

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF OTSEGO

HALL F. WILLKIE, JULIET F.
LAURICELLA, THOMAS A. LAURICELLA,
DAVID HENDRICKS, JULIANNE BOND-
SHAPIRO, DAVID SPRY, MARIA SPRY and
STEPHEN ROBBINS,

Petitioners,

- against -

DELAWARE COUNTY BOARD OF
ELECTIONS,

Respondent.

NOTICE OF PETITION

Index No. 20070804
RJJ # 2007-0303

2007 JUL 31 PM 3:56

RECEIVED
CLERK OF SUPREME COURT
COUNTY OF OTSEGO

PLEASE TAKE NOTICE that upon the annexed Verified Petition of Petitioners

Hall F. Willkie, Juliet F. and Thomas A. Lauricella, David Hendricks, Julianne Bond-Shapiro,

David and Maria Spry and Stephen Robbins ("Petitioners"), verified on July 18, 19, and 20,

2007, and dated July 30, 2007, and the Exhibits attached thereto, Petitioners by their attorneys

Willkie Farr & Gallagher LLP, will move this Court, at the ~~Otsego~~ ^{Chenango} County Courthouse in the

~~City of Cooperstown~~ ^{City of Norwich}, New York, on the 7th day of Sept, 2007 at 9:30 o'clock in the pm noon

of that day, or as soon thereafter as counsel can be heard, for: 1) an Order pursuant to N.Y.

Election Law § 16-108 compelling Respondent the Delaware County Board of Elections

("Respondent" or the "Board") to reinstate Petitioners as registered voters in the Town of

Bovina, Delaware County; 2) a declaratory judgment pursuant to CPLR § 3001 declaring that:

the eligibility of dual residents to register and vote at a given residence is to be determined by

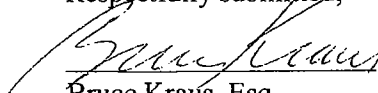
considering the resident's expressed intent, his or her renunciation of the right to vote elsewhere,

and whether or not such person has legitimate, significant, and continuing attachments to his or her voting residence of choice, which determination will satisfy the statutory requirement of a “a fixed, permanent and principal home and to which he, wherever temporarily located, always intends to return”; 3) an injunction requiring the Board to apply this standard in its future determinations of the voting residence of dual residents in connection with both their registration applications and any challenges to their registration; and 4) any other relief the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to CPLR § 403, Respondent’s answer and supporting affidavits, if any, shall be served at least seven days before the return date.

Dated: New York, New York
July 30, 2007

Respectfully submitted,



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Attorney for Petitioner Hall F. Willkie

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF OTSEGO

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:
HALL F. WILLKIE, JULIET F.
LAURICELLA, THOMAS A. LAURICELLA, :
DAVID M. HENDRICKS, JULIANNE BOND- :
SHAPIRO, DAVID SPRY, MARIA SPRY and :
STEPHEN ROBBINS, :

Petitioners, :

- against - :

DELAWARE COUNTY BOARD OF
ELECTIONS, :

Respondent. :

VERIFIED PETITION

Index No. 20070804

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I. INTRODUCTION

1. This is a proceeding pursuant to Section 16-108 of the Election Law to 1) reinstate the voter registrations of Petitioners Hall F. Willkie, Juliet F. and Thomas A. Lauricella, David M. Hendricks, Julianne Bond-Shapiro, David and Maria Spry and Stephen Robbins ("Petitioners"); 2) request a declaratory judgment stating that Respondent the Delaware County Board of Elections ("Respondent" or the "Board") has used legally improper criteria for determining residence for voting purposes; and 3) enjoin the Board from using such improper criteria in the future.

2. Petitioners are eight long-time residents of Bovina, New York, a community of about 600 people. Petitioners have all been active participants in the life of this small, rural community for many years. All eight Petitioners have been illegally erased from the Bovina voting rolls after years and, in some cases, after more than a decade of active

participation in Bovina's elections and in the town's social, economic and community life. All eight petition this Court for reinstatement of their voter registrations.

3. In early 2007, a group of Bovina voters, including these eight, took sides in a debate over local zoning policy. A Bovina citizen on the losing side of this issue then filed affidavits seeking to disenfranchise a number of his political opponents. The Petitioners here were perceived as vulnerable to challenge because, in addition to their homes in Bovina, they each have another residence as well.

4. As described at length below, the Board, acting on the complaint of this citizen, subsequently disenfranchised Petitioners, apparently based on the Board's erroneous belief that part-time residents of Delaware County are not permitted to register to vote there.

5. The Board's action was illegal because New York law gives these Petitioners the perfect right to choose either one of their homes as their residence for voting purposes. Each Petitioner has a legitimate, significant and continuing attachment to his or her voting residence of choice in Bovina, and none votes elsewhere. However long they may be absent, their Bovina home is one place to which they always intend to return.

