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**BEFORE THE MARYLAND STATE BOARD OF ELECTIONS**

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BARBARA OSBORN KREAMER,  
Complainant

v.

HARFORD COUNTY BOARD  
OF ELECTIONS,  
Respondent

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FINAL DETERMINATION

**Statement of the Case**

On November 6, 2007, the Complainant, Barbara Osborn Kreamer, filed with the Maryland State Board of Elections (the "State Board"), pursuant to Election Law Article, §3-602(a)(1), an administrative complaint challenging action by the Harford County Board of Elections (the "Local Board") in registering to vote former State Senator Arthur Henry Helton, Jr. ("Sen. Helton"). Pursuant to a sworn voter registration application received from Sen. Helton in February 2007, the Local Board changed the voter registration address of Sen. Helton from 3069 Harmony Church Road, Darlington, to 8 S. Parke St., Aberdeen. (This address was corrected in early April of 2007 to 8 N. Parke St.) The Complainant, who apparently resides in the municipality of Aberdeen, asserts that Sen. Helton does not reside at 8 N. Parke St., and that he continues to maintain his *bona fide* residence or domicile at 3069 Harmony Church Road. The Complainant did not request a hearing, but submitted a letter and certain other documentary evidence to support her Complaint.

The Local Board submitted evidence regarding the voter registration history of Sen. Helton and his wife, Ann C. Helton, to supplement the recent history reflected on the State Board's computerized Statewide voter registration list. Otherwise, the Local Board did not respond to the Complaint.

The subject of the Complaint, Sen. Helton, was invited to respond to the Complaint, and on November 19, 2007, the State Board received his response, consisting of a cover letter and certain documentary evidence. Sen. Helton's response gave little to no explanation regarding his choice of address for voter registration purposes, other than to indicate that Sen. Helton and his wife own, and that Sen. Helton keeps an office at, the property located at 8 N. Parke St. in Aberdeen.

A staff member of the State Board conducted an investigation into the voter registration at issue and filed a report regarding her findings, which is included in the record.

This administrative procedure is governed by Chapter 33.01.05 of the Code of Maryland Regulations ("COMAR"). The purpose of the administrative complaint procedure is to provide a fair hearing, if requested, and a speedy determination outside the judicial system for, *inter alia*, an individual

who feels aggrieved by the action of a local board of elections regarding voter registration.<sup>1</sup>

### Findings of Fact

1. Arthur Henry Helton, Jr. has been registered to vote since 1960 in Harford County, Maryland. For more than 10 years before 2002, he was registered at 3069 Harmony Church Road in Darlington. Since the beginning of 2002, however, his voter registration address has been changed numerous times, all or nearly all of the changes being a result of Sen. Helton's own requests. The changes were as follows:

In Jan. 2002, the address was changed from 3069 Harmony Church Road to 247 Fountain St., Apt. C, Havre de Grace.

In Nov. 2003, the address was changed from 247 Fountain St. to 119 W. Bel Air Ave., Aberdeen.

In Jan. 2006, the address was changed, pursuant to a sworn voter registration application, from 119 W. Bel Air Ave. to 8 N. Parke St., Aberdeen.

In Feb. 2006, the address was changed, again pursuant to a sworn voter registration application, from 8 N. Parke St. to 3069 Harmony Church Rd., Darlington.

In Feb. 2007, the address was once more changed, pursuant to a sworn voter registration application, from 3069 Harmony Church Rd. to 8 N. Parke St., Aberdeen.

2. Sen. Helton and his wife are shown on records of the Maryland Department of Assessments and Taxation ("tax records") as owners of at least the following parcels of real estate in Harford County:

101 W. Bel Air Ave., Aberdeen

10 N. Parke St., Aberdeen

8 S. Parke St., Aberdeen (apparently an unimproved lot)

119 W. Bel Air Ave., Aberdeen

123 W. Bel Air Ave., Aberdeen

Sen. Helton individually is shown on the tax records as the owner of 109 W. Bel Air Ave., Aberdeen.

The tax records characterize only two of these properties as "residential" or "apartments": 8 S. Parke St. and 123 W. Bel Air Ave.; the other properties are characterized as "commercial." After the words "Principal Residence," all tax records contain the word "no." Furthermore, each tax record lists the mailing address of the owner as 3069 Harmony Church Rd., Darlington.

Sen. Helton states that 101 W. Bel Air Ave. is a property at the corner of W. Bel Air Ave. and Parke St., and that this property also contains the addresses 4, 6, and 8 N. Parke St. Sen. Helton also admits ownership of a farm at 3069 Harmony Church Rd. in Darlington.

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<sup>1</sup> A complaint under COMAR 33.01.05 is to be filed within 60 days after the actions or events that form its basis or, if later, within 60 days after the Complainant knew or should have known of those actions or events. COMAR 33.01.05.05B. Whether Regulation .05B is properly applicable to a complaint challenging voter registration, and if so, whether this Complaint is timely, is not clear. However, there has been no challenge to the timeliness of the Complaint, and I will assume that it is timely.

3. Sen. Helton's wife has changed her voter registration address, but not as frequently as her husband. The Local Board reports these changes of address since 2000:

In Jan. 2002, the address was changed from 3069 Harmony Church Rd., Darlington (where it had continuously been maintained for more than 10 years) to 247 Fountain St., Havre de Grace.

