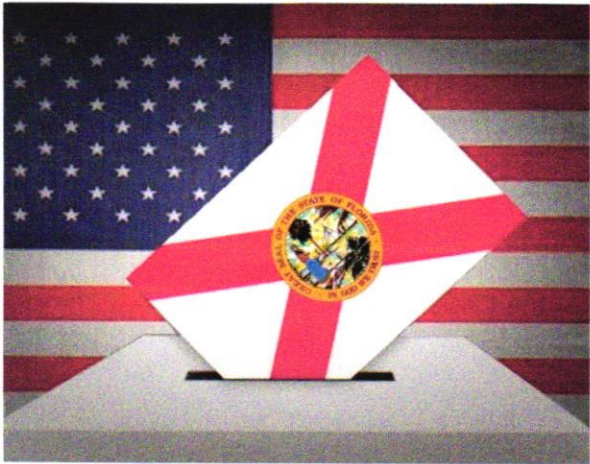


# Election Facts and Recommendations for 2023-2024



*Presented by*

Lake County Election Integrity and Voter Protection

## Table of Contents

### **1. Introduction and the People’s Opinions**

Honest Elections Project Polling Data

### **2. Legislative Recommendations**

- Optional Hand Counting at Precinct
- End Universal No-Excuse VBM
- Reactivating Inactive Voters)

### **3. Florida Residency**

- Verification Violations and Inconsistent Application of Eligibility Requirements
- Acceptance of Voter Registration Application

### **4. Supervisors of Elections and the Public**

- Harassment data
- Election center
- FSE

### **5. Supporting Documentation and Reference**

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# HONEST ELECTIONS PROJECT

*Recent polling sponsored by Honest Elections Project Action shows Americans support many of the key provisions of House Republicans' recently introduced and federalism-focused election integrity measure - the ACE Act - and disagree with many of the provisions put forth in the Democrats' comprehensive federal election overhaul legislation. Despite inflamed rhetoric from figures such as President Biden, Barack Obama, and Marc Elias, election integrity remains popular.*

## **Election Integrity Measures Remain Popular**

**Every state should require a photo ID when voting.** Support for photo ID laws has grown to an astounding 88%, with 68% strongly agreeing that photo ID should be required when voting.

- 82% of Black and 83% of Hispanic voters favor photo ID laws.
- Only 9% of Americans think ID laws should be eliminated because some voters may not have an ID.
- 80% prefer to offer free IDs to voters who do not already have one—the solution adopted by every state with a photo ID law.

**Non-citizens and children should not be voting in elections.** Liberal cities like Washington, D.C. and New York City have passed laws enfranchising non-citizens and illegal aliens, but only 9% think non-citizens should be voting.

- 89% think that American elections should only be for American citizens, including 82% of Democrats, 80% of Black voters, and 78% of Hispanic voters.
- 72% of Americans reject lowering the voting age to 16.

**The public demands transparency and accountability in elections.**

- 86% of Americans think every election office should routinely undergo a full performance review and audit.

## **Americans Support Responsible, But Not Unlimited, Mail-In-Voting Policies**

**Americans reject left-wing mail voting policies.** Left-wing activists demand all-mail elections, permanent mail voting lists, vote trafficking, and deadlines that let mail ballots come in days or weeks after Election Day. Americans embrace none of these goals.

- 76% of Americans think that voting in person is better than voting by mail.
- 73% reject automatically sending ballots without a voter's request.
- 74% think that vote trafficking (harvesting) should be illegal.
- 89% believe every ballot should be received by Election Day.

**Americans support limiting mail voting in favor of early in-person voting.** 66% of Americans support ending no-excuse mail voting as long as states offer two weeks of early in-person voting, including weekends.

- 55% of Black and 69% of Hispanic voters support limiting mail voting to military service members, senior citizens, disabled voters, and citizens who will be absent on Election Day.

**Americans embrace two weeks or less of early in-person voting.** 78% of Americans believe states should offer 14 days or less of early in-person voting. 52% support just seven days or less of early voting.

- 59% of Black and 59% of Hispanic voters support just seven days or less of early in-person voting. 57% of Democrats agree.
- Just 13% of Americans embrace the progressive position that early voting should begin more than a month before Election Day.

## **Americans Reject Foreign Influence in Election Administration**

**78% of Americans think foreign nationals should not be influencing elections.**

- Swiss billionaire Hansjorg Wyss has pumped \$475 million into American politics through an array of dark money groups, including the progressive Arabella Advisors network.
- Hansjorg Wyss has funneled millions of dollars to New Venture Fund, a grant making entity in the Arabella Advisors network.
- New Venture Fund has given nearly \$25 million to the Center for Tech and Civic Life (CTCL), the group behind "Zuck Bucks" in 2020 and that now leads the U.S. Alliance for Election Excellence, a collaborative of left-wing organizations influencing and bankrolling election administration offices.

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## **Optional hand counting of ballots at precinct level**

Grassroots organizations have demonstrated hand counting is a viable option.

Hand counting provides transparency for the citizens.

A majority of likely voters believe that elections are corrupted by widespread fraud.

Canvassing election results demonstrate manipulation of the results, ie. Method of voting not counted correctly as cast.

Fingerprints of Fraud:

Cast vote records are basically a play-by-play review of the election.

They are part of the public record.

Cast Vote Records from across the United States show mathematically impossible voting patterns, that shockingly demonstrate a predictive and intentionally manufactured similarity.

Floridians must prevent a federal takeover of our elections. Local control is key.

**101.5604 Adoption of system; procurement of equipment; commercial tabulations.**—The board of county commissioners of any county, at any regular meeting or a special meeting called for the purpose, **may**, upon consultation with the supervisor of elections, adopt, purchase or otherwise procure, and provide for the use of any electronic or electromechanical voting system approved by the Department of State in all or a portion of the election precincts of that county. Thereafter the electronic or electromechanical voting system **may** be used for voting at all elections for public and party offices and on all measures and for receiving, registering, and counting the votes thereof in such election precincts as the governing body directs. A county ~~must~~ may use an electronic or electromechanical precinct-count tabulation voting system. A county may choose to hand count the ballots at the precinct level.

## End universal no-excuse vote by mail ballots.

Return to excuse only absentee voting as vote by mail has been proven to be the largest source of fraud in the election process.

The bi-partisan Carter-Baker Commission declared VBM to be RIFE WITH FRAUD:

No chain of custody.

Signature verification is subjective and now performed largely by machines.

No voter ID is required.

VBM disenfranchises in-person voters due to the ease of inserting fake ballots.

Citizens have proven vote by mail ballots are being voted from undeliverable addresses.

### 101.62 Request for vote-by-mail-ballots.—

(a) The supervisor shall accept a request for a vote-by-mail ballot only from a voter or, if directly instructed by the voter, a member of the voter's immediate family or the voter's legal guardian. A request may be made in person, in writing, by telephone, or through the supervisor's website. The department shall prescribe by rule by October 1, 2023, a uniform statewide application to make a written request for a vote-by-mail ballot which includes fields for all information required in this subsection. One of several allowed reasons for requiring vote by mail must be given and attested to. Allowable reasons include: 1. Voter is confined to their home or otherwise physically unable to vote in person, 2. Voter will be out of state during the entire voting period, 3. Voter is 80 years of age or older.

One request is deemed sufficient to receive a vote-by-mail ballot for all elections through the end of the calendar year of the next regularly scheduled general election, unless the voter or the voter's designee indicates at the time the request is made the elections within such period for which the voter desires to receive a vote-by-mail ballot. The supervisor must cancel a request for a vote-by-mail ballot when any first-class return service requested mail or nonforwardable mail sent by the supervisor to the voter is returned as undeliverable. If the voter requests a vote-by-mail ballot thereafter, the voter must provide or confirm his or her current residential address in a written request with their signature and include the voter's Florida driver license number, the voter's Florida identification card number, or the last four digits of the voter's social security number.

## Reactivating inactive voters

Current law states that inactive voters can be reactivated by the mere request for a vote by mail ballot without providing updated residency and identification.

Address “flipping” is occurring within the registration database; ie. Red Belly Road, INA vs. ACT across the state (The People’s Audit).

### **98.065 Registration list maintenance programs.—**

(d) The supervisor must designate as inactive all voters who have been sent an address confirmation final notice and who have not returned the postage prepaid, preaddressed return form within 30 days or for which the final notice has been returned as undeliverable. Names on the inactive list may not be used to calculate the number of signatures needed on any petition. A voter on the inactive list may be restored to the active list of voters upon the voter updating his or her registration and confirming his or her current address of legal residence and providing voter identification, ~~requesting a vote-by-mail ballot and confirming his or her current address of legal residence~~, or appearing to vote and confirming his or her current address of legal residence and providing voter identification. However, if the voter does not update his or her voter registration information, ~~request a vote-by-mail ballot~~, or vote by the second general election after being placed on the inactive list, the voter’s name shall be removed from the statewide voter registration system and the voter shall be required to reregister to have his or her name restored to the statewide voter registration system.



The legal writing scholars suggest using “must” instead of “shall” for a mandatory word because “shall has become so corrupted by misuse that it has no firm meaning. It can mean ‘must,’ ‘should,’ ‘will,’ ‘may,’ or ‘is.’ (Joseph Kimble, *Lifting the Fog of Legalese*, 160 (2006).

“Must” is required to.

“Must not” is required not to; is disallowed.

“May” has discretion to; is permitted to.

“May not” is not permitted to; is disallowed from.

“Is entitled to” has a right to.

“Should” ought to.

“Will” means one of the following:

- (a) To express a future contingency.
- (b) In an adhesion contract, to express the strong party’s obligations.
- (c) In a delicate contract between equals, to express both parties’ obligations.