6. Accordingly, Petitioners' rights to vote in Bovina should be reinstated forthwith, and this Court should grant both declaratory and injunctive relief to ensure the proper application of this important aspect of state election law in the future.

II JURISDICTION AND VENUE

7. This Court has jurisdiction over proceedings for reinstatement and other relief under the Election Law pursuant to N.Y. Election Law § 16-108.

8. Pursuant to CPLR § 506(b), venue for this proceeding is proper in any county in the Sixth Judicial District, because Respondent is located in Delaware County, and Delaware County is located in the Sixth Judicial District. Venue is therefore proper in Otsego County, since Otsego County is also located in the Sixth Judicial District.

III. THE PARTIES

Hall F. Willkie

9. Hall F. Willkie purchased Chestnut Hill Farm in 1985, a 40-acre property located at 3720 County Highway #5 in Bovina, New York. Chestnut Hill Farm has been his residence ever since. The 3,000 square foot farmhouse was built in the late 1880's, and the property also includes three barns, pasture, hay fields and woods. Animals at the farm include four horses, 50 to 60 chickens, ducks and geese, and seven cats.

10. Mr. Willkie, 58, is President of Brown Harris Stevens, a real estate brokerage firm headquartered in New York City.

11. The deed to Mr. Willkie's farm lists him as his farm's sole owner, and he has paid property taxes to the Town of Bovina for as long as he has resided there.

12. Mr. Willkie's driver's license, motor vehicle registrations, and bank account bear his Bovina address. A copy of Mr. Willkie's driver's license, motor vehicle registrations, and a redacted bank check are attached hereto as Exhibit A.

13. Since Mr. Willkie also maintains a residence in New York City and works in New York City, his New York State tax return lists his New York City address as his

“Permanent Home Address” and New York County as his “New York State County of Residence.”

14. Before 2006, Mr. Willkie was a registered voter in New York City, but in 2006 Mr. Willkie registered to vote in Bovina, and he voted in Bovina in the 2006 federal and state elections. Since registering to vote in Bovina, Mr. Willkie has not voted anywhere else. Mr. Willkie registered to vote in Bovina in 2006 because he considers Bovina to be his home and recognizes that the importance of local election results and local ballot issues to his Bovina home outweighs the importance to him of New York City election results.

15. Generally speaking, Mr. Willkie is physically present at his home in Bovina two or more days a week, year-round, except while traveling on business or vacations. By far, the majority of his personal property is there as well. While at his farm, Mr. Willkie conducts a great deal of business by phone and email to fulfill his professional obligations.

16. Mr. Willkie has considered the farm in Bovina to be his home since the day he bought it 21 years ago, and he intends to make his home there for the rest of his life. Indeed, he has expressed the wish that his ashes be scattered at Chestnut Hill Farm upon his death.

17. Mr. Willkie feels very much a part of the Bovina community. Mr. Willkie’s attachment to his Bovina home stems from its rural beauty, his love of animals and the sense of community and feeling of belonging that is possible only in a small town. Mr. Willkie’s personal and social life and activities are centered in Bovina. Bovina is where he gathers with friends and family.

18. Over the years, Mr. Willkie has made substantial investments in his Bovina home. The farmhouse and outbuildings have been completely renovated, with substantially all the work handled by local contractors. The improvements include a great deal of landscaping, including building stone walls, gardens, and two large ponds. Mr. Willkie has made these improvements for his enjoyment, and he has never viewed the farm as an investment property. He has never rented his home to any third party or allowed it to be used by anyone other than family and friends.

19. Mr. Willkie buys all of his groceries and supplies for his Bovina home in Bovina or in nearby parts of Delaware and Otsego Counties and engages the services of a number of local businesses and residents in maintaining his farm.

20. Mr. Willkie frequently attends Bovina community events and regularly exhibits his horses at the annual Delaware County Fair. Mr. Willkie has been a regular financial contributor to the Bovina Library, the Bovina Fire Department, and the Bovina Emergency Medical Services. He is a Co-Founder and Co-Director of The Alliance for Bovina, a local preservation group.

21. As a result of the foregoing, Mr. Willkie has a legitimate, significant and continuing attachment to his Bovina home. Mr. Willkie maintains a fixed, permanent and principal home in the Town of Bovina, and wherever Mr. Willkie is temporarily located, he always intends to return to his home in Bovina.

