

KATE BROWN
SECRETARY OF STATE



ELECTIONS DIVISION
STEPHEN N. TROUT
DIRECTOR
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SALEM, OREGON 97310
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January 16, 2013

Seth Alan Woolley
3403 NE Stanton Street
Portland, OR 97212-2744

Dear Mr. Woolley:

After an investigation of your complaint, and in consultation with the Oregon Department of Justice, our responses to the specific allegations in your complaint follow:

City Charter

In the complaint you assert that this office has jurisdiction to investigate and enforce alleged violations of the Portland City Code. This is incorrect.

ORS 221.315(1) provides in part:

Prosecution of violations of the charter or ordinances of a city in circuit or justice court shall be by the city attorney and in the name of such city. An agreement may be made between any city and, on behalf of the state, the presiding judge for the judicial district in which all or part of such city is located, that such violations be prosecuted for such city in the circuit court by the district attorney in the name of the State of Oregon.

Violations of local codes and ordinances are enforced by local jurisdictions. The Secretary's authority to investigate election law complaints is limited to those complaints described in subsection (1) of ORS 260.345 concerning "a violation of an election law or rule adopted by the Secretary of State under ORS chapters 246 to 260." These are the state election laws.

Voter Registration

You dispute in your complaint that county elections officials have the responsibility to determine voter eligibility. Only county election officials accept and process voter registrations. ORS 247.012(4). If a question is raised concerning the validity of a voter's registration, the county clerk determines whether the person is properly registered based on available evidence. ORS 247.174(1). If a determination to reject a registration is made, the county clerk may conduct a hearing to consider evidence of qualification to register to vote. ORS 247.174(3).

In April, Multnomah County determined that Mr. Hales was and is validly registered in Oregon. As part of this investigation, our office has communicated with Multnomah County Elections and we are confident that they properly followed ORS 247.174 and ORS 247.195.

Tax Court Authorities

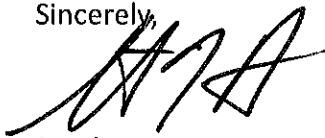
Your complaint adds several Tax Court authorities regarding residence for tax purposes. How the Department of Revenue interprets residency or domicile in their statutes is separate and distinct from the residency requirements for voting purposes. Whether Mr. Hales was claiming the proper residence for tax purposes is a matter within the jurisdiction of the Oregon Department of Revenue.

Conclusion

The Elections Division concludes that there is insufficient evidence to indicate that Mr. Hales violated election law in this instance. Multnomah County made the determination that Mr. Hales' residence for voting purposes is sufficient. We do not have jurisdiction over the Portland City Code provision.

Not finding a violation of election law, the Elections Division determines this case is closed and does not intend to pursue this matter further.

Sincerely,



Stephen N. Trout
Director of Elections