

# MAINE STATE LEGISLATURE

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November 19, 1958

Honorable Robert L. Travis  
Governor's Counsellor  
Council Chambers  
State House  
Augusta, Maine

Dear Counsellor Travis:

We have this day been presented a letter from William Berman, Attorney at Law, addressed to you, accompanied by letters from Mr. Berman to the City Clerks of Portland, Maine, and Westbrook, Maine.

These letters were referred to us for consideration in order to determine whether or not the information contained therein is sufficient to indicate Mr. Berman is a resident of Westbrook within the intent and purpose of the following provision of the Charter of the Westbrook Municipal Court.

Chapter 282, Private and Special Laws of 1909  
"Section 1. The governor by and with the consent of the council shall appoint a recorder of the municipal court for the city of Westbrook, who shall be a resident of Westbrook and hold office for the term of four years."

Before discussing the definition of "resident", we would indicate that there is no requirement that the residency referred to in Chapter 282 shall have been of any special period of time prior to appointment. That is, there is no requirement, express or implied, that at the time of appointment the recorder must have been a resident for three months, six months, or any other special time.

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The statute merely requires that at the time of appointment, the person must then, and at that time, be a resident of Westbrook.

"Resident", as used in said Chapter 282, means, in our opinion, actual presence in Westbrook, with the intention to permanently reside there. We thus construe the word "resident", as used in the Westbrook Municipal Court Charter, to be synonymous with "domicile". In some respects "resident", as used, has a tighter meaning than that normally given to the term, in that we believe the court would require the recorder to be present in Westbrook a substantial portion of his time.

The intent to reside permanently in one area must be ascertained from facts surrounding the presence in that area.

In this regard Mr. Berman makes the following statements:

"1. My domicile is in Westbrook. I have engaged quarters at 367 Main Street, in Westbrook.

"2. I have requested the Registrar of Voters in Portland to strike my name from the list of voters in Portland on the ground that I have moved from that city; and have notified the City Clerk of Westbrook that I now reside at 367 Main Street in Westbrook. Copies of both letters are enclosed.

"3. My lease in Portland expires November 30th and has not been renewed.

"4. My automobile will be registered this coming month from my Westbrook address.

"5. I bank and shop in Westbrook; I contribute to Westbrook charities, and belong to Westbrook Rotary. My personal physician and optometrist have their offices in Westbrook.

"6. I practice law in Westbrook."

Honorable Robert L. Travis      -3-      November 19, 1958

In Mr. Berman's letter of November 4, 1958, he instructed the Board of Registrar Voters in Portland, Maine, to strike his name from the roll of voters. In a letter of the same date he advised the City Clerk of Westbrook, Maine, that he had established his residence in that city.

It is our opinion that if the Governor and Council find the statements made in the referred to letters to be factual statements, then the required residence has been established.

Respectfully yours,

James Glynn Frost  
Deputy Attorney General

JGF/m