Juliet and Thomas Lauricella

22. Juliet F. and Thomas A. Lauricella, aged 73 and 75, are a retired couple living on Social Security who have maintained a residence at 458 Bovina Road in Bovina since 1995. The Lauricellas' Bovina home is a well-insulated, year-round house on 37 acres, with two bedrooms, a large eat-in kitchen with many windows, a full basement, a full attic that is used as a large bedroom, and a deck around two sides. The house is at the end of a road in a large field on a hill, with a view of a stream and mountains in the distance. The property includes a bridge over the Little Delaware River, which runs through the property, as well as woodlands and several large, cultivated fields.

23. Juliet Lauricella (then Juliet Friedman) earned her B.S. degree in Education from SUNY-Oneonta and during her college years grew deeply attached to the beauty of the surrounding area. During a number of vacations prior to her marriage, Juliet and her parents stayed with a Bovina farm family that took in guests.

24. The Lauricellas married in 1965 and raised their son and daughter in northern New Jersey. After the children completed college in New York City, the Lauricellas moved to Brooklyn in 1991.

25. When the children were grown, the Lauricellas wished to realize their long-held dream of owning a country home and persuaded their children to join in the purchase of their home in Bovina, with the intention that it would be a retirement home for the parents and a vacation and weekend home for the whole extended family. The Lauricellas' Bovina home has been a place where three generations have enjoyed the outdoors, planting trees, shrubs, and flowers, and sharing the vegetables they produced in their garden.

26. In 2001 the Lauricellas moved to apartments close to their Bovina home, first in nearby Stamford (in Delaware County), and later in Bovina Center, and they continued to share use of their larger Bovina property with their children's families as they had before.

27. The Lauricellas' driver's licenses, motor vehicle registration, car insurance statements, tax correspondence, and social security checks and correspondence all bear the address of a post office box that they maintain in Bovina for their convenience. Copies of the Lauricellas' motor vehicle registration, insurance identification card, the redacted exterior of IRS tax correspondence, and the exterior of correspondence from the Social Security Administration are attached hereto as Exhibit B.

28. Voting and political participation are very important to the Lauricellas. Mr. Lauricella has been active in politics and community affairs for most of his life, at various times serving as President and Chairman of the Board of the New York Young Republican Club, as a Town Councilman and Director of Urban Renewal in Wayne, New Jersey, as a Democratic County Committeeman in Stamford, New York, and as a member of a local Chamber of Commerce. He believes he has voted in every election since he attained voting age. Mrs. Lauricella also served on the County Committee in Stamford. Both Juliet and Thomas Lauricella have served as County Committeemen in Bovina. They registered to vote in Bovina as soon as they purchased their Bovina home, and they have not registered or voted elsewhere since, other than an election or two for which they registered and voted in Stamford.

29. In 2004, after the birth of the first of their daughter's children, the Lauricellas moved temporarily into small quarters in their daughter and son-in-law's home in West Nyack in Rockland County to help care for their granddaughter Talia, who is now 3, and

now also for her ten-month-old sister Ana. Their daughter and son-in-law work very long hours and need the Lauricellas' assistance. The Lauricellas continue to share use of their Bovina home with their children and grandchildren as they have for the past 12 years and look forward to a time when they will be able to move there full time.

30. The Lauricellas paid property taxes on their Bovina home for the first few years after they purchased it. Now, due to diminished income, responsibility for taxes and upkeep are shared by the Lauricellas and their children.

31. The Lauricellas' deep attachment to the Town of Bovina derives from its great beauty and its favored location on the western edge of the Catskills. They have friends in the area. They love the clean air, the water (which they bottle and bring to their daughter's home), the mountains, and the wildlife. They read the local papers, and they have had letters to the editor on various subjects published over the years. They are members of The Alliance for Bovina, a local preservation group.

32. The Lauricellas are very concerned about local issues in Bovina and Delaware County, particularly the economic and social problems that have arisen with the disappearance of farming in the county. They believe that dairy farmers are going broke due to the high cost of equipment, manpower shortages as children leave to earn a living elsewhere, high insurance costs, and very low income for their products. The Lauricellas are also concerned about local environmental problems and the consequences of over-development in the Catskills and surrounding areas.

33. The Lauricellas do all of their shopping for their Bovina home in nearby parts of Delaware and Otsego Counties. Whenever they need assistance with their home, they

hire local people to do repairs and other jobs, including drainage work, mowing, and plowing. A Bovina farmer cultivates three large fields on their property, covering approximately 13 acres. The Lauricellas do not think of their home as an investment property, and they have never rented it to anyone.

34. The Lauricellas have made substantial investments in their Bovina home. They had a new foundation made for the house, had extensive drainage work done around the house, installed a new septic system, extended the living room, had a new L-shaped deck built, updated the electrical wiring, bought a new stove, and installed a washer and dryer. All of these jobs were done by local craftsmen. In addition, the Lauricellas' children and their children's friends painted the siding, the interiors, and the deck themselves. The Lauricellas bought a gas fireplace for the living room and an old kitchen wood/coal stove for the kitchen. Their daughter-in-law made curtains and shades for the house.