**Recommendation:** *(underline new)*

**97.053 Acceptance of voter registration applications.—**

(6) A voter registration application, including an application with a change in name, address, or party affiliation, may be accepted as valid only after the department has verified the authenticity or nonexistence of the driver license number, the Florida identification card number, or the last four digits of the social security number, legal residential address provided by the applicant. If a completed voter registration application has been received by the book-closing deadline but the driver license number, the Florida identification card number, or the last four digits of the social security number, legal residential address provided by the applicant cannot be verified, the applicant shall be notified that the number cannot be verified and that the applicant must provide evidence to the supervisor sufficient to verify the authenticity of the applicant's driver license number, Florida identification card number, or last four digits of the social security number, legal residential address. If the applicant provides the necessary evidence, the supervisor shall place the applicant's name on the registration rolls as an active voter. If the applicant has not provided the necessary evidence or the number has not otherwise been verified prior to the applicant presenting himself or herself to vote, the applicant shall be provided a provisional ballot. The provisional ballot shall be counted only if the number is verified by the end of the canvassing period or if the applicant presents evidence to the supervisor of elections sufficient to verify the authenticity of the applicant's driver license number, Florida identification card number, or last four digits of the social security number no later than 5 p.m. of the second day following the election.

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## PRESUMPTIVELY INELIGIBLE VOTERS

### CASE PRECEDENT:

1. **2018** Kinney v Putnam County –FL DCA, 5<sup>TH</sup> District
  - a. "...election should not be set aside unless a court finds substantial non-compliance with a statutory election procedure and also make a factual determination that reasonable doubt exists as to whether a certified election expressed the will of the voters" (FS 102.168).
  - b. "Mere interest in and connection to a county are **insufficient** to allow those who reside outside a county to maintain a voice in its elections" (FS 101.045). In Kinney, the **court found voters to "not be the type of temporary absence contemplated by section 101.045(1). Therefore, the supervisor's and the trial court's determinations that those others were eligible to vote in the election were incorrect."**
  - c. In Kinney, the Appellant did not present evidence whether potentially-ineligible voters voted... (FL Constitution art 6 4(a), art 10 10, FS 201.168, FS 104.15).
  
2. **2006** DeQuervain/Maisch v FL Dept of Revenue, Charlotte County Property Appraiser, Tax Collector – FL DCA 2<sup>nd</sup> District
  - a. Denial of Homestead exemption because owners could not prove permanent residency.
  - b. Denied even though **owners lived and worked in county for 5 years**, held driver licenses and social security numbers and filed Declaration of Domicile
  - c. When *determining* exemption, and because it provides relief from Ad Valorem tax, "**we must construe the statute strictly against them.**"

### FLORIDA DIVISION OF ELECTIONS LEGAL ADVISORY (DE18-09):

**Not Legal Residents** without Past or Present Physical Presence.

1. Declaration of Domicile and Driver License alone DO NOT prove legal residence.
2. Social Security Number and Driver License is for **identification purposes, not legal residency.**
3. It is "unlikely that a customer of the Mail Forwarding Service is a legal resident..."
4. The Mail Forwarding Service advertises how customers..."declare domicile and register to vote, **without regard to past or present physical presence..."**
5. Mail Forwarding services are in **commercial buildings, not residential.**
6. Temporarily Out of County does not apply unless the voter has a **PRIOR OR CURRENT LEGAL ADDRESS** in the county.

Summary: Customers of a private mail forwarding service who attempt to establish legal residency that fails to list a residential address or that lists a nonresidential address at which they do not reside and who have no other meaningful contact with the county other than to receive mail,...without having a past or present physical presence and intent to establish permanent residency...is not sufficient to establish residency for voter registration purposes and are most likely not legal residents of the county.

## The Effect of Presumptively Ineligible Registrants on Active Voter Rolls:

- Rolls include **voters who have not met Residency requirements.**
- Using Residential **Addresses that are Prohibited** by Statute, Division of Elections, and case law. (Private mail boxes, Mail Forwarding Services, Hotels, Govt facilities, Marinas)
- **Ballots are being Forwarded**, which is Prohibited by Statute, Division of Elections and Florida Election Code.

## Common Arguments on Evaluation of Voter Registration APPLICATIONS

1. *The Residential Address IS what the voter SAYS it is.*  
(Violates: FL Statutes; FL Election Code; Division of Elections Legal Advisory)
2. *Missing Apartment or suite numbers don't keep a person from voting.*  
(An Application isn't supposed to be ACCEPTED unless it is "complete," including all distinguishing identifiers; Failure to complete application per 97.053, makes this applicant ineligible (98.045). These applications shouldn't have been accepted until further vetting took place.)
3. *Government buildings are used as Residential Addresses for homeless.*  
(Violates: FL Statutes; Division of Elections DE 0003)
4. *Government buildings are used as Residential Addresses for Military and Dependents.*  
(Violates: FL Statutes; FVAP; DE 0003 unless prior physical presence in FL)

**NOTABLY**, there are no "arguments" debating whether Private Mail Boxes or Mail Forwarding Services can be used as Residential Addresses. Florida Statutes and Legal Advisories are clear, **yet these types of addresses currently exist in Florida's active voter rolls.**

**APPLICATIONS require evaluation.** Why are we skipping it in voter registration?

# Are SOEs violating state and federal requirements by failing to prevent non-Florida residents from registering and voting in Florida?

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## Approval of Voter Registration Application begins with Residency per State and Federal law:

- US Citizen
- State Resident
- County Resident
- USA.gov: Who Can Vote? Are a U.S. citizen and [Do you meet your state's residency requirements?](#)

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All **statutes and residency guidelines require PRIOR physical presence in the state** to be considered a non-traditional resident for voting purposes. EVERY non-traditional applicant (RV, Marina, Mail Forwarding Service) and non-traditional Active voter **MUST be required to prove prior physical presence before a voter application is approved.**

## USPS takes Position that PO Box is not a physical residence:

With Street Addressing Service, you have the option of using the street address of this Post Office location [for your mailing address](#) in addition to your PO Box number.

**You may not use the PO Box “street address” option as your physical residence or place of business in Legal documents. Misuse of Street Addressing Service may violate civil and criminal laws and may result in USPS closing your PO Box.**

**Help America Vote Act** requires consistent application of voter registration practices. If some applicants are required to provide proof of residency, why aren't all applicants? **Applicants have been denied voter status due to insufficient or incomplete application, yet others are placed directly on voter rolls.** We need legislation to ensure non-traditional registrants **adhere to the same requirements** as traditional residents.

**Federal and state law never directs applicants to falsify their residential address by claiming residence in the SOE office or any government building.**

**FS 101.045 Electors must be registered in precinct; provisions for change of residence or name.—**

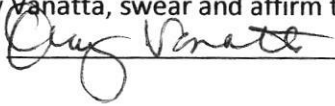
(1) ... a person temporarily residing outside the county shall be registered in the precinct in which the main office of the supervisor, as designated by the supervisor, is located when the person has no permanent address in the county and it is the person's intention to remain a resident of Florida and of the county in which he or she is registered to vote. Such persons who are registered in the precinct in which the main office of the supervisor, as designated by the supervisor, is located ...” However, the **Voter Residency Guidelines makes statements that do not adhere to Florida Statutes.**

**DESIRED OUTCOME:** Applications for voter registration or Inactive-to-Active voter status changes will not be accepted when Private mailboxes, commercial addresses or mail forwarding services are provided as Residential Addresses, as they do not establish the applicant as a Florida resident, and county residence is therefore undeterminable.

On September 20, 2022, I spoke by telephone with Florida Office of Election Crimes Director, Peter Antonacci. I explained the YouTube video created by Lake County Supervisor of Elections, Alan Hays, wherein Hays showed a tall metal rack of United States Postal Service boxes containing what Hays described as returned, undeliverable Voter Information Cards. Hays requested that voters in Lake County ensure the SOE's office had their correct address. Volunteers from the Lake County Election Integrity and Voter Protection coalition submitted a Public Records Request from Hays to obtain a list of returned election mail. LCEIVP also submitted requests to the three other counties making up Congressional District 11: Orange, Sumter and Polk. I informed Antonacci that Hays told LCEIVP that his office did not have a list created yet and that he didn't anticipate working on the undeliverable mail until some time in December of this year. Hays said that we could not touch the election mail, but could observe the mail while SOE staff held it. I told Antonacci that we wanted to monitor the addresses known to the USPS to be undeliverable because Hays had not removed or otherwise reconciled these bad addresses in the Voter Registration system. The same database used to send the Voter Information Cards would be the same database used to send Vote By Mail cards for the Primary and General Elections in 2022. I said these bad addresses included statutorily prohibited addresses, such as campgrounds, UPS stores and government buildings used as residential addresses. Antonacci said he was aware these addresses were not supposed to be used as residential addresses, and when he was the Brevard Supervisor of Elections, he had them removed from the voter rolls. I told him these kinds of addresses were seen around the state.

Antonacci said if Vote By Mail ballots were received from addresses that were determined to be undeliverable or from prohibited addresses, these voters would be considered "presumptively ineligible." Antonacci asked me to send him the list of UPS stores that were being used as residential addresses around Florida, and he would contact the appropriate SOEs. I said that I would send them, however, Peter Antonacci passed away later that week.

Mary Vanatta  
321-229-3684  
[Mgvorlando16@gmail.com](mailto:Mgvorlando16@gmail.com)

I, Mary Vanatta, swear and affirm the details provided below are true and accurate to the best of my ability.  Date: 9-28-2022

# FLORIDA DEPARTMENT of STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

June 19, 2018

The Honorable Chris H. Chambless  
Supervisor of Elections, Clay County  
PO Box 337  
500 N. Orange Avenue  
Green Cove Springs, Florida 32043

**FYI**

Re: DE 18-09 Voter Registration –  
Registration based on mail forwarding  
service address and declaration of domicile –  
§§ 97.041(1), 98.045(1), 98.075(7), and  
101.045(1), Florida Statutes

Dear Supervisor Chambless:

This letter responds to your request for an advisory opinion on a number of residency issues related to voter registration. Because you are a supervisor of elections proposing to take action relating to Florida's election laws, the Division of Elections is authorized to issue you an opinion pursuant to section 106.23(2), Florida Statutes (2018).

## FACTS

You state in your request that Clay County is home to a private mail forwarding service (“the Mail Forwarding Service”) that caters to “[c]ruisers, RV’ers, expatriates, and other mobile citizens” who constantly travel, both around the country and abroad. These persons subscribe primarily to the Mail Forwarding Service to receive, sort, and make their mail available online or to forward the incoming mail or packages to their customers wherever they may be in the world. The Mail Forwarding Service advertises additional services such as how their customers can register their vehicle, obtain a Florida driver license or Florida identification card, declare domicile, and register to vote, without regard to past or present physical presence in Clay County. You provide four scenarios each with slightly different facts as to whether these Mail Forwarding Service customers may register to vote in Clay County.

