



# Wisconsin Elections Commission

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## **MEMORANDUM**

**DATE:** For the January 15, 2021 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe  
Administrator

**SUBJECT:** **Ballot Access Challenges – Candidates for Partisan Office – Spring 2021**

This Memorandum summarizes Commission staff's review of the challenge filed to the nomination and candidacy papers of a candidate for partisan office for the 2021 Spring Election. One challenge (with several subparts) was filed against one candidate.

The burden of proof applicable to establishing or rebutting a challenge is clear and convincing evidence. Wis. Admin. Code EL § 2.07(4). Below, staff have summarized the challenge, the response, and have provided analysis and recommendations for the Commission's consideration.

**1. Steven Hepp Complaint against Donald Pridemore**

Case No. EL 21-05

Signatures required for office: 400

Signatures challenged: All Signatures

This complaint alleges that various required filings submitted by Candidate Donald Pridemore, a candidate for the special election in State Senate District 13, were deficient because the residential address listed are not his actual residential address, thus rendering the documents falsely filed and legally insufficient (Declaration of Candidacy, Statement of Economic Interest, Nomination Papers).

**Supplemental Signatures:**

Candidate Pridemore did not file supplemental signatures.

**Challenge to all nomination papers: The Declaration of Candidacy, Statement of Economic Interest, and Nomination Papers submitted by the respondent all contained the use of a false address.**

The complainant alleges that the candidate's filings utilized a residential address (459 Abbot Avenue, Hartford, WI 53027 in Senate District 13, as opposed to 2277 County Highway K,

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*Administrator*  
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Hartford, WI 53027 in Senate District 8). It is argued this constitutes a violation of the statutory residence requirements found in Wis. Stat. § 6.10(1). The address was also used in contravention of the filing requirements in Chapter 8 of the Wisconsin Statutes, the prohibition on filing a false Declaration of Candidacy (“DOC”) found in Wis. Stat. § 12.13(3), the DOC amendment allowances found in Wis. Stat. § 8.21(6), and the compliance requirements of Wis. Admin. Code § EL 2.05(1).

**Candidate Response: Nomination papers substantially complied with the law and the residential address used was accurate.**

Respondent provided a sworn statement and signed copy of a “Wisconsin Residential Rental Agreement,” each confirming that the 459 Abbott Avenue property should be considered the respondent’s residential address as required by Wis. Stat. § 6.10(1).

**Commission Staff Analysis and Recommendations**

Pursuant to Wis. Admin. Code EL § 2.07(3)(a), “The burden is on the challenger to establish any insufficiency (of nomination papers). If the challenger establishes that the information on the nomination paper is insufficient, the burden is on the challenged candidate to establish its sufficiency...” The burden of proof applicable to establishing or rebutting a challenge is clear and convincing evidence.” Wis. Admin. Code EL § 2.07(4). Wisconsin Administrative Code EL § 2.05(4) provides, “Any information which appears on a nomination paper is entitled to a presumption of validity...”

The complainant alleges that use of a false address also negates the validity of several other nomination/candidacy documents. This analysis will first focus on the nomination papers and the most germane challenge question, whether the address is actually false in light of the evidence in the record and the standards outlined in the preceding paragraph.

The respondent has provided a sworn statement attesting that he lives at the 459 Abbott Avenue address within Wisconsin Senate District 13 and a signed residential lease to support this contention. A signed legal document of residency, such as a lease, provides strong evidence that the party maintains residency at the listed location. In fact, the Commission has opted not to sustain similar challenges with arguably less formal evidentiary submissions (*e.g.* newspaper articles, tax assessment records, etc.)(*See* Case No.: EL 20-01 Whitney v. Blomme).

The respondent has presented sufficient evidentiary submissions to overcome a single sworn statement by the petitioner, particularly considering the respondent addressed his dual ownership of, and non-residency at, the 2277 County Highway K property found in the public record data compiled by WIREdata Corporation and submitted by the complainant. This holds especially true in light of the burden placed on the complainant, and the presumption of validity for nomination papers. This finding defeats the need for further analysis on the complainant’s challenged statutes, but each of the relevant statutes will be addressed for the sake of thoroughness.

Those provisions state as follows:

**Wis. Stat. § 8.21(4)(b):**

Each candidate for state and local office shall include in the declaration of candidacy all of the following:

**(b)** A statement that discloses the candidate's municipality of residence for voting purposes, and the street and number, if any, on which the candidate resides.

**Wis. Stat. § 12.13(3)(am):**

PROHIBITED ACTS. No person may:

**(am)** Fail to file an amended declaration of candidacy as provided in s. 8.21 with respect to a change in information filed in an original declaration within 3 days of the time the amended declaration becomes due for filing; or file a false declaration of candidacy or amended declaration of candidacy. This paragraph applies only to candidates for state or local office.