35. As a result of the foregoing, the Lauricellas have legitimate, significant and continuing attachments to their Bovina home. The Lauricellas maintain a fixed, permanent and principal home in the Town of Bovina and they always intend to return to it, wherever they are temporarily located.

David M. Hendricks

36. David M. Hendricks and his life partner, Robert Remien, purchased their 35-acre home at 155 Meyer Road in Bovina in 1994 and have maintained a residence there ever since. Their home is a four-bedroom, two-bathroom A-frame structure with a wrap-around deck.

37. Mr. Hendricks, 62, retired in 2000 from his job as Manager of Database Development for the Africa-America Institute.

38. The deed to Mr. Hendricks' home lists him and Mr. Remien as the sole owners, and they have paid property taxes and school taxes to the Town of Bovina for as long as they have resided there.

39. Mr. Hendricks has a driver's license bearing his Bovina address and he is on the jury rolls in Bovina. A copy of Mr. Hendricks' driver's license is attached hereto as Exhibit C.

40. Since Mr. Hendricks also maintains a residence in New York City, his New York State tax return lists his New York City address as his "Permanent Home Address" and New York County as his "New York State County of Residence." Mr. Hendricks also registers his car using his New York City address.

41. Mr. Hendricks registered to vote from his Bovina address in 1995 or 1996, relinquishing his right to vote elsewhere, because he was spending a great deal of time in Bovina, and he felt his vote would count there more than in New York City. Mr. Hendricks is not registered to vote anywhere else.

42. Mr. Hendricks typically spends about half of his time in Bovina. He returns to New York City to obtain medical treatment and to spend time with Mr. Remien, who still works full time. Mr. Hendricks and Mr. Remien have guests at their home in Bovina most weekends. When Mr. Remien retires, Mr. Hendricks and Mr. Remien intend to spend all of their time in Bovina, except when Mr. Hendricks needs to travel to obtain medical treatment.

43. Mr. Hendricks and Mr. Remien purchased their home in Bovina because they were looking for a home outside of New York City. They investigated areas, and found Bovina to be a gorgeous and remote geographical spot with a beautiful mountainside. Mr. Hendricks finds Bovina to be a soothing and comfortable place to spend time, and he never tires of simply being outside in Bovina and looking at his surroundings. For Mr. Hendricks, Bovina is a peaceful and spiritual place; he and Mr. Remien consider their home in Bovina to be their base and their refuge, and they consider it to be the single most important thing in their lives together.

44. Mr. Hendricks and Mr. Remien have done significant work on their house since they purchased it 13 years ago. They have had all of the windows replaced and built a wrap-around deck that encircles much of the house. They also had portions of the exterior of the house re-sided, and they have had the house re-painted. They have hired local contractors to do all of this work.

45. Mr. Hendricks and Mr. Remien buy all of their groceries and supplies for their Bovina home in Bovina or in nearby parts of Delaware and Otsego Counties. They rent a large part of their land to a local farmer who uses it to cultivate alfalfa.

46. Mr. Hendricks considers himself to be a part of the Bovina community. He contributes to the local Fire Department and the Library. Mr. Hendricks is also a member of The Alliance for Bovina, a local preservation group.

47. Mr. Hendricks does not consider his home in Bovina to be an investment property, and he has never rented the house to any third parties.

48. As a result of the foregoing, Mr. Hendricks has a legitimate, significant and continuing attachment to his Bovina home. Mr. Hendricks maintains a fixed, permanent and principal home in the Town of Bovina and always intends to return to it wherever he is temporarily located.

Julianne Bond-Shapiro

49. Julianne Bond-Shapiro and Steven Winslow are a couple who have lived at 1750 Main Street, County Highway 6 in Bovina Center, New York since August 2002. The house, known locally as "The Old Dan Finn House" or "The House in the Ditch" (because it sits below street level), is a little white house with a garage, located in the heart of Bovina Center. The house is sited on slightly more than an acre of land and has a branch of the East Delaware River running at the back of the property. The original portion of the house was formerly a one-room school house that was moved to its current site.

50. Ms. Bond, 49, is a Vice President of The Corcoran Group, a real estate brokerage firm headquartered in New York City.

51. The deed to the house lists members of Mr. Winslow's family, but Ms. Bond, Mr. Winslow, and Ms. Bond's three children (Madeleine, currently 21, Henry, 17, and Thomas, 15) have always been and continue to be the exclusive occupants of the house. For the entire time that they have lived in Bovina, Ms. Bond and Mr. Winslow have been reimbursing Mr. Winslow's family for the payment of property taxes. Ms. Bond and Mr. Winslow are currently negotiating to purchase the house from Mr. Winslow's family.