Division of Elections  
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850.245.6200 • 850.245.6217 (Fax) [DOS.MyFlorida.com/elections](http://DOS.MyFlorida.com/elections)





## ANALYSIS

### General Statement of Law

In order to become a registered voter in Florida, a person must, among other things, be a “legal resident” of a Florida county. § 97.041(1)(a)4., Fla. Stat. (2018). The Florida Election Code<sup>1</sup> does not contain a definition for “legal resident” or “legal residence.” Over the years, the courts and the Florida Department of State have construed legal residency.<sup>2</sup> “A legal residence is the place where a person has a fixed abode with the present intention of making it their permanent home.”<sup>3</sup> *Perez v. Marti*, 770 So. 2d 284, 289 (Fla. 3d DCA 2000) (quoting *Walker v. Harris*, 398 So. 2d 955, 958 (Fla. 4th DCA 1981)); see also *Division of Elections Advisory Opinion* 16-01 (January 4, 2016). The determination of legal residence is fact-intensive and turns on the particular circumstances of each individual case. See *Bloomfield v. City of St. Petersburg Beach*, 82 So. 2d 364, 368 (Fla. 1955) (“[E]stablishment of one’s residence will usually depend on a variety of acts or declarations all of which must be weighed in the particular case as evidence would be weighed upon any other subject”). After considering the totality of the circumstances, the Supervisor of Elections in the respective county determines whether applicants or registered voters are or remain legal residents of the county. See § 98.045(1)(h), Fla. Stat. (2018); § 98.075(7)(a), Fla. Stat. (2018).

### Scenario 1

You ask whether a customer of the Mail Forwarding Service may be regarded as a legal resident of Clay County within the meaning of section 97.041(1)(a)3., Florida Statutes (2018), where, as proof of legal residency, the customer submits to you a copy of a Declaration of Domicile filed with the County Clerk of Court declaring residency in Clay County, and a Florida driver’s license containing either the address of the Mail Forwarding Service and the customer’s postal mailbox number, a license plate number, or a hull identification number of a recreational vehicle or boat. On the voter registration application, the customer includes a Florida driver license number or Florida identification card number, 1 Clay County as a residential address, and the mailing address of the Mail Forwarding Service with the postal mailbox number.

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<sup>1</sup> Chapters 97-106, Florida Statutes.

<sup>2</sup> Where a person registers to vote may have implications for consideration in light of other duties, rights, and privileges under federal, state, or local laws which are outside the scope of this opinion.

<sup>3</sup> The Mail Forwarding Service’s customer transiency or mobility is not at issue. It has been observed that, if taken literally, a definition of legal residence requiring intent to remain permanently may be unconstitutional to the extent that it would restrict voting to less mobile elements of the populous. *Williams v. Salerno*, 622 F. Supp. 1271, 1275 (S.D. N.Y. 1985). Accordingly, the Second Circuit holds that the definition ““is intended to approximate the test for domicile, *i.e.*, physical presence and an intention to remain *for the time at least.*”” *Auerbach v. Rettaliata*, 765 F. 2d 350, 351 (2d Cir. 1985) (quoting *Auerbach v. Kinley*, 594 F. Supp. 1503, 1507 n. 5 (N.D. N.Y. 1984) (emphasis added)).

As stated above, legal residency is a matter that must be decided by your office on a case-by-case basis after consideration of all the facts and circumstances of each individual case. No easy one-size-fits-all formula exists to determine whether customers of the Mail Forwarding Service are legal residents of Clay County.

However, the Division opines that, given the facts you have provided, it is unlikely that a customer of the Mail Forwarding Service is a legal resident of Clay County. First, neither the Declaration of Domicile<sup>4</sup> nor the driver license alone prove legal residence in Clay County. You state that in the Declaration of Domicile, customers declare that they reside at 1 Clay County. However, 1 Clay County is not an address of legal residence. You indicate that, instead, 1 Clay County is a fictitious address used to designate your office in Clay County. The plain meaning of "residence" entails dwelling or living at a place.<sup>5</sup> Because the Mail Forwarding Service's customers do not in any sense live in your office, the Declaration of Domicile does not establish that the customer has a legal residence in Clay County.<sup>6</sup>

While a personal identifying number (*i.e.*, Florida driver license, a Florida Identification card number, or the last four digits of a social security number) is required for voter registration, the personal identifying number is to verify identity, not prove legal residence. You indicate that the driver license of these customers will bear either a vehicle license plate number, a hull identification number, or the address of the Mail Forwarding Service with a postal mailbox number. However, the Mail Forwarding Service is housed in a commercial building not used for residential purposes; people do not and cannot live in the building. Also, neither a vehicle nor a vessel may fairly be characterized as a "place where a person has a fixed abode" (*Perez*, 770 So. 2d at 289), those objects being by nature mobile. Therefore, under the circumstances you describe, the driver license does not establish legal residence. That is not to say that the definition of legal residence requires a residence made up of a four-walled dwelling. The definition is broad, encompassing a wide range of nontraditional abodes. A legal residence may even, for example, be

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<sup>4</sup> State law provides a means of "manifesting and evidencing domicile in Florida" through the filing of a sworn statement (or often referred to as "Declaration of Domicile") for purposes of establishing homestead and exemptions. See section 222.17, Fla. Stat. The Florida Department of Legal Affairs is charged with prescribing the form for the declaration that are to be made available by the clerks of the circuit court in the State. The Declaration of Domicile is used for other purposes which may account for some of the slight differences that exist between the forms in some counties.

<sup>5</sup> *Merriam-Webster Online Dictionary*, <http://www.merriam-webster.com/>, "residence."

<sup>6</sup> This conclusion is also consistent with the statute governing Declarations of Domicile, which, by its terms, contemplates only domicile at a place where a person lives. See § 222.17, Fla. Stat. (2018) ("Any person who shall have established a domicile in this state may manifest and evidence the same by filing in the office of the clerk of the circuit court for the county in which the said person shall reside, a sworn statement showing that he or she *resides in and maintains a place of abode* in that county which he or she recognizes and intends to maintain as his or her permanent home.") (emphasis added).

a park bench,<sup>7</sup> but cannot be a commercial mailbox.<sup>8</sup> A residence plainly is not a place where people do not have a physical presence to reside.<sup>9</sup>

Second, you state, to the best of your knowledge, that the customers of the Mail Forwarding Service do not own property, have family, do business, visit, or otherwise spend time in Clay County. In fact, the customers appear to have never been to Clay County. Therefore, the customers do not have any meaningful contacts with Clay County indicating legal residence.

While these customers may have filed a Declaration of Domicile without a valid residential address, submitted a Florida Highway Safety and Motor Vehicle certification of address form, registered for a license plate or hull number, and obtained a driver license or identification card in Florida, these activities are insufficient to establish residency without a valid Florida legal residence for purposes of voter registration.

For the foregoing reasons and the circumstances outlined, the Division opines that the Mail Forwarding Service's customers in this scenario are likely not legal residents of Clay County for purposes of voter registration. Under the facts stated, the Declaration of Domicile and Florida driver license or Florida identification card, neither of which included a valid legal residential address, do not indicate legal residency.

#### Scenario 2

In this scenario, the Mail Forwarding Service's customer has not completed or filed a Declaration of Domicile but attempts to submit a voter registration application with a Florida driver license or Florida identification card number and with the Mail Forwarding Service's address and/or the customer's postal mailbox number, as evidence of legal residency. You further state that the person has never resided (and presumably never been registered in Florida or) in the county.

Since the Mail Forwarding Service customers have never resided or been registered in the county, the customers are unable to rely on section 101.045(1), Florida Statutes (2018), which provides as follows:

*A person is not permitted to vote in any election precinct or district other than the one in which the person has his or her legal residence and in which the person is registered. However, a person temporarily residing outside the county shall be registered in the precinct in which the main office of the supervisor, as designated by the supervisor, is located when the person has no permanent address in the*

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<sup>7</sup> See *Pitts v. Black*, 608 F. Supp. 696 (S.D. N.Y. 1984)

<sup>8</sup> See *Teel v. Darnell*, 2008 WL 1751532, p. 3 (E.D. Tenn. 2008) (providing that mailbox within a commercial establishment was insufficient to establish residency for purposes of voter registration).

<sup>9</sup> *Auerbach*, 765 F. 2d at 355.

*county and it is the person's intention to remain a resident of Florida and of the county in which he or she is registered to vote.*

(emphasis added). The Mail Forwarding Service's customers cannot be said to be temporarily residing outside the county under these circumstances without a prior or current valid legal residential address in Clay County. For the reasons discussed above, the person in this scenario is likely not a legal resident for purposes of voter registration.

### Scenario 3

You ask whether a Mail Forwarding Service's customer is able to register to vote if he or she resides overseas without providing a legal residential address or legal address immediate to their departure from the U.S. In your scenario, you additionally offer that the overseas customer applies using a Federal Post Card Application<sup>10</sup> ("FPCA") with the Mail Forwarding Service address and a postal mailbox number. The FPCA is a federal voter registration form available for use by absent stateside and overseas military and overseas U.S. citizens. The FPCA can also function dually as a request for vote-by-mail request once registered.

The fact that the Mail Forwarding Service's customer submits a federal voter registration form, as opposed to the national mail-in application form or the prescribed Florida voter registration form, does not change the analysis. The same requirements for eligibility, including legal residency apply. The question remains whether the Mail Forwarding Service's customer who has submitted a voter registration application is a legal resident of Clay County. A voter registration form providing a commercial address, whether the address of the Mail Forwarding Service or other business enterprise with a postal mail box number, without a valid legal residential address or other further evidence of current residency in Florida or evidence that Florida was the last state in which the customer resided before going overseas, is not sufficient to make a determination of legal residency.

