

Office of the City Attorney

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April 3, 2025

James C. Witecha, Chief Legal Counsel
Wisconsin Elections Commission
201 West Washington Avenue
Second Floor
Madison, Wisconsin 53707-7984

Sent by email to james.witecha@wisconsin.gov and elections@wi.gov

Re: EL 25 – 24
Elizabeth Bruders v. Linda Gourdoux

Dear Mr. Witecha:

With this letter are the following, filed in response to the Complaint in the above action:

- Verified Answer of the Respondent with Exhibit

Under cover of a copy of this letter, the Complainant is receiving a copy as well. Thank you for your attention to this.

Sincerely,

Brian E. Running

Copies: Elizabeth Bruders
Linda Gourdoux

**State of Wisconsin
Before the Elections Commission**

ELIZABETH BRUDERS

Complainant,

VERIFIED ANSWER
OF RESPONDENT

LINDA GOURDOUX,

EL 25 – 24

Respondent.

State of Wisconsin }
 } ss.
Waukesha County }

NOW COMES the Respondent, Linda Gourdoux, and being first sworn on oath makes the following Answer to the Complaint of Elizabeth Bruders:

1. Respondent is the City Clerk for the City of Waukesha, serving in an interim basis until a permanent clerk is hired.
2. The Respondent denies that Special Voting Deputies must be told face-to-face by a voter residing in a residential care facility or retirement home who has requested an absentee ballot that the voter does not wish to vote by absentee ballot.
3. The respondent denies that Special Voting Deputies must go to the room of each voter who requested an absentee ballot but subsequently wishes not to vote absentee.
4. The Complainant incorrectly interprets Wis. Stat. §6.875(6)(c)1. The first sentence of that section reads, “Upon their visit to the home or facility under par. (a), the deputies shall personally offer each elector who has filed a proper application for an absentee ballot the opportunity to cast his or her absentee ballot.” The plain meaning of that language is that it must be the *Special Voting Deputies* that offer the voters the *opportunity to vote*, and no one else. This

means, for instance, that ballots cannot be delivered to electors by facility staff, or collected by facility staff. *Only* Special Voting Deputies are authorized to do so. This is reinforced later in subsection (6)(c)1: “The deputies shall not accept an absentee ballot submitted by an elector whose ballot was not issued to the elector by the deputies. All voting shall be conducted in the presence of the deputies.” In contrast, nowhere in §6.875 is there a requirement that a decision not to vote must be communicated face-to-face to a Special Voting Deputy, as Complainant asserts.

5. Guidance issued by the Wisconsin Elections Commission is consistent with this interpretation. At page 15 of the WEC publication, *Absentee Voting in Residential Care Facilities and Retirement Homes*, (January 2024), this appears:

Any communication by a voter to decline a ballot or ballot(s) should be between the voter and clerk prior to voting day or between the voter and Special Voting Deputies on voting day. The municipal clerk should direct the SVDs as to which methods a voter may employ to decline a ballot to ensure that the voter’s decision has been documented and to maintain the integrity of the voting process in residential care facilities. The municipal clerk may determine whether the following methods are acceptable for their particular situation:

- Voter declines a ballot via telephone
- Voter declines a ballot by signing a printed memo distributed by facility staff
- Voter places signed note declining a ballot on door to room

6. The first sentence of the guidance does not say that communication should be face-to-face, the guidance is that the communication should be from the voter, directed to the Special Voting Deputy.

7. The second sentence allows Clerks to use their discretion in advising SVDs how to receive communication from a voter that they decline the opportunity to vote, but that whatever method is used, integrity of the voting process must be preserved.

8. The final sentence says that Clerks may use their discretion in deciding to use three suggested methods of communication, but it does not say that these three methods are the sole, exclusive means that may be used. None of the three methods involves face-to-face communication with Special Voting Deputies, and one of them explicitly involves using facility staff as intermediaries.

9. In my discretion, and based on my experience in conducting elections and in-person absentee voting, I determined that allowing Special Voting Deputies to rely upon the statements of facility staff as to the residents' desire not to vote by absentee ballot did not threaten the integrity of the voting process in the residential facilities in which we conducted in-person absentee voting. It is my opinion that requiring Special Voting Deputies, who are strangers to the residents, to enter the private rooms of residents is disruptive and upsetting to many of the elderly residents, and can be avoided by allowing facility staff, who are known to and trusted by the residents, to inform us whether the resident wishes to vote by absentee ballot. It is my opinion that respecting the privacy and dignity of the residents has to be in the balance with concerns of the integrity of the process, and that there is no reason to believe that facility staff will deliberately mis-report residents' wishes. I don't believe there is an incentive for them to do so.