52. Ms. Bond's driver's license, motor vehicle registration, and car insurance identification card bear her Bovina address. Her name is on the utility bills for her home in Bovina, and she is a member of the Delaware County jury pool based on her Bovina address, although she has not yet been called to serve. Copies of Ms. Bond's driver's license, motor vehicle registration, insurance identification card, and gas and telephone bills are attached hereto as Exhibit D.

53. Since Ms. Bond also maintains a residence in New York City and works in New York City, her New York State tax return lists her New York City address as her "Permanent Home Address" and New York County as her "New York State County of Residence."

54. Ms. Bond registered to vote in Bovina in 2002, relinquishing her right to vote elsewhere. She voted in Bovina in the 2002 federal and state elections and, she believes, in every election since then. Ms. Bond considers Bovina to be a special place, and she votes there because she believes that Bovina's unique qualities deserve to be protected. Having grown up in a small town in Michigan, Ms. Bond understands the importance of the local vote and feels that her voice is better heard in Bovina and Delaware County than in New York City.

55. Generally speaking, Ms. Bond goes to her home in Bovina whenever she possibly can. She spends most weekends in Bovina, and when time permits, she will spend a week at a time there. Ms. Bond sometimes works from home when she is in Bovina. In the future, Ms. Bond hopes to spend much more time in Bovina. Ms. Bond considers her house in Bovina to be her home.

56. Ms. Bond and Mr. Winslow fell in love with Bovina in the summer of 2002, after a friend who had just purchased a house nearby told them about the area. At the time the house was purchased, Ms. Bond and Mr. Winslow were looking to make a life change and planned to live only in Bovina. It was only when their respective work lives became too busy to manage a regular commute that their plans changed, and they are now unable to spend as much time in Bovina as they would like.

57. Ms. Bond and Mr. Winslow love Bovina. They love the natural, unspoiled beauty of the area, as well as the people there. It is the place they go to relax. Ms. Bond loves to go fly fishing in the area. They like to invite their friends to their Bovina home, but they also love to go there alone and socialize with their friends and neighbors, several of whom are full-time residents of Bovina.

58. Over the past five years, Ms. Bond and Mr. Winslow have made many improvements to their home, which involved either hiring local people or performing the work themselves. This summer, they are planning major work on their house, including re-roofing, painting, and installing a new boiler and new windows. They are currently receiving bids for this work, but they have already contracted with a local handyman to begin making repairs to the house in preparation for certain smaller projects. Ms. Bond does not consider her Bovina home to be an investment property, and neither she nor Mr. Winslow nor Mr. Winslow's family has ever rented the house to anyone.

59. Ms. Bond and Mr. Winslow support local businesses in Bovina. They regularly eat at Bovina restaurants, they shop for food and goods on Saturday mornings at a local farmers' and artisans' market called the Round Barn, and they do all of their shopping for

groceries and supplies for their Bovina home in Bovina or in nearby parts of Delaware and Otsego Counties. They have furnished their house with items purchased at various auctions in Bovina and nearby towns. They employ local individuals to mow the lawn, remove snow, and deliver fire wood.

60. Ms. Bond is active in the Bovina and Delaware County communities. She is a supporter of Angels of Delaware County, a non-profit organization that benefits people in financial need. She is also a member of The Alliance for Bovina, a local preservation group. Ms. Bond expects to become more involved in the Bovina community as she has more time to spend in Bovina.

61. As a result of the foregoing, Ms. Bond has a legitimate, significant and continuing attachment to her Bovina home. Ms. Bond maintains a fixed, permanent and principal home in the Town of Bovina and always intends to return to it, wherever she is temporarily located.

David and Maria Spry

62. David and Maria Spry purchased their home at 759 New Road in Bovina at a bank foreclosure sale in approximately 1991. At the time, the house was extremely run down and close to being demolished. The property had been neglected, the roof leaked, and a trailer had been abandoned on the property, which was scarred by wide-open trenches. Since that time, the Sprys have put all the money that they could afford into fixing and improving the house and property, and it is now a well-maintained and attractive home—completely different than when they bought it.

63. Mr. Spry, 60, worked as the Director of Graphics for Vollmer Associates LLP, an architectural/engineering firm in New York City, and now works for Stantec, also an architectural/engineering firm that acquired Vollmer. Mrs. Spry, 46, is not currently employed.

64. The deed to the Sprys' home is in the names of both David and Maria Spry.

65. The Sprys' driver's licenses and motor vehicle registrations bear their Bovina address. Copies of the Sprys' driver's licenses and motor vehicle registrations are attached hereto as Exhibit E.

66. Since the Sprys also maintain a residence in New York City and Mr. Spry works in New York City, their New York State tax return lists their New York City address as their "Permanent Home Address" and New York County as their "New York State County of Residence."