### Scenario 4

You ask whether a Declaration of Domicile filed with the clerk of circuit court is sufficient alone to establish legal residency for a Mail Forwarding Service's customer who submits a voter registration application without a Florida driver license or Florida Identification number (the person does include the last four digits of his or her social security number). Regardless of the personal identifying number provided on a voter registration application, the key again is that the customer is using the Declaration of Domicile to establish residency at a place where he or she did not, does not, and cannot actually live. The Declaration of Domicile alone does not prove legal residency.

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<sup>10</sup> The FPCA is a federal form developed by the Federal Voting Assistance Program within the U.S. Department of Defense; Standard Form 76 (Rev. 09-2017), OMB No. 0704-0503.

The Honorable Chris H. Chambless

June 19, 2018

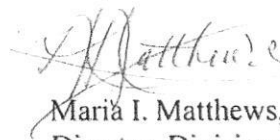
Page 6 of 6

As previously discussed, the common thread through the four scenarios is the lack of a valid residential address and no meaningful contacts indicating the requisite intent and physical presence in the county. The use of the Mail Forwarding Service and its advertised services alone including the Declaration of Domicile without a valid residential address are insufficient to satisfy the requirements for legal residency in Clay County for voter registration purposes.

#### SUMMARY

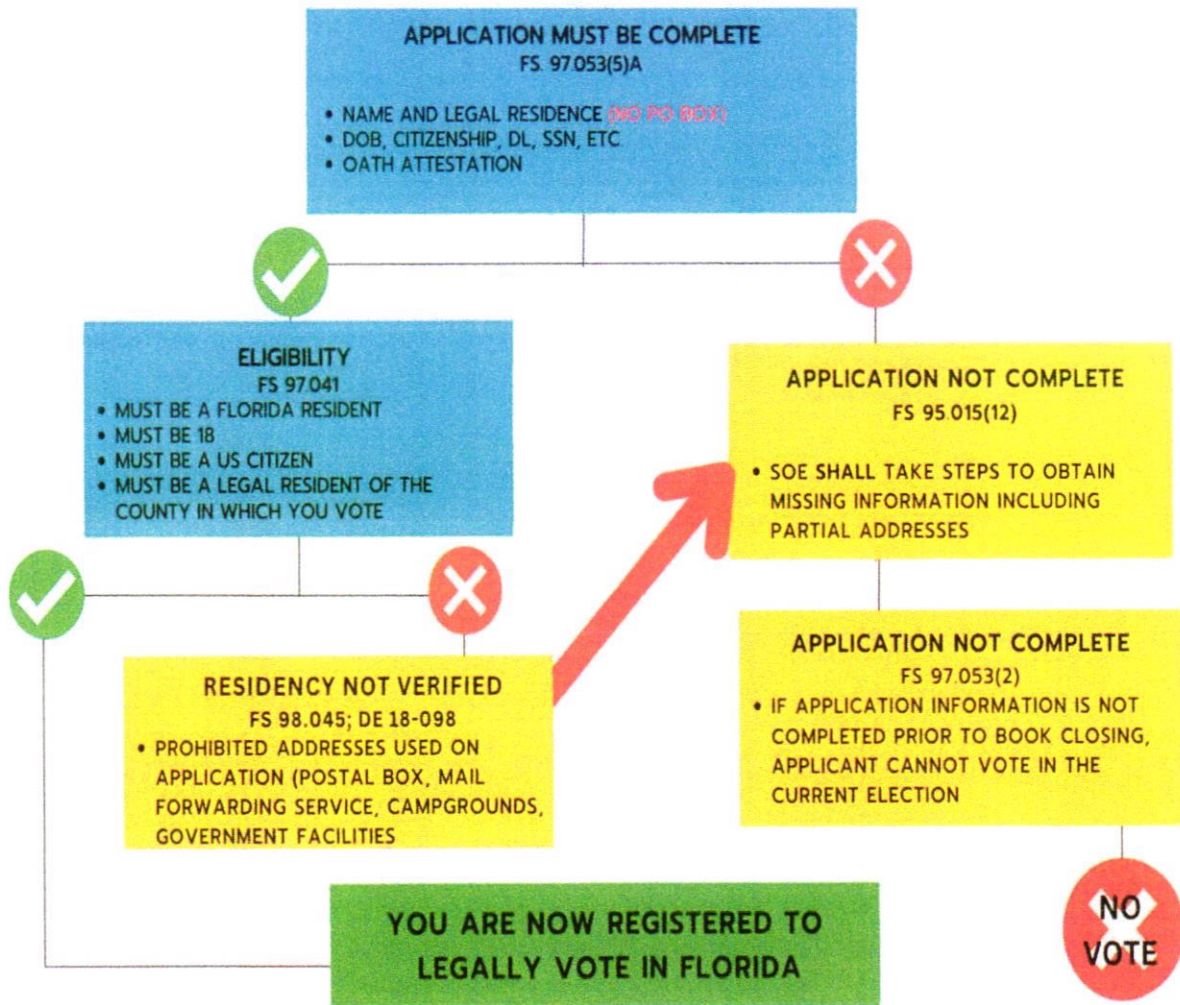
Customers of a private mail forwarding service who attempt to establish legal residency in a county by filing a Declaration of Domicile that fails to list a residential address or that lists a nonresidential address at which they do not reside and who have no other meaningful contact with the county other than using the services of this enterprise in the county to receive mail, secure a Florida driver license or Florida identification card, and obtain a license plate, or hull number for a boat, without having a past or present physical presence and intent to establish permanent residency in the county is not sufficient to establish residency for voter registration purposes and are most likely not legal residents of the county.

Respectfully,

A handwritten signature in cursive script, appearing to read "Maria I. Matthews".

Maria I. Matthews, Esq.  
Director, Division of Elections

# VETTING A FLORIDA VOTER



DIVIDER

STATEWIDE PUBLIC RECORDS REQUESTS FOR ANY CASES OF HARASSMENT, INTIMIDATION AT ELECTIONS OFFICES OR POLLING LOCATIONS

<b>County</b>	<b>Incident Reports</b>
<b>Alachua</b>	our requested records are attached. Please let me know if you have any questions or if there is anything else I can do to assist. [2
<b>Baker</b>	There were no reported cases as described below for those particular elections in our county.
<b>Bay</b>	Bay county has no records to provide.
<b>Bradford</b>	We have no records responsive to your request.
<b>Brevard</b>	We have no records responsive to this request.
<b>Broward</b>	There are no responsive documents for your Public Records Request. I had a sit down with director for that department to research if there was ever any poll worker who reported being “intimidated, threatened, coerced, or harassed with the intent to impede or interfere” with the worker’s duties or to retaliate against an election worker for carrying out those duties and there weren’t any complaints from any poll worker.
<b>Calhoun</b>	Calhoun county had no instances of election workers being intimidated, threatened, coerced, or harassed with the intent to impede
<b>Charlotte</b>	Attached you will find the only incident that is close to what you are requesting.
<b>Citrus</b>	Thank you for your patience. We just completed the review of all the documents and there are no responsive records. If I can be of
<b>Clay</b>	Thank you for providing this information.
<b>Collier</b>	Our office does not possess any records pertaining to your request.
<b>Columbia</b>	Columbia County Supervisor of Election’s office has no responsive documents per your public records request.
<b>DeSoto</b>	Hello Dan, DeSoto County does not have any record of any Pollworkers that have been intimidated, threatened, coerced, or harassed
<b>Dixie</b>	No records to provide.
<b>Duval</b>	Thanks for this information. It is disturbing that the actions of one can adversely affect many.
<b>Escambia</b>	We have no responsive documents regarding your request.
<b>Flagler</b>	Our office has no records responsive to your request.
<b>Franklin</b>	We have no responsive documents.
<b>Gadsden</b>	No documents exist.
<b>Gilchrist</b>	Gilchrist County did not have any.
<b>Glades</b>	
<b>Gulf</b>	
<b>Hamilton</b>	No such records for Hamilton County.
<b>Hardee</b>	RE: PRR 20230908 - Hardee We have no records related to this Public Records Request. Thank you,
<b>Hendry</b>	We are not aware of any incidents in Hendry County.
<b>Hernando</b>	We have received your public records request. There are no documents pertaining to your request in Hernando County. This fulfills your public records request.
<b>Highlands</b>	We have no responsive documents. Thank you!



STATEWIDE PUBLIC RECORDS REQUESTS FOR ANY CASES OF HARASSMENT, INTIMIDATION AT ELECTIONS OFFICES OR POLLING LOCATIONS

<b>Hillsborough</b>	<p>Good afternoon. Records potentially responsive to your below public records request are available through the following link:<a href="https://www.mediafire.com/folder/xfz3g4cnzys40/PRR_597_-_Dan_Heim">https://www.mediafire.com/folder/xfz3g4cnzys40/PRR_597_-_Dan_Heim</a> . It is caveated as ‘potentially’ in that your request seeks records reflecting a particular intent of an actor, and intent is not able to be ascertained from the potentially responsive records.</p> <p>We consider this request closed. Consolidated  <a href="https://docs.google.com/spreadsheets/d/1mjytcnHEIR7XgyrVnNfAzWNjxKJUTsfm/edit?usp=sharing&amp;ouid=111202649503274785603&amp;rtpof=true&amp;sd=true">https://docs.google.com/spreadsheets/d/1mjytcnHEIR7XgyrVnNfAzWNjxKJUTsfm/edit?usp=sharing&amp;ouid=111202649503274785603&amp;rtpof=true&amp;sd=true</a></p>
<b>Holmes</b>	There were no filed reports of intimidation, threat, coercion, or harassment for the 2022 Primary or 2022 General Elections. Holmes County does not have documents to produce for your request.
<b>Indian River</b>	The Indian River County Supervisor of Elections office does not have any documents responsive to your public records request for any and all records for the 2022 Primary and 2022 General Election whereby a poll worker had been: “intimidated, threatened, coerced, or harassed with the intent to impede or interfere” with the worker’s duties or to retaliate against an election worker for carrying out those duties.
<b>Jackson</b>	Thank you for your public records request: we have no records responsive to your request. If I can be of further assistance, please let me know.
<b>Jefferson</b>	Jefferson County had no issues. Therefore, I have no record to provide you. Should you have any questions, please don’t hesitate to contact my office.
<b>Lafayette</b>	We have not encountered any of these situations in the elections you requested.
<b>Lake</b>	RE: PRR 20230901-1 Good morning Ms. Parent. Please see the attached per your records request. Regards, LakeSOE_SM_FullColor_RGBwww.lakevotes.gov, Public Records Request, Lake County Supervisor of Elections
<b>Lee</b>	Interesting reports... more complaining than real incidents <a href="https://drive.google.com/drive/folders/1VLAI-gwO7aPd1CjjJ8d_IH35SzNNH1TR?usp=sharing">https://drive.google.com/drive/folders/1VLAI-gwO7aPd1CjjJ8d_IH35SzNNH1TR?usp=sharing</a>
<b>Leon</b>	Leon County SOE PRR 23-206 Good afternoon, for your public records request there are no responsive records. Johnny To Demographics/GIS Manager, Supervisor of Elections - Leon County
<b>Levy</b>	Re: PRR 20230901-1 Levy To the best of my knowledge, I don't believe we have any records relevant to your request. Tammy Tammy Jones, Supervisor of Elections, Levy County. Florida
<b>Liberty</b>	RE: PRR 20230901-1 Liberty There have been no incidents or threats of violence in Liberty County. Grant Conyers Supervisor of Elections Liberty County
<b>Madison</b>	RE: PRR 20230901-1 Madison No records to produce
<b>Manatee</b>	PRR 20230901-1 Manatee Good Afternoon, Thank you for your email. We have no knowledge of any incidents in Manatee County. Sharon Stief, Sharon Stief, MFCEP, Chief Deputy, Manatee County Elections
<b>Marion</b>	
<b>Martin</b>	RE: PRR 20230901-1 Martin; No such records exist for Martin County, Florida. Vicki Davis, CERA, MFCEP Martin County Supervisor of Elections

