2010-100

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

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Honorable Ethel J. Sprouse
Mayor, Town of Cedar Bluff
Post Office Box 38
Cedar Bluff, Alabama 35959

Voter Registration - Residence Requirements - Municipalities - Registrars, Board of - Cherokee County

Issues of residency for electors are questions of fact properly determined by the board of registrars.

Dear Mayor Sprouse:

This opinion of the Attorney General is issued in response to your request on behalf of the Town of Cedar Bluff.

QUESTIONS

(1) Do citizens of the Town of Cedar Bluff who live in campers twelve months out of each year that are located on recreational lots have the right to register to vote for Cedar Bluff municipal elections and all other general elections?

(2) Are residents of Cedar Bluff who have more than one home and/or are physically away from their Cedar Bluff residence for extended periods of time, but consider their Cedar Bluff home their primary residence and are not registered to vote in any other county or state, able to register to vote in municipal elections for the Town of Cedar Bluff and other general elections?

FACTS AND ANALYSIS

Both questions are issues of residency and can be resolved simultaneously. This Office has stated many times that residence is an individual question of fact to be determined by the board of registrars based on all the surrounding circumstances of each individual case. *See* opinion to Ms. Carolyn N. Love, Colbert County Board of Registrars, dated September 22, 1982, A.G. No. 82-00562. The determination of residency is based on many factors and is within the discretion of the board of registrars. The ultimate question in determining residency is both where the voter ***shows evidence of an intention*** to reside and where he or she actually does reside. This determination is based upon many factors, such as where the person pays property taxes, where he or she owns a home, where the person has a driver's license, and where he or she works. *See* opinion to Honorable Carl W. Burrows, Cleburne County Board of Registrars, dated June 11, 1982, A.G. No. 82-00391.

If a person lives in a camper on a recreational lot in the Town of Cedar Bluff for twelve months out of the year, it would seem reasonable that the person actually resides in the town, and if that person otherwise shows evidence of an intent to reside in that location, then the person may be considered by the board of registrars to be a resident of the Town of Cedar Bluff. Similarly, a person who has more than one home may show evidence of an intent that one of those homes is the place where they intend to reside, and if there are other factors to indicate that the person actually does reside in that home, the board of registrars may treat that person as a resident of the Town of Cedar Bluff.

Because the Attorney General makes determinations of law and not of fact, this Office is unable to directly answer your question, but has hopefully provided guidance on the issues presented. 2010 Ala. Acts No. 2010-369; opinion to Honorable Casandra Horsley, Winston County Judge of Probate, dated April 19, 1996, A.G. No. 96-00189; opinion to Honorable Clarence F. Rhea, Attorney, City of Attalla, dated April 19, 1996, A.G. No. 96-00190. The ultimate decision as to the residency of a person must be determined by the board of registrars based on the facts presented to the board.

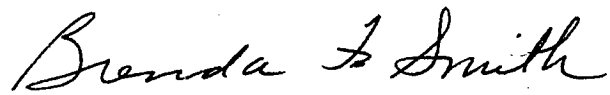
CONCLUSION

Issues of residency for electors are questions of fact properly determined by the board of registrars.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Brenda Smith of my staff.

Sincerely,

TROY KING
Attorney General
By:



BRENDA F. SMITH
Chief, Opinions Division

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