67. The Sprys registered to vote in Bovina as soon as they purchased their home there because they wanted to be a part of the Bovina community. They have not registered or voted anywhere else since that time. The Sprys necessarily became involved in local affairs beginning in approximately 2000, when animals from a neighboring farm damaged their property, and their adjacent property was being turned illegally into a 'dump' for abandoned trailers and other refuse.

68. Mr. Spry has had a long-standing love for rural areas dating from the time he lived in Northern Vermont during the 1980s. He always wanted to find another, similar property, and the Sprys began looking for such property as soon as they were in a financial

position to do so. That was how the Sprys came to purchase a home in Bovina. The Sprys fell in love with Bovina's natural beauty. They feel very fortunate to have found a beautiful old home in Bovina, to which they felt an immediate attachment. Since that time, they have purchased an adjacent five-acre property to protect against further development around them. The Sprys do not consider their home as an investment property, and they have not rented it out to any third parties.

69. The Sprys spend all of the free time they have at their home in Bovina, including most weekends and holidays. The Sprys have every intention to retire to their home in Bovina. Indeed, if the Sprys could afford to do so, they would have moved there full-time already. They regret that there is no job in the Bovina area that is commensurate with Mr. Spry's current job, so their full-time move will have to wait for now.

70. In addition to their love of nature, the Sprys have close friends among the full-time residents of Bovina, and their two daughters have made friends among the children who live there full-time. Their home in Bovina is the focal point of the Sprys' family life, and being in a rural area with its scenery and weather is a central part of their lives. The Sprys and their daughters all share an enthusiasm for their home and for the Bovina community.

71. The Sprys have done a significant amount of work on their house and property over the past 16 years. Mr. Spry has done all of the cosmetic work himself, including sanding of floors throughout the house, painting the inside and outside of the house, building a fence (with the help of a local contractor) to protect the property, building gardens, tearing out an interior wall, and reconfiguring rooms. The Sprys have also hired local contractors to replace windows, the furnace, the electrical service, and the roof, and to perform miscellaneous

improvements and repairs to the house. They also hired local contractors to reconstruct the plumbing to facilitate their use of the house during the winter months.

72. The Sprys support the local area financially. In addition to paying their property taxes and hiring local contractors, they do their shopping, including purchases of home repair supplies, in Bovina or in nearby parts of Delaware and Otsego Counties.

73. The Sprys consider themselves part of the Bovina community. Mrs. Spry formerly attended the Presbyterian Church of Bovina, particularly because she wanted to get to know her neighbors and other Bovina residents. Both Mr. and Mrs. Spry have attended Bovina town board meetings, and both are members of The Alliance for Bovina, a local preservation group.

74. As a result of the foregoing, Maria and David Spry have legitimate, significant and continuing attachments to their Bovina home. The Sprys maintain a fixed, permanent and principal home in the Town of Bovina and they always intend to return to it, wherever they are temporarily located.

Stephen Robbins

75. Stephen Robbins purchased his home at 1310 Mountainbrook Road in Bovina, New York in 1995. The small, family-sized cabin has been a year-round home since 1997, when he finished winterizing it. Mr. Robbins recently agreed to purchase an additional 15 acres contiguous to his present property.

76. Mr. Robbins, 48, works for Lippincott, a brand consulting firm headquartered in New York City. He is also a freelance artist.

77. Mr. Robbins' driver's license, motor vehicle registration, insurance identification card, bank statements, and Graphic Artists Guild membership bear his Bovina address. A copy of Mr. Robbins' driver's license, redacted motor vehicle registration, redacted insurance identification card, redacted bank statements, and redacted Graphic Artists Guild invoice are attached hereto as Exhibit F.

78. Since Mr. Robbins also maintains a residence in New York City and works in New York City, his New York State tax return lists his New York City address as his "Permanent Home Address" and New York County as his "New York State County of Residence."

79. Although Mr. Robbins has owned and sold several apartments in New York City over the years, he does not currently own any real estate other than his home in Bovina.

80. Mr. Robbins registered to vote in Bovina soon after he purchased his home, in approximately 1996. He has not been registered to vote anywhere else since registering in Bovina. Mr. Robbins feels strongly about local issues including highway maintenance and wind power, both of which he believes to have been poorly managed to the detriment of the entire community. Mr. Robbins is a member of The Alliance for Bovina, a local preservation group.

81. Generally speaking, Mr. Robbins spends all of his available non-working time in Bovina. Currently, that time consists primarily of weekends and vacations. When in Bovina, Mr. Robbins uses his home as an office for freelance work for clients in New York City.

Mr. Robbins intends to retire to his home in Bovina, or start a second career there. When absent, Bovina is the only place to which Mr. Robbins wishes to return.