STATEWIDE PUBLIC RECORDS REQUESTS FOR ANY CASES OF HARASSMENT, INTIMIDATION AT ELECTIONS OFFICES OR POLLING LOCATIONS

<b>Miami-Dade</b>	Re: PRR 20230901-1 Miami-Dade Good morning, Thank you for contacting the Miami-Dade County Elections Department with your inquiry. The Miami-Dade County Elections Department has no responsive records to your request. Regards, Ramon Castellanos, Election Records Manager Government Affairs and Media Relations Division Miami-Dade County Elections Department
<b>Monroe</b>	
<b>Nassau</b>	Nassau We have no records responsive to your request. Thank you, Scott Miller Director of Elections 904.491.7505 Master Florida Certified Elections Professional (MFCEP)
<b>Okaloosa</b>	I have no records responsive to your request for the 2022 Primary and 2022 General elections.
<b>Okeechobee</b>	I have had no reports of this kind. No such record.
<b>Orange</b>	<u>In response to your request, please refer to the attachment.</u> [djh] that attachment was an Non-Employee First Report of Injury or Illness. <u>In this incident, a poll worker was punched in the face 11/8/2022. A sheriff's report case #22-68442 was filed but victim declined to press charges.</u>
<b>Osceola</b>	The request Request Number: PRR-2023-7 has been completed. There are no responsive documents to your request. ROBO RESPONSE: Thank you for submitting a request for records on Wednesday, April 12, 2023 at 2:39 PM (Eastern Standard Time).Your request reference number isRequest Number: PRR-2023-7 and your security key is 641722. Please have both reference numbers available when communicating with our staff regarding your request.
<b>Palm Beach</b>	
<b>Pasco</b>	I appreciate your response and it does satisfy my request. I have concluded that the verbiage proposed in SB 7050 is superfluous given the responses received from your county and nearly every county in Florida. Again thank you. Best Dan Heim ----- Original Message ----- From "Brian E. Corley" <bcorley@pascovotes.gov> To "Web Comment" <webcomment@pascovotes.gov>; "Victory Rider" <victorycoder@gmail.com> Date 4/17/2023 7:40:20 AM Subject Re: Public Records Request Good morning Dan, With regards to your below referenced public records request, please be advised of the following. I can tell you from memory that we had only one indirectly incident that fits scope of "harassment" from the 2022 early voting period. Several teenage kids were being disruptive outside an early voting site and harassing our early voting worker. Other than that, can't recall anything that fits the below. With that said, for us to review ALL early voting and Election Day incident logs is estimated to take several hours and such, a cost to procure and provide copies of any such documents. Again, don't believe there any records that fit the below criteria. Please let me know if you wish to proceed. Thanks! Brian
<b>Pinellas</b>	Received bomb like threat. <a href="https://drive.google.com/file/d/1nmTJBTJJkKlloaZEAwjSWx7rQv6BCHt/view?usp=sharing">https://drive.google.com/file/d/1nmTJBTJJkKlloaZEAwjSWx7rQv6BCHt/view?usp=sharing</a> Please see the attached records responsive to your request. News article: <a href="https://www.wfla.com/news/pinellas-county/st-pete-man-threatens-supervisor-of-elections-office-with-grenade-police-say/">https://www.wfla.com/news/pinellas-county/st-pete-man-threatens-supervisor-of-elections-office-with-grenade-police-say/</a> <b>This was not during early voting or on election day.</b> Early Voting: Early Voting Locations Saturday, August 13 - Sunday, August 21 Monday - Friday: 8:00 a.m. - 6:00 p.m. Saturday - Sunday: 8:00 a.m. - 5:00 p.m. <a href="https://www.votepinellas.gov/Election-Information/Elections/Current-Upcoming-Elections1/2022-Primary-Election">https://www.votepinellas.gov/Election-Information/Elections/Current-Upcoming-Elections1/2022-Primary-Election</a>

STATEWIDE PUBLIC RECORDS REQUESTS FOR ANY CASES OF HARASSMENT, INTIMIDATION AT ELECTIONS OFFICES OR POLLING LOCATIONS

<b>Polk</b>	There have been no reports in Polk County that we are aware of whereby a poll worker has been intimidated, threatened, coerced, or harassed with the intent to impede or interfere with the worker’s duties or to retaliate against an election worker for carrying out those duties during the 2022 Primary and 2022 General Elections.
<b>Putnam</b>	In regards to your below records request: Putnam County did not have any incidents – No Records Found.
<b>Santa Rosa</b>	There are no responsive documents to your request.
<b>Sarasota</b>	<p>4/18/2023 12:43:10 PM - Just a quick update to let you know we are retrieving the report(s) which triggered the “disruptive behavior” checkbox. As you say, currently we don’t have enough information. Hopefully the source document will clarify one way or the other. I will let you know once I have an update on when the record will be available.</p> <p>Just providing a quick update: the Conduct of Election report from the 2022 Primary Election indicates (page 9) there was “disruptive behavior”. For more detail--and to determine if it meets the criteria you specify--I would need to pull any incident reports from the election records at our storage facility. Please let me know if you’d like me to proceed with pulling the records. For the 2022 General Election there was no disruptive behavior recorded or responsive records.</p> <p>4/14/2023 3:07:36 PM - Hello Tyson and thank you for the response.</p> <p>My request centers on finding out if a poll worker has been: “intimidated, threatened, coerced, or harassed with the intent to impede or interfere” with the worker’s duties or to retaliate against an election worker for carrying out those duties. Based on what was provided the answer to that question is unclear.</p> <p>The report indicates "a fleeing voter" that appears to have left solicitation material at a voting booth. Furthermore there was "disruptive behavior" but no indication that the poll worker was threatened in any way or that the poll worker was unable to carry out their duties. If I am misreading this please let me know. Given the proposed verbiage of SB 7050 I cannot determine whether this bill, if enacted into law, would apply in this instance. If you have clarifying information that would help to resolve my question I would be appreciative of that data. If however, in the judgment of the Supervisor of Elections, the Poll Clerk or the Poll Worker this incident did not rise to a level that would violate the proposed legislation then I would also appreciate knowing that as well.</p> <p>Thank you in advance, Dan Heim 314.913.5312</p>
<b>Seminole</b>	Our office is not in possession of any records that meet your request.
<b>St. Johns</b>	We have no record of any of those type complaints in St John County.
<b>St. Lucie</b>	
<b>Sumter</b>	Sumter County has no incidences to report.
<b>Suwannee</b>	For the 2022 Primary and 2022 General Elections, we had no issues where a poll worker has been: “intimidated, threatened, coerced, or harassed with the intent to impede or interfere” with the worker’s duties or to retaliate against an election worker for carrying out those duties.
<b>Taylor</b>	Taylor County has no documents to produce.
<b>Union</b>	Your request has been received. Union County Supervisor of Elections Office had no incidences in any 2022 elections with our poll workers being threatened or intimidated.
<b>Volusia</b>	Volusia County Supervisor of Elections has had no incidences reported.
<b>Wakulla</b>	We had no such incidents here in Wakulla County. Have a great day!

STATEWIDE PUBLIC RECORDS REQUESTS FOR ANY CASES OF HARASSMENT, INTIMIDATION AT ELECTIONS OFFICES OR POLLING LOCATIONS

<b>Walton</b>	PRR 20230908 - Walton Good Afternoon, Some level of intimidation and harassment can be expected in this field. Occasionally, incidents occur that may make us feel uncomfortable. Thankfully, no occurrences rose to the level that we filed reports with law enforcement. Sincerely, Ryan Messer Supervisor of Elections Walton County, Florida
<b>Washington</b>	PRR 20230908 - Washington Good morning, I received your request. To my knowledge there is no information to report for Washington County SOE. Thank you, Wendy Mayo, Assistant Supervisor of Elections, Washington County

## Election Center Conference Report

A four-day event was held for election officials from all over the country, to educate them on all the products, tools, services, and agencies available to help them in their endeavors to carry out democracy, in the name of democracy, for the sake of our democracy.

The event was hosted by *VR Systems*, *ES&S* and *BlueCrest*, a company I had never heard of but had to give them credit for their play on words to stick it to the Right. Instead of a “red wave,” they were giving a *BlueCrest*.

Vendors included the usual *Runbeck* and *Smartmatic*, but also some I had never heard of such as *Soch* ( [www.Soch-Inc.com](http://www.Soch-Inc.com) ) and *Enhanced Voting* ( [www.enhancedvoting.com](http://www.enhancedvoting.com) ). There was also many Vote-by-Mail systems such as *Votehub* (Free Democracy Foundation), *Correct Elect* ( [www.tritek.com](http://www.tritek.com) ), and *Link Labs AirFinder* product that boasts the ability to “determine precise asset location.”