10. Relying on the representations of facility staff complies with the guidance given by WEC. I directed my SVDs as to which methods voters could employ to decline a ballot to ensure that the voter's decision was documented and the integrity of the voting process was maintained.

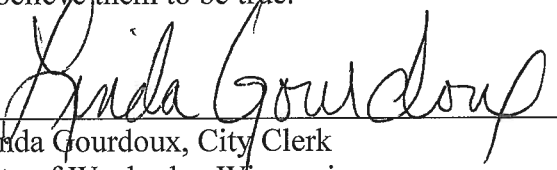
11. I have not received any information that indicates that any voter's wishes were misrepresented or that the integrity of the absentee-ballot voting process was compromised during the 2025 spring election, and the Complainant does not allege any.

12. Commencing on March 17, 2025, I directed my Special Voting Deputies to obtain a signed statement from residents to the effect that they were declining the opportunity to vote by absentee ballot. We used an adaptation of WEC form 126 for this purpose. Facility staff collected these forms from residents and delivered them to the Special Voting Deputies, as directed in WEC guidance. An example of one such form is attached as Exhibit 1.


13. The allegations by Complainant that residents were being given "sheets of paper telling them who to vote for" are immaterial and irrelevant. There is no allegation that they were being handed out by Special Voting Deputies, City Clerk staff, or any other parties under the direction and control of me or any other voting officials.

I respectfully request that the Commission dismiss the Complainant's Complaint in its entirety.

I, Linda Gourdoux, being first duly sworn on oath state that I personally read the foregoing Answer, and that the allegations contained therein are true based on my personal knowledge and, as to those stated on information and belief, I believe them to be true.


Linda Gourdoux, City Clerk
City of Waukesha, Wisconsin
Respondent

Sworn to and subscribed before me this 3rd day of April, 2025.


Brian E. Running, Notary Public
Waukesha County, Wisconsin
My commission is permanent.

City of Waukesha
Office of the City Attorney
201 Delafield Street, Suite 330
Waukesha, Wisconsin 53188-3639
attorneys@waukesha-wi.gov

Exhibit 1

I am declining to vote in the April 1st, 2025, Election. I want to remain on the list to receive a ballot for the next election.

Mary Witzel

Print Voter Name

Mary Witzel

Voter Signature

12-19-24

Date

I am declining to vote in the April 1st, 2025, Election. I want to remain on the list to receive a ballot for the next election.

Christine Reynolds

Print Voter Name

CHRISTINE Reynolds

Voter Signature

3-19-25

Date

I am declining to vote in the April 1st, 2025, Election. I want to remain on the list to receive a ballot for the next election.

Print Voter Name

Voter Signature

Date

I am declining to vote in the April 1st, 2025, Election. I want to remain on the list to receive a ballot for the next election.

James Middleton

Print Voter Name

verbalized decline

Elif MS

unable to sign

Voter Signature

3-19-25

Date

I am declining to vote in the April 1st, 2025, Election. I want to remain on the list to receive a ballot for the next election.

James Frank

Print Voter Name

[Signature]

Voter Signature

3-19-25

Date

I am declining to vote in the April 1st, 2025, Election. I want to remain on the list to receive a ballot for the next election.

Print Voter Name

Voter Signature

Date

I am declining to vote in the April 1st, 2025, Election. I want to remain on the list to receive a ballot for the next election.

James Miller

Print Voter Name

James Miller
Voter Signature

3-19-25
Date

I am declining to vote in the April 1st, 2025, Election. I want to remain on the list to receive a ballot for the next election.

Betty Miller

Print Voter Name

Betty Miller JM
Voter Signature

3-19-25
Date

I am declining to vote in the April 1st, 2025, Election. I want to remain on the list to receive a ballot for the next election.

Print Voter Name

Voter Signature

Date

I am declining to vote in the April 1st, 2025, Election. I want to remain on the list to receive a ballot for the next election.

Goldie Zeller

Print Voter Name

* Goldie P. Zeller

Voter Signature

3-19-25

Date

I am declining to vote in the April 1st, 2025, Election. I want to remain on the list to receive a ballot for the next election.

William Belmer

Print Voter Name

William Belmer 3-19-25

Voter Signature

Date

I am declining to vote in the April 1st, 2025, Election. I want to remain on the list to receive a ballot for the next election.

Alice Staral

Print Voter Name

Alice J.

Voter Signature

3/19/25

Date