82. Mr. Robbins always had a dream of living in the country, and he searched for a place he could afford that had meadows, forest, people and wildlife. He found such a place in Bovina. Mr. Robbins' closest friends and family visit him often in Bovina to share in the delight of the surrounding countryside.

83. Mr. Robbins likes that in Bovina, he is able to live his life without much interference and full of peace, tranquility, and privacy that is impossible to find in New York City. He enjoys gardening, and he tends a three-acre wildflower meadow in Bovina, in addition to other recreational activities.

84. Mr. Robbins believes his career in New York City would be impossible without his cabin in Bovina to balance his hectic city life. If pressed, Mr. Robbins would rather give up his career in New York City than his home in Bovina.

85. Over the years, Mr. Robbins has made substantial improvements to his Bovina home. He had a full concrete basement built beneath the house, which was formerly on cinder block piers. He installed a new roof, new plumbing, heating, and wiring, and he built two decks and installed a wood stove. All of this work was done by local contractors. Mr. Robbins built a stone patio himself by hand carrying stones he found in the woods. He has also spent many weeks installing detail work, painting, and performing other work on his home. Mr. Robbins has never rented his home to anyone, and he does not intend to do so in the future.

86. Mr. Robbins supports the local economy by paying property taxes in Bovina, spending approximately \$200 every month for gasoline at local stations, and paying for utilities, fire wood, and heating fuel to keep his house going year-round. Mr. Robbins buys groceries, furnishings, and art in Bovina or in nearby parts of Delaware and Otsego Counties.

87. As a result of the foregoing, Mr. Robbins has a legitimate, significant and continuing attachment to his Bovina home. Mr. Robbins maintains a fixed, permanent and principal home in the Town of Bovina and he always intends to return to it, wherever he is temporarily located.

IV. CHALLENGE AND DISENFRANCHISEMENT

88. As members of The Alliance for Bovina and individually, the Petitioners made public expressions of support for a proposed zoning ordinance regulating the size of power-generating wind turbines within the town. The ordinance they supported was adopted on March 13, 2007.

89. Shortly thereafter, on March 23, 2007 an opponent of the ordinance challenged the voting rights of approximately 45 people, including the Petitioners.

90. In response to this challenge, the Board, with the assistance, in some cases, of the Delaware County Sheriff's Office, opened an investigation.

91. In the course of the investigation, the Board requested copies of state and federal income tax returns from certain of the challenged voters.

92. The Board did not request any evidence as to Petitioners' leaseholds, their ownership of property or their payment of real property taxes, and in determining Petitioners'

qualification to register and vote, the Board did not appear to have considered or given weight to the Petitioners' expressed intent, their conduct and all attendant surrounding circumstances relating thereto. Attached as Exhibit G is a redacted copy of an email sent by William Buccheri, one of two Commissioners on the Board, stating his belief that "[i]t is not legal" for "part-time residents to register to vote in Delaware County."

93. In May and June of 2007, the Board cancelled the voter registration of all Petitioners, along with a number of the others challenged, and sent each of the Petitioners a letter informing them of this cancellation and of their right to apply to a Court for reinstatement.

94. It is not clear what, if any, standard was utilized by the Board to make its determination that Petitioners were not entitled to vote in Bovina. However, the Board plainly ignored the judicially-established rule that dual residents need demonstrate only a legitimate, significant and continuing attachment to a residence in order to have the right to register and vote there, *see Ferguson v. McNab*, 60 N.Y.2d 598, 600 (N.Y. 1983), despite the fact that the relevant caselaw had been brought to the attention of the Board on at least one occasion during the course of their investigation.

95. For example, the Board, as part of its review, accessed the website of Mr. Willkie's company and note a reference to his New York City residence. However, the Board failed to consider the statement, contained in the same website, that he "owns a working farm in upstate New York with chickens, ducks, and four horses . . . which he enjoys riding in his leisure time" as evidence that he is a dual resident with a legitimate, significant and continuing attachment to Bovina and to Delaware County.

96. The Board, by letter dated May 29, 2007, told Mr. Willkie that the only piece of evidence that could reverse the decision to cancel Mr. Willkie's voter registration is an income tax return showing a Bovina address. A copy of the Board's May 29, 2007 letter to Mr. Willkie's attorney is attached hereto as Exhibit H.

97. Furthermore, in their interview of the Lauricellas as part of the Board's investigation, one or both of the Commissioners of the Board told the Lauricellas that items from the Internal Revenue Service showing a Bovina address are important in showing their "permanent residence status."

98. In a letter to Ms. Bond, the Board stated that the documentation she provided is not "conclusive evidence" of her residence in Delaware County and requested that she submit a copy of the top half of her New York State Income Tax Return. A copy of the Board's unsigned April 12, 2007 letter to Ms. Bond is attached hereto as Exhibit I.