Other vendors included Edison Research, the AP, election pins, Public Record Requests management systems, roller bags for ballot boxes, and drop box inserts and covers. All the tables splashed with booklets, leaflets, and freebies with their logos on them.

The USPS and FBI were two Federal agencies eager to partner with election workers. While USPS tries to make vote-by-mail easier for the election office, the FBI strives to make them feel safe and worries about their mental health. With all the talk of the “crazies” and how dangerous it is for election workers now, I was waiting for the numbers and couldn’t believe they could stand there with straight faces when they managed to cite only 7 cases from across the US that have been charged with crimes against election workers; 3 pled out, 3 are pending and one was acquitted at trial.

There were many so-called “bridges” being made between universities and elections. A day and ½ was devoted to courses for the CERA (Certified Election Registration Administration) certification administered by Auburn University. Why is Auburn University hosting a certification program for election officials with

continuing education requirements?? Why are Penn State, Princeton and the University of Madison invited to direct election officials and contribute to the election process? Think they would take any advice from Wheaton College, Liberty University or Hillsdale??

Why are all the non-profits, supposed non-partisans that are educating and facilitating election officials Left leaning, like the Carter Center or the Center for Inclusive Democracy?

The two main recurring themes of the conference were the threats and harassment against election workers and the misinformation of voters. The conference attendees are totally detached from the reality of election fraud and believe the issues are with “professional citizens” and “election deniers” who need to be educated. There was no acknowledgement of the high percentage of citizens who had the earned loss of faith in the integrity of our elections and connecting the passions of those stonewalled and gaslit citizens and the election workers’ feelings of harassment. There was no talk of public service or looking professional and legitimate in the public’s eye.

The problem is the narrative is being supported by the media, non-profits, academia, and law enforcement. All of them “partner” with election officials to guide and support or allow the election officials to guide and support them to “educate” us. There are organizations within organizations of people dedicated to elections that are not actually working in election offices.

I could not help but think what it would be like if We, the People, had the same support as the election officials. Surely, there are more of us than them, so we should have some representation, right??

We, the People of the State of Florida, call on our Representatives to be our support and our voice. We ask that you acknowledge the immorality of separating citizens from the voting process, using proven vulnerable machinery, withholding accountability of written statutes, and disenfranchising legal voters, and that you will fully endeavor to correct those same.



## Florida Supervisors of Elections 2024 Legislative Priorities

The Florida Supervisors of Elections (FSE) requests that no substantive changes be made to Florida's Election Code during the 2024 Legislative Session. Florida's Supervisors of Elections have worked diligently to implement the changes from the past three Sessions – SB90 in 2021, SB524 in 2022 and SB7050 in 2023.

Each of these bills have parts still working through court challenges, and all have requirements for the State to promulgate rules – many of which Supervisors are still waiting for final rulemaking to be completed.

In order to successfully plan and execute three statewide elections in 2024 to the best of our ability (PPP, Primary and General), plus local elections across the state, we request that implementation of the changes since the last Presidential election be allowed to work prior to making any more adjustments to the Election Code.

If changes are to be made, the following are recommended by the FSE Legislative Committee and approved by the FSE Board and membership for the 2024 Legislative Session:

- Protect election workers from harassment and threats.
- Exempt election workers from e-verify.
- Exempt all voter information from public records requests. Requests shall be made available to or reproduced only for the voter, a canvassing board, an election official, a political party or official thereof, a candidate who has filed qualification papers and is opposed in an upcoming election.
- Keep segregated, but eliminate the requirement for ballots cast during a poll-extension to be placed in Provisional envelopes.
- Require the establishment of a statewide database of felony offenders, complete with all terms of the sentences (esp. outstanding fines and fees) included.
- Exempt election worker information from public records requests.

DIVIDER



253 So.3d 1254  
District Court of Appeal of Florida, Fifth District.

Jonathan KINNEY, Appellant,

v.

PUTNAM COUNTY CANVASSING BOARD BY AND THROUGH its members Nancy HARRIS, Elizabeth Ann Morris, Charles L. Overturf III, and Homer D. Deloach III, Candidate for Putnam County Sheriff, Appellees.

Case No. 5D17-1737

Opinion filed September 14, 2018

### Synopsis

**Background:** Defeated sheriff candidate filed election contest complaint against canvassing board and successful candidate, alleging that casting of illegal votes placed election result in doubt. The Circuit Court, Putnam County, Gary Wilkinson, J., determined that defeated candidate failed to establish a sufficient number of illegal votes to render result doubtful. Defeated candidate appealed.

**Holdings:** The District Court of Appeal, Cohen, C.J., held that:

1 statute providing that individuals who temporarily resided outside of the county were eligible to vote in elections if they intended to remain residents did not apply; and

2 evidence that 32 convicted felons voted in election for county sheriff was insufficient to place the election results in doubt.

Affirmed.

**Procedural Posture(s):** On Appeal; Judgment.

West Headnotes (6)

[1] **Election Law** Effect of Irregularities or Defects

An election should not be set aside unless a court finds substantial non-compliance with a statutory election procedure and also makes a factual determination that reasonable doubt exists as to whether a certified election expressed the will of the voters. Fla. Stat. Ann. § 102.168.

[2] **Election Law** Presumptions and burden of proof in general

Under contest of election statute, the burden of establishing reasonable doubt in the election result falls on individual bringing the action. Fla. Stat. Ann. §§ 101.045(1), 102.168.

[3] Election Law Closing polls

Ballots cast in county sheriff election that were timestamped after the time polls were scheduled to close were valid, where individuals were in line when polls were scheduled to close.

[4] Election Law Sufficiency in general

Statute providing that individuals who temporarily resided outside of the county were eligible to vote in the county's elections if they intended to remain county residents did not apply to voters whose votes were challenged on the basis of residency, even though the voters had been long-time county residents and appeared to maintain a connection to and an interest in local politics, where the voters lived outside county at time of election, and had no specific plans to return. Fla. Stat. Ann. § 101.045(1).

[5] Election Law Sufficiency in general

Mere interest in and a connection to a county are insufficient to allow those who reside outside a county to maintain a voice in its elections. Fla. Stat. Ann. § 101.045(1).

[6] Election Law Weight and Sufficiency

Evidence that 32 convicted felons voted in election for county sheriff was insufficient to place the election results in doubt in election contest action brought by defeated candidate; defeated candidate did not present evidence regarding whether potentially-ineligible voters voted for sheriff or for whom they voted, and election supervisor, on election day, had no knowledge of any ineligible or improper votes or authority to reject or not count the disputed votes. Fla. Const. art. 6, § 4(a), art. 10, § 10; Fla. Stat. Ann. §§ 102.168, 104.15.

## Attorneys and Law Firms

Zachery Lucas Keller, of Keller Legal, Palatka, for Appellant.

Charles T. Douglas, Jr., of Douglas & Hedstrom, P.A., Palatka, and Christopher W. LoBianco, of Douglas & Hedstrom, P.A., Jacksonville, for Appellee, Homer D. DeLoach III.

John T. LaVia III, of Gardner, Bist, Bowden, Bush, Dee, LaVia & Wright, P.A., Tallahassee, and Ronald A. Labasky, of Brewton Plante, P.A., Tallahassee, for Appellee, Putnam County Canvassing Board.

No Appearance for other Appellees.

## Opinion

COHEN, C.J.

In 2016, Homer DeLoach and Jonathan Kinney ran for the office of Sheriff of Putnam County (“the office”).<sup>1</sup> The initial results indicated that Kinney received 18 more votes than DeLoach, but because the margin of victory was within one half of a percentage point, a mandatory recount of the ballots was triggered pursuant to section 102.141(7), Florida Statutes (2016). Following the recount, the Putnam County Canvassing Board (“the Board”) declared DeLoach the winner of the office by 16 votes.<sup>2</sup>

Kinney filed an election contest complaint against the Board and DeLoach pursuant to section 102.168,<sup>3</sup> alleging that the election result was placed in doubt due to the Board’s misconduct and the casting of illegal votes. Kinney’s requested relief included invalidating the certified results of the election, ousting DeLoach, and finding that Kinney established his right to the office, or alternatively, declaring a vacancy of the office. Following discovery, the parties filed a joint pre-trial stipulation limiting the issue to be tried to the alleged “[r]eceipt of a number of illegal votes ... sufficient to change or place in doubt the result of the election.” See § 102.168(3)(c), Fla. Stat. The stipulation listed 42 registered voters identified post-election who were potentially ineligible to vote or to have their ballots counted in the election.

Those 42 votes fell into 6 categories: 32 votes by individuals allegedly adjudicated guilty of felonies without their civil rights having been restored (“convicted felons”); 1 vote by an individual allegedly adjudicated mentally incompetent; 3 votes by non-residents of Putnam County; 3 votes by individuals who died before their mail-in ballots were received and counted by the Putnam County Supervisor of Elections (“the Supervisor”); 2 votes by individuals whose ballots were timestamped after the close of voting; and 1 vote by an individual who voted in 2 states.

At trial, the parties entered into evidence several joint exhibits which included \*1256 unofficial and official election results, conviction records, ballot certificates, death certificates, voter applications, and the depositions of 5 identified voters. The Supervisor then testified regarding the procedures in place to identify ineligible voters. The process begins with information from the Division of Elections, a division of Florida’s Department of State (“the Department”). The Department is tasked with maintaining a “single uniform, official, centralized, interactive, computerized, statewide voter registration system” (“the system”). *Id.* §§ 98.035, 98.075(1).

The Department receives information from several other agencies regarding the potential ineligibility of a voter, and if the Department determines that the information is credible, it informs county supervisors of elections, who, in turn, initiate the removal of the ineligible voters from the system as provided in section 98.075(7). County supervisors are responsible for determining a voter’s eligibility based on any information provided by the Department at the time the voter registers to vote. *Id.* § 98.045. Here, neither the Supervisor nor the Board had any knowledge upon registration, on Election Day, or during the subsequent recount of any potential issues with votes cast regarding 5 of the 6 categories. The Supervisor was, however, aware of the possibility that 3 non-residents voted in Putnam County.

