

**Klickitat County Auditor
Klickitat County Washington**

**IN RE CHALLENGE TO THE VOTER
REGISTRATION OF MICHAEL F. KITCHEN**

AUDITOR'S DECISION

I. INTRODUCTION

THIS MATTER came before Brenda S. Sorensen, Auditor, Klickitat County, pursuant to RCW 29A.08.810 through RCW 29A.08.850 on June 15, 2011, upon the challenge to the voter registration of Michael F. Kitchen (the "Challenged Voter"). The challenge was filed by Clint Baze (the "Challenger") and alleges that the Challenged Voter does not maintain a legal voting residence at the address shown on his voter registration records. The Challenged Voter was present at the hearing. The Challenger was present at the hearing.

II. FINDING OF FACT

The voter registration challenge is made pursuant to RCW 29A.04.820 (1) (3) which authorizes the initiation of a voter registration challenge by a registered voter. This statute states:
(1) Challenges initiated by a registered voter against a voter who registered to vote less than sixty days before the election, or who changed residence less than sixty days before the election without transferring his or her registration, must be filed not later than ten days before any primary or election, general or special, or within ten days of the voter being added to the voter registration database, whichever is later, at the office of the appropriate county auditor. Challenges initiated by a registered voter against any other voter must be filed not later than forty-five days before the election. Challenges initiated by the office of the county prosecuting attorney must be filed in the same manner as challenges initiated by a registered voter; - (3) If the challenge is filed at least forty-five days before an election at which the challenged voter is eligible to vote, the county auditor presides over the hearing.

1. "Registration of a person as a voter is presumptive evidence of his or her right to vote. A challenge to the person's right to vote must be based on personal knowledge of one of the following: The challenged voter does not live at the residential address provided, in which case the challenger must either: (i) Provide the challenged voter's actual residence on the challenge form. Since the voter registration challenge was filed more than forty-five days before the next election to be held in Klickitat County, RCW 29A.08.820 directs the voter registration be heard by the Auditor rather than the County Canvassing Board.
2. The voter registration challenge issue was initiated in writing and filed with the Klickitat County Auditor on June 15, 2011.
3. On June 16, 2011, letters were sent to the Challenged Voter and the Challenger informing them that a hearing would be held on June 23, 2011 before the County Auditor.
4. The Challenger alleges that the Challenged Voter does not maintain a legal voting residence at 220 Railroad Avenue, Goldendale, WA, the address shown on his voter registration record.
5. The challenger alleges that the Challenged Voter actually resides at 53 Mariah Ridge Road, Goldendale, WA.
6. The Challenger and Challenged Voter presented live testimony.
7. All witnesses were placed under oath before they gave their testimony.
8. The Auditor heard and considered the testimony of Clint Baze (Challenger); Darlene Williamson; Collyn Roberts; Michael Kitchen (Challenged Voter).
9. Mr. Kitchen provided the following Exhibit: Residential Real Estate Purchase and Sale Agreement – Specific Terms (between the Challenged Voter and J&M Realty

Inc.) for Klickitat County Tax Parcel No. 04162056020900. The Exhibit was not numbered.

10. Testimony received from Darlene Williamson and Collyn Roberts indicated personal knowledge of the Challenged Voter residing at 53 Mariah Ridge Road, Goldendale, WA.
11. Of the 12 citizens present, only two (other than the Challenger and Challenged Voter) chose to testify.
12. Mr. Kitchen testified that he does not presently reside at 220 Railroad Avenue, Goldendale, WA, nor has he ever. He did not intend to defraud anyone because he intended to purchase a house within the city limits of Goldendale and presented the above referenced (no. 9) Residential Real Estate Purchase and Sale Agreement.

III. CONCLUSIONS OF LAW

13. The rules of evidence are not strictly applied during voter registration challenge hearings and evidence was therefore liberally admitted at the hearing. Objections were considered by the Auditor in determining the appropriate weight to give each piece of evidence.
14. No written Declarations or Statements were submitted for this hearing.
15. The registration of a person as a voter is presumptive evidence of his right to vote at any election, as provided in RCW 29A.08.810. The burden to prove otherwise is therefore upon the Challenger.
16. The Challenger must do so by presenting clear and convincing evidence that the voter is not properly registered under the state Constitution and state law at the address listed on his voter registration record.
17. For purposes of voter registration, "residence" is defined by RCW 29A.04.151 as "...a person's permanent address where he or she physically resides and maintains his or her abode."
18. However, no person gains residence by reason of his or her presence or loses his or her residence by reason of his or her absence: (1) While employed in the civil or military service of the State or of the United States; (2) While engaged in the navigation of the waters of this state or the United States or the high seas; (3) While a student at any institution of learning (ref: state Constitution Article VI; Section 4).
19. The ultimate question to be answered in this matter is whether the Challenger has provided the Auditor with the clear and convincing evidence required before the Auditor can rule that the Challenged Voter for voter registration purposes does not meet the requirements to be properly registered to vote under the state Constitution and state law at the address listed on his registration record.
20. The Challenger did meet his burden of proof.

IV. CONCLUSIONS

21. I hereby find that the Challenger has successfully provided clear and convincing evidence that the Challenged Voter does not reside (for voter registration purposes) at the property commonly known as 220 Railroad Avenue, Goldendale, WA, 98620. The Challenged Voter's registration at the above address is hereby cancelled.
22. The Challenged Voter is encouraged to update his voter registration to his permanent residential address as soon as possible.

V. APPEAL PROCESS

This is a final agency decision subject to appeal to Superior Court in a manner consistent with Ch. 34.05 RCW.

VI. ORDER

Therefore, it is ordered that the challenge be UPHELD.

ENTERED this 24TH day of JUNE, 2011.

Brenda Sorensen

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