The penalty for violating Wis. Stat. § 12.13(3)(am) is a forfeiture of "not more than \$500." Wis. Stat. § 12.60(1)(c). The Commission has the authority to investigate civil and criminal matters, the authority to bring civil actions and the authority to refer a criminal matter to the appropriate district attorney. Wis. Stat. §§ 5.05(1)(c), 5.05(2m)(a).

**Wis. Stat. § 8.15(4)(b):**

NOMINATIONS FOR PARTISAN PRIMARY.

**(b)** Nomination papers shall be accompanied by a declaration of candidacy under s. 8.21. If a candidate for state or local office has not filed a registration statement under s. 11.0202 (1) (a) at the time he or she files nomination papers, the candidate shall file the statement with the papers. A candidate for state office shall also file a statement of economic interests with the ethics commission under s. 19.43 (4) no later than 4:30 p.m. on the 3rd day following the last day for filing nomination papers under sub. (1), or no later than 4:30 p.m. on the next business day after the last day whenever that candidate is granted an extension of time for filing nomination papers under sub. (1).

**Wis. Stat. § 5.05(2m)(c)2:**

ENFORCEMENT.

**(a)** Any person may file a complaint with the commission alleging a violation of chs. 5 to 10 or 12. No later than 5 days after receiving a complaint, the commission shall notify each person who or which the complaint alleges committed such a violation. Before voting on whether to take any action regarding the complaint, other than to dismiss, the commission shall give each person receiving a notice under this subd. 2. a. an opportunity to demonstrate to the commission, in writing and within 15 days after receiving the notice, that the commission should take no action against the person on the basis of the complaint. The commission may not conduct any investigation or take any other action under this subsection solely on the basis of a complaint by an unidentified complainant.

**(am)** If the commission finds, by a preponderance of the evidence, that a complaint is frivolous, the commission may order the complainant to forfeit not more than the greater of \$500 or the expenses incurred by the commission in investigating the complaint.

*Wis. Stat. § 8.21(4)(b)*

Commission staff do not believe the complainant has met his burden to support the allegation that the respondent failed to accurately disclose his present address and municipality of residence for voting purposes on his Declaration of Candidacy. A person's residence is the place where their habitation is fixed, with no intent to move, and where they intend to return when absent. Wis. Stat. § 6.10(1). The respondent has filed a sworn affidavit stating that 459 Abbott Avenue is his residence and address for voting purposes.

Commission staff also contend, based on the residential lease submitted, that the records supports an argument 459 Abbott Avenue was respondent's residence and address for voting purposes at the time he filed his Declaration of Candidacy. The lease dates do indeed predate the filing dates. It is believed there is not clear and convincing evidence in the record to support the contention that respondent violated Wis. Stat. §8.21(4)(b) when he listed 459 Abbott Avenue as his residence and address for voting purposes.

*Wis. Stat. § 12.13(3)(am)*

Commission staff do not believe Petitioner has met his burden to support the allegation that respondent falsified information on his Declaration of Candidacy because he does reside at 459 Abbott Avenue.

As discussed above, respondent confirms in an affidavit that 459 Abbott Avenue was his residence and address for voting purposes at the time he filed the Declaration of Candidacy. Respondent also confirmed that 459 Abbott Avenue is currently his residence and address for voting purposes. Respondent also attests that his family intends to purchase the property the petitioner contends is his residence (although it remains in a trust in respondent's name), and that he is renting while awaiting the opportunity to build a new home in Senate District 13. Based on the evidence presented, Commission staff believe there is not reasonable suspicion that respondent violated Wis. Stat. § 12.13(3)(am) when he listed 459 Abbott Avenue as his residence on his Declaration of Candidacy form.

*Wis. Stat. § 8.15(4)(b)*

The respondent's Declaration of Candidacy, Statement of Economic Interest, and Nomination Papers were all timely filed. No further challenges or discrepancies have been alleged or discovered by Commission staff, and staff intend to otherwise recommend ballot access if this challenge is resolved. Commission staff believe the petitioner's evidence is not sufficient to overcome the presumption of validity.

*Wis. Stat. § 5.05(2m)(c)2*

Wisconsin Administrative Code EL 2.07(1) provides, "The elections commission shall review any verified complaint concerning the sufficiency of nomination papers of a candidate for state office that is filed with the elections commission under ss. 5.05 and 5.06, Stats..." Thus, the

ballot access challenge process has been administratively tied to the statutory complaint processes of Wis. Stat. § 5.05 and Wis. Stat. § 5.06.

Based on all of the aforementioned analysis, Commission staff recommend not sustaining the challenge and allowing ballot access for Candidate Pridemore

**Recommended Motions:**

- 1) The Commission does not sustain the challenge to Donald Pridemore's ballot access, as all necessary nomination and candidacy paperwork contains an accurate residential address.**