Following trial, the court entered final judgment in favor of the Board and DeLoach, finding that Kinney failed to prove that a sufficient number of illegal votes rendered the election result doubtful and that he had a right to the office. Specifically, the court reasoned that because only 10 of the identified voters (namely, the convicted felons) had been removed from the system as of trial, DeLoach’s margin of victory merely fell from 16 to 6. The court also noted the lack of evidence regarding for whom the identified voters cast their ballots, if they even voted for the office, as insufficient to cast doubt on the election result.<sup>4</sup> This appeal followed.

[1] [2] [3] “An election should not be set aside unless a court finds substantial non-compliance with a statutory election procedure and also makes a factual determination that reasonable doubt exists as to whether a certified election expressed the will of the voters.” *Fouts v. Bolay*, 795 So.2d 1116, 1118 (Fla. 5th DCA 2001) (citing *Beckstrom v. Volusia Cty. Canvassing Bd.*, 707 So.2d 720 (Fla. 1998) ). Under section 102.168(3)(c), the burden of establishing reasonable doubt in the election result fell on Kinney. The trial court found he failed to carry that burden and we agree. In affirming, we find only 2 of the 6

categories of votes challenged by Kinney merit discussion.<sup>5</sup>

The Supervisor and the trial court found the 3 votes by individuals who no longer resided in Putnam County were proper under section 101.045. We disagree. That section provides:

A person is not permitted to vote in any election precinct or district other than the one in which the person has his or \*1257 her legal residence and in which the person is registered. However, a person temporarily residing outside the county shall be registered in the precinct in which the main office of the supervisor, as designated by the supervisor, is located when the person has no permanent address in the county and it is the person's intention to remain a resident of Florida and of the county in which he or she is registered to vote.

§ 101.045(1), Fla. Stat. The general rule is that individuals who reside outside a county are ineligible to vote in that county's elections. However, there is an exception that allows individuals who are temporarily living outside the county but who intend to remain residents of the county to vote in that county's elections. While not an exhaustive list, the exception encompasses scenarios such as voters who are living outside the county because of school, employment, health care, or similar temporary situations. The essence of the exception is the non-permanent nature of the situation that causes a voter's absence from the county.

[4] In the instant case, a married couple sold their home in Putnam County in 2015 and retired to North Carolina. Despite their relocation to North Carolina, the couple voted in Putnam County during the 2016 General Election. The couple testified in deposition that while it was possible they might return to Putnam County in the future, they had no specific plan to do so. The third vote was cast by an individual who was born and raised in Putnam County but lived in St. Johns County since 2013. The voter's driver's license listed his parents' address in Putnam County, and he too testified in deposition that he might return to Putnam County at some point in the future.

[5] We recognize that these 3 voters had been long-time Putnam County residents and appeared to maintain a connection to, and interest in, local politics. Nonetheless, mere interest in and a connection to a county are insufficient to allow those who reside outside a county to maintain a voice in its elections. We find the situations of these 3 voters to not be the type of temporary absence contemplated by section 101.045(1). Therefore, the Supervisor's and the trial court's determinations that those voters were eligible to vote in the election were incorrect.

[6] The largest category of votes on which Kinney relies to support his argument to oust DeLoach from the office are the identified votes cast by alleged convicted felons. Article VI, section 4(a) of Florida's Constitution provides, "No person convicted of a felony ... shall be qualified to vote ... until restoration of [his or her] civil rights ...."<sup>6</sup> Section 97.041 codifies the constitutional requirement of being a qualified voter.<sup>7</sup> The legislature has provided a mechanism for identifying individuals who are ineligible to vote. See id. § 98.075. Specifically, the Department is responsible for initially identifying potentially ineligible voters. Id. § 98.075. As to convicted felons, the Department compares "information received from, but not limited to, a clerk of the circuit court, the Board of Executive Clemency, the Department of Corrections, the Department of Law Enforcement, or a United States Attorney's Office." Id. § 98.075(5). If the Department \*1258 determines that the information is credible, it then notifies the Supervisor, who then proceeds with the removal process provided in section 98.075(7). Id.<sup>8</sup>

The evidence is uncontroverted that the Supervisor was not notified by the Department that any of the alleged 32 convicted felons were potentially ineligible to vote upon voter registration, on Election Day, or during the recount. Had the Department notified the Supervisor of the voters' potential ineligibility, section 98.075(7) requires that the Supervisor then notify each registered voter of his or her potential ineligibility by mail within 7 days of receiving notice from the Department, give the voter 30 days to respond, hold an evidentiary hearing if requested by a voter, and give that voter an opportunity to appeal a determination of ineligibility before officially removing the voter from the system. Id. § 98.075(7).

Based on the Supervisor's testimony, as of the time of trial, 10 of the identified convicted felons who voted in the 2016 General Election were removed from the system pursuant to section 98.075(7). However, as our supreme court has noted, "[t]he rule is settled in this state that where an election is otherwise valid, it will not be held void because illegal votes were cast." State ex rel Pooser v. Wester, 126 Fla. 49, 170 So. 736, 739 (1936). Based on the statutory procedures detailed above, the trial court found that Kinney failed to meet his burden of placing the election result in doubt because the 10 identified convicted felons who were properly removed from the system only reduced DeLoach's margin of victory from 16 to 6. The court reasoned that even if Kinney identified more than 16 ineligible votes, he still did not meet his burden because no evidence was presented that the identified voters actually voted for the office, considering that 771 more votes were cast in the General Election than for the office, or for whom the voters cast their ballots if they voted for the office.

We agree. With the exception of 1 voter whose deposition was entered into evidence and who acknowledged voting for DeLoach, the record is silent as for whom, if anyone, the other 41 voters cast ballots. More importantly, on Election Day, the

Supervisor had no knowledge of any ineligible or improper votes, other than those cast by the 3 non-residents, and had no legal authority to reject and not count the now-disputed votes. In contrast to the cases Kinney relies on,<sup>9</sup> this election was not one in which a candidate used illegal tactics to obtain votes or election officials failed to comply with the statutory election procedures. See Fouts, 795 So.2d at 1118 (reversing final order granting quō warrāntō relief and ouster where evidence presented did not prove that ousted candidate “violated any applicable election procedure, much less that any non-compliance ‘1259 raised doubts as to whether the election reflected the will of the voters”).

There must be a relatively swift procedure for certifying the results of an election, and the Supervisor and Board followed the law in carrying out that responsibility. We agree with the trial court, which entered a thorough order in this case, that ultimately, Kinney did not meet his burden of proving that the validity of the election of Putnam County Sheriff was in doubt. Accordingly, we affirm.

AFFIRMED.

LAMBERT and EDWARDS, JJ., concur.

#### All Citations

253 So.3d 1254, 43 Fla. L. Weekly D2134

#### Footnotes

<sup>1</sup> A third candidate, Edison Edison, also ran for the office but is not a party to this appeal.

<sup>2</sup> A total of 33,488 votes were cast in the General Election. Of that number, 32,717 were cast for the office. Therefore, 771 individuals who voted in the General Election did not vote for the office. Of the votes cast for the office, 15,869 were for DeLoach, 15,853 were for Kinney, and 995 were for Edison.

<sup>3</sup> Section 102.168 details the process for contesting an election and gives courts the authority to review contested election results.

<sup>4</sup> Kinney’s argument assumes that every potentially ineligible vote was cast for his opponent.

<sup>5</sup> We find no error in the trial court’s determinations regarding the 1 vote cast by an individual allegedly adjudicated mentally incapacitated, the 3 votes cast by individuals who died before their mail-in ballots were received and counted by the Supervisor, and the 2 votes timestamped after 7:00 p.m. The voters whose ballots were timestamped after the 7:00 p.m. deadline were in line at the time the polls were scheduled to close, and there was no impropriety in accepting their votes. The alleged incompetent voter and the voters who died between the time they mailed in ballots and the counting of those ballots are encompassed within the statutory analysis noted in footnote 8. See infra footnote 8.

<sup>6</sup> Florida’s Constitution defines “felony” as “any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or by imprisonment in the state penitentiary.” Art. X, § 10, Fla. Const.

<sup>7</sup> Furthermore, it is a third-degree felony for any voter to cast a ballot knowing that he or she is not a qualified voter. § 104.15, Fla. Stat.

<sup>8</sup> Section 98.075 also mandates the Department to identify voters who are ineligible because they are deceased, have been adjudicated mentally incompetent, or are otherwise ineligible to vote and provides the same removal process. Id. § 98.075(3), (4), (6).

<sup>9</sup> See Bolden v. Potter, 452 So.2d 564 (Fla. 1984) (affirming the invalidation of all absentee ballots cast in an election where evidence, which included 46 voters testifying that their votes were bought, established substantial vote-buying “so conspicuously corrupt and pervasive that it ... tainted the entire absentee voting procedure in this election”); In re Protest Election Returns & Absentee Ballots in Nov. 4, 1997 Election for Miami, Fla., 707 So.2d 1170 (Fla. 3d DCA 1998) (invalidating all absentee ballots cast in mayoral election where statistical expert testified that deviation in absentee ballot cast per district could not be explained by any normal statistical measurement, other experts testified as to illegal absentee ballots and false voter addresses, and there was evidence of stolen ballots, falsely witnessed ballots, and ballots procured by

ballot brokers).

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927 So.2d 232  
District Court of Appeal of Florida,  
Second District.

Andre DeQUERVAIN and Esther Maisch,  
Appellants,

v.

V. Frank DESGUIN, as the Property Appraiser of  
Charlotte County, Florida; Vickie Potts, as the Tax  
Collector of Charlotte County, Florida; and James  
Zingale, as Executive Director of the Department  
of Revenue, State of Florida, Appellees.

No. 2D05-1880.  
|  
May 5, 2006.

#### Synopsis

**Background:** Homeowners brought action to contest county property appraiser's denial of their application for a homestead exemption because Bureau of Citizenship and Immigration Services had not granted them permanent resident status. The Circuit Court, Charlotte County, Isaac Anderson, Jr., J., granted county defendants' motion for summary judgment, and homeowners appealed.