In Nov. 2003, the address was changed from 247 Fountain St. back to 3069 Harmony Church Rd., Darlington.

4. Sen. Helton's Maryland driver's license and motor vehicle registration show his residence address as 3069 Harmony Church Rd., Darlington.

5. Sen. Helton sometimes uses stationery headed "Art Helton Properties, 8 N. Parke St., Aberdeen." His name and his business phone number at that address are listed in the Stewart Criss-Cross Directory.

6. The Harford County telephone directory published by Verizon includes a residential listing for Arthur H. Helton, Jr. at 3069 Harmony Church Rd., Darlington. The telephone number is not the one shown on Mr. Helton's business stationery for his office at 8 N. Parke St., Aberdeen.

7. There is no evidence of any reason that Sen. Helton would not maintain his *bona fide* residence at the same address as his wife.

#### **Conclusion of Law**

Sen. Helton maintains his *bona fide* residence or domicile at 3069 Harmony Church Road in Darlington, and that is where Maryland's Constitution (Article I, §1) and election law require that he be registered and vote.

#### **Discussion**

The concept of residence or domicile is, as the Maryland Court of Appeals has declared, "somewhat elusive," particularly since the Court's decision in *Blount v. Boston*, 351 Md. 360 (1998). There, the Court explained that one's domicile need not necessarily be, but is ordinarily, where the person and his family actually live. In any event, it must be a place of a fixed and permanent nature, to which the person, whenever absent, intends to return. While the controlling factor in determining domicile is intent, an ordinarily *subjective* state of mind, the Court has stated that the relevant intent is to be determined after a weighing of *objective* factors, including where the person actually lives, where mail is received, where personal belongings are kept, the address given on licenses and other government documents, and so forth. In *Blount*, the Court declared that there is a rebuttable presumption that one's actual place of abode is his domicile, although in *Blount* the Court found the presumption rebutted by evidence explaining why Sen. Blount's *bona fide* domicile continued, on an ongoing basis, in Baltimore City, notwithstanding his wife's home, and his own frequent living arrangements, in Baltimore County.

By way of contrast, in *Dorf v. Skolnik*, 280 Md. 101 (1977), the Court of Appeals found a voter's apartment in Baltimore County inconsistent with her testimony regarding her intent to reside with her parents in Baltimore City. *Inter alia*, Ms. Dorf's driver's license showed her address to be in Baltimore County, and her county residence address was listed in the telephone directory.

In a previous administrative determination, *Howard County Board of Elections v. Haroldo Drachenberg, et al.* (2006), the State Administrator's designee ruled that a number of persons who had registered to vote in Howard County at business addresses were unlawfully registered, and ordered that their names be removed from the Statewide voter registration list. Moreover, the State Administrator's designee directed that the names of the respondents in *Drachenberg* be referred to the State Prosecutor.

On the scant evidence submitted by the parties in this case, supplemented by evidence gathered by election staff members, there is nothing to rebut the presumption recognized in *Blount* that Sen. Helton's *bona fide* domicile is where he and his wife actually reside, at 3069 Harmony Church Rd. in Darlington. Indeed, that is where Sen. Helton appears to receive much of the mail not related to his business, Art Helton Properties, and it is the address he gives for purposes of his driver's license and motor vehicle registration.


The very frequency with which Sen. Helton has changed his address for voter registration purposes belies the characterization of most addresses he has given on voter registration applications as fixed or permanent in nature. Rather, his voter registration activity, particularly since the 1998 *Blount* decision, evidences a sincere belief that he is free to shift his voter registration at will among properties that he owns. I believe that Sen. Helton is mistaken as a matter of law, but I have no reason to question the sincerity of his mistaken beliefs. Therefore, there appears to be no question in this case of any violation of Election Law Article, §16-101(a)(3) or §16-201(a)(4), which define as misdemeanors the willful and knowing falsification of residence in an attempt to register or to vote in the wrong election district or precinct.

Furthermore, there is no reason to question the actions of the Local Board in changing Sen. Helton's voter registration address in response to his own requests. However, once the State Board receives a challenge to such a voter registration address, it is the State Board's responsibility to cause an examination of the facts and the issuance of an appropriate order.

#### Order

For the reasons stated above, the Harford County Board of Elections is hereby ORDERED promptly to change the voter registration of Arthur Henry Helton, Jr. to his *bona fide* residence address at 3069 Harmony Church Road in Darlington. Any future application for a change in Sen. Helton's voter registration address should be supported by clear evidence of a permanent intent to reside elsewhere.

Date: December 17, 2007

  
JUDITH A. ARMOLD  
Designee of State Administrator

#### APPEAL RIGHTS

Under §3-602(c)(2) of the Election Law Article, a final determination regarding the eligibility of

an individual to register to vote or remain registered to vote is subject to judicial review.<sup>2</sup> A petition for judicial review must be filed with the Circuit Court for Anne Arundel County, no later than the third Tuesday preceding the next succeeding election (in this case, the presidential primary on February 12, 2008), that is, by January 22, 2008.

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<sup>2</sup> While the Complaint does not question, and this determination does not strictly deal with, the eligibility of Sen. Helton to register to vote *per se*, the determination does relate to his eligibility to register at 8 N. Parke St. Thus, whether the appeal right given by §3-602(c)(2) applies here is not entirely clear.