**Holdings:** The District Court of Appeal, Second District, LaRose, J., held that:

[1] county property appraiser could considering homeowners' immigration status when considering their application for homestead tax exemption, and

[2] homeowners could not form the requisite intent to reside permanently on property.

Affirmed.

**Procedural Posture(s):** On Appeal; Motion for Summary Judgment.

West Headnotes (3)

#### [1] Taxation—Matters considered; scope of issues

Failure of permanent residency statute to list immigration status as a factor in determining permanent residency did not prohibit county property appraiser from considering homeowners' immigration status when denying their application for a homestead tax exemption; statute did not contain an exhaustive list of relevant factors, but rather identified factors that the property appraiser "may" consider in determining permanent residency for homestead exemption purposes, and form used to apply for the homestead exemption also provided that the information on which the appraiser could relay "may include, but need not be limited to," the statutory factors. West's F.S.A. Const. Art. 7, § 6(a); West's F.S.A. § 196.015.

4 Cases that cite this headnote

#### [2] Taxation—Property of individuals in general

Homeowners who lacked a permanent visa could not form the requisite intent to reside permanently on property for which they sought homestead tax exemption, and thus were not entitled to the exemption, even though homeowners immigrated from Switzerland, resided legally in Florida, had lived and worked in county for at least five years, held social security numbers and drivers' licenses, paid federal income tax, had filed a Declaration of Domicile in Florida, and had filed pending applications for permanent resident status. West's F.S.A. Const. Art. 7, § 6(a); West's F.S.A. § 196.015; Fla.Admin.Code Ann. r. 12D-7.007.

4 Cases that cite this headnote

#### [3] Taxation—Property of individuals in general

Only a limited category of aliens—those with



asylum applications pending as of the relevant taxing date—satisfy the homestead residency requirement for the homestead tax exemption without having obtained permanent resident status. Immigration and Nationality Act, § 101(a)(31), 8 U.S.C.A. § 1101(a)(31); West's F.S.A. Const. Art. 7, § 6(a); West's F.S.A. § 196.015; Fla.Admin.Code Ann. r. 12D-7.007.

5 Cases that cite this headnote

### Attorneys and Law Firms

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John L. Polk, Punta Gorda, for Appellees.

### Opinion

LaROSE, Judge.

Andre DeQuervain and Esther Maisch (the Homeowners) appeal the trial court's final summary judgment ruling that, because they were not permanent U.S. residents, they were not entitled to a homestead exemption for their Charlotte County home. The Homeowners immigrated from Switzerland and reside legally in the United States. They had lived and worked in Charlotte County for at least five years. They held social security numbers and drivers' licenses, paid federal income tax, and had filed a Declaration of Domicile in Florida. However, they held only temporary visas. Thus, they could not form the requisite intent to become permanent residents for purposes of the homestead exemption. We affirm.

The Charlotte County property appraiser denied the Homeowners' application for a 2003 homestead exemption because the Bureau of Citizenship and Immigration Services (formerly the Immigration and Naturalization Service) had not granted them permanent resident status. Their applications for such status, however, were pending.

In their summary judgment motion, the Homeowners asserted that they had satisfied all the requirements of

section 196.015, Florida Statutes (2002). Their supporting affidavits stated that they met all the requirements of section 196.012 to prove that they were "permanent residents." The property appraiser offered no opposing affidavits. The trial court denied the Homeowners' summary judgment motion and granted Appellees' motion.

The Florida Constitution affords a homestead exemption to every person who has legal or equitable title to real estate on which he or she maintains a permanent residence. Art. VII, § 6(a), Fla. Const. (1968). The implementing statutes provide, in relevant part, as follows:

#### 196.012 Definitions.

....

(17) "Permanent resident" means a person who has established a permanent residence as defined in subsection (18).

(18) "Permanent residence" means that place where a person has his or her true, fixed, and permanent home and principal establishment to which, whenever \*234 absent, he or she has the intention of returning. A person may have only one permanent residence at a time; and, once a permanent residence is established in a foreign state or country, it is presumed to continue until the person shows that a change has occurred.

....

196.015 Permanent residency; factual determination by property appraiser.—Intention to establish a permanent residence in this state is a factual determination to be made, in the first instance, by the property appraiser. Although any one factor is not conclusive of the establishment or nonestablishment of permanent residence, the following are relevant factors that may be considered by the property appraiser in making his or her determination as to the intent of a person claiming a homestead exemption to establish a permanent residence in this state:

- (1) Formal declarations of the applicant.
- (2) Informal statements of the applicant.
- (3) The place of employment of the applicant.
- (4) The previous permanent residency by the applicant in a state other than Florida or in another country and the date non-Florida residency was terminated.

- (5) The place where the applicant is registered to vote.
- (6) The place of issuance of a driver's license to the applicant.
- (7) The place of issuance of a license tag on any motor vehicle owned by the applicant.
- (8) The address as listed on federal income tax returns filed by the applicant.
- (9) The previous filing of Florida intangible tax returns by the applicant.

<sup>11</sup> The Homeowners argue that the property appraiser impermissibly considered their immigration status in denying their application. We disagree. Section 196.015 does not contain an exhaustive list of relevant factors. Rather, it identifies those factors that the property appraiser "may" consider in determining permanent residency for homestead exemption purposes. Compare § 193.011 et seq., Fla. Stat. (2005) (listing factors appraiser "shall" consider in deriving just valuation). The form used to apply for the homestead exemption is not inconsistent:

The forms shall require the taxpayer to furnish certain information to the property appraiser for the purpose of determining that the taxpayer is a permanent resident as defined in s. 196.012(17). Such information may include, but need not be limited to, the factors enumerated in s. 196.015.

§ 196.121(2) (emphasis added). Therefore, the property appraiser was entitled to consider the Homeowners' immigration status in denying their application.

<sup>12</sup> The property appraiser contends that without a permanent visa, the Homeowners could not form the requisite intent to reside permanently on the property for which they sought the homestead exemption. We must agree. The Florida Administrative Code provided:

Homestead Exemptions—Residence Requirement.

- (1) For one to make a certain parcel of land his permanent home, he must reside thereon with a present intention of living there indefinitely and with no

present intention of moving therefrom.

(2) A property owner who, in good faith, makes real property in this state his permanent home is entitled to homestead \*235 tax exemption, notwithstanding he is not a citizen of the United States or of this State. (*Smith v. Voight*, [158 Fla.366] 28 So.2d 426 (Fla.1946)).

(3) A person in this country under a temporary visa cannot meet the requirement of permanent residence or home and, therefore, cannot claim homestead exemption.

Fla. Admin. Code R. 12D-7.007 (2002) (emphasis added).

In *Juarrero v. McNayr*, 157 So.2d 79 (Fla.1963), the supreme court held that an alien residing in the United States with a temporary visa "does not have the legal ability to determine for himself his future status and does not have the ability legally to convert a temporary residence into a permanent home." *Id.* at 81. The court held that Mr. Juarrero, a Cuban refugee seeking political asylum, could not legally, rightfully, and in good faith make his Florida residence his permanent home. *Id.* at 80; see also *Alcime v. Bystrom*, 451 So.2d 1037, 1037-38 (Fla. 3d DCA 1984) (holding alien without permanent visa could not prove intention to become permanent resident for homestead tax exemption purposes notwithstanding twenty years of U.S. residence, ten years of Florida residence, and six years of local government employment); cf. *Matter of Cooke*, 412 So.2d 340 (Fla.1982) (relying on *Juarrero* and holding alien without permanent visa could not be permanent Florida resident so as to protect home from judgment creditors under homestead exemption from forced sale); *Raheb v. DiBattisto*, 513 So.2d 717, 718 (Fla. 3d DCA 1987) (same).

*Lisboa v. Dade County Property Appraiser*, 705 So.2d 704 (Fla. 3d DCA 1998), acknowledged *Juarrero*, but observed that "immigration policies of the United States have changed considerably since *Juarrero* was decided [and that] Mr. Juarrero's visa today would not be of a temporary nature." *Id.* at 707 (citing *Dep't of Health & Rehabilitative Servs. v. Solis*, 580 So.2d 146, 149 (Fla.1991) ("[A]n asylum applicant is present in the United States with no defined end or defined purpose as set out by Congress regarding temporary aliens. The status of the ... family will not change until the family chooses to leave this country or INS acts on the application for asylum.")). Rather, Mr. Juarrero's status would be that of one "permanently residing under color of

law.” *Id.*

[3] Under *Lisboa*, only a limited category of aliens—those with asylum applications pending as of the relevant taxing date—satisfy the homestead residency requirement without having obtained permanent resident status. *Id.* at 705–07 (citing 8 U.S.C. § 1101(a)(31) (stating that “permanent” means relationship of continuing or lasting nature as distinguished from temporary)); *see also* Opp. Atty. Gen. Fla.2005–55 (2005).

Although federal immigration policies may have changed, *Juarrero* has not been overruled. The property appraiser argues correctly that, at most, *Lisboa* crafts a limited exemption from *Juarrero*’s general rule for those homestead exemption applicants who are also seeking political asylum. *Lisboa*’s narrow holding supports the property appraiser’s position:

The central question presented in this case is whether, as a matter of Florida law, an applicant for political asylum whose application is pending as of the relevant taxing date, is a “permanent resident” for purposes of Florida’s homestead exemption from ad valorem taxation. Based upon our review of Florida law, as well as the expert testimony presented below on the current status of United States

immigration law, \*236 we answer this question in the affirmative.

*Lisboa*, 705 So.2d at 706.

We sympathize with the Homeowners, who, apparently, have chosen to make Charlotte County their home. But, because the homestead exemption provides relief from an ad valorem tax, we must construe the statute strictly against them. *See Capital City Country Club, Inc. v. Tucker*, 613 So.2d 448, 452 (Fla.1993) (citing axiom that all tax exemptions are to be construed strictly). Based on our record, we are compelled to abide by the applicable provisions of the Florida Administrative Code and *Juarrero*, notwithstanding the limited exception, not applicable here, carved out by *Lisboa*. Accordingly, we affirm the trial court’s final summary judgment.

Affirmed.

STRINGER and SILBERMAN, JJ., concur.

**All Citations**

927 So.2d 232, 31 Fla. L. Weekly D1269