99. Upon information and belief, the Board cancelled the registration of every challenged voter who did not provide an income tax return showing a Bovina address.

100. In addition, the wording of the Board's post-investigation notices makes it clear that the Board was acting under a mistaken view of the applicable law:

- The Board's letter to Mr. Willkie on May 10, 2007 stated that its investigation "indicates that your domicile [is] in a county other than Delaware County," and "[t]he fact that your primary home and business are in New York City indicates that is the center of your present life." A copy of the Board's letter is attached hereto as Exhibit J.

- The Board's May 3, 2007 letter to the Lauricellas stated that its investigation "indicates that your domicile is in a county other than Delaware County," and that if their registration is cancelled, "[y]ou will then be required to register from your permanent residence in order to vote." A copy of the Board's letter is attached hereto as Exhibit K.
- An unsigned May 10, 2007 letter to Ms. Bond states simply that the Board's investigation "indicates that your domicile is in a county other than Delaware County." A copy of the Board's letter is attached hereto as Exhibit L.

**AS AND FOR A CAUSE OF ACTION
(Illegal and Improper Cancellation of Voter Registration)**

101. Petitioners repeat and incorporate each of the allegations set forth above as if fully set forth herein.

102. Under established New York law, New York residents with more than one residence have the perfect right to "choose one to which [they] have legitimate, significant, and continuing attachments as [their] residence for purposes of the Election Law." *Ferguson*, 60 N.Y.2d at 600. This showing has been definitively held to satisfy the statutory requirement of "a fixed, permanent and principal home and to which he, wherever temporarily located, always intends to return" for dual residents like the Petitioners here.

103. Petitioners all have legitimate, significant, and continuing attachments to their homes in Bovina, New York.

104. Petitioners choose their Bovina homes as their voting residence, and they choose to register to vote and vote in Bovina.

105. Upon information and belief, in their consideration of Petitioners' voter registration residence, the Board failed to consider whether Petitioners have legitimate, significant, and continuing attachments to their Bovina homes.

106. Prior to the cancellation of some or all of the Petitioners' voter registrations, the Board was explicitly made aware of the New York law permitting dual residents to choose one residence to which they have legitimate, significant, and continuing attachments as their voting residence. Upon information and belief, the Board nevertheless failed to apply this standard or investigate or weigh any factors reasonably related to this well-established standard in its determination of Petitioners' voting residence.

107. In determining Petitioners' qualification to register and vote, Respondent violated N.Y. Election Law § 5-104(2) by failing to consider each applicant's expressed intent, his or her conduct, and all attendant circumstances relating thereto.

108. As a direct and proximate result of the Board's failure to properly consider whether Petitioners have legitimate, significant, and continuing attachments to their Bovina homes, Petitioners' voter registrations have been improperly and illegally cancelled, and Petitioners have been and will continue to be denied their fundamental right to vote.

109. On information and belief, the Board has previously and will continue to violate New York law by failing to consider whether a dual resident voter or applicant to vote has legitimate, significant, and continuing attachments to the location from which they choose to vote.

110. An unknown number of voters and potential voters have had or will have their voter registration cancelled or their voter registration application denied or have been deterred from attempting to register to vote due to the Board's improper application of New York law.

111. It is unreasonable and unrealistic to expect each voter who is wrongfully denied the right to vote to commence a legal proceeding to have his or her voter registration status corrected.

112. By failing to consider whether a dual resident voter or applicant to vote has legitimate, significant, and continuing attachments to the home from which he or she chooses to vote, the Board has caused and will continue to cause irreparable harm to an unknown number of voters and potential voters by denying them their fundamental right to register and vote.

113. Reinstatement of the voter registrations of Petitioners herein without issuance of an injunction prohibiting Respondent from continuing to engage in conduct violative of the rights of voters or potential voters would tend to render the judgment for reinstatement ineffectual.

114. Respondent will not suffer any monetary damage or other harm as a result of such injunction.

PRAYER FOR RELIEF

WHEREFORE, in light of the foregoing, Petitioners respectfully request the following:

(a) an order pursuant to N.Y. Election Law § 16-108 compelling the Board to reinstate Petitioners as registered voters in the Town of Bovina, Delaware County;

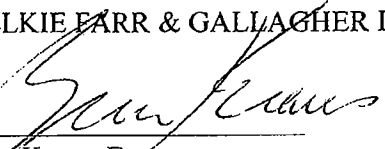
(b) a declaratory judgment pursuant to CPLR § 3001 declaring that: the eligibility of dual residents to register and vote at a given residence is to be determined by considering the resident's expressed intent, his or her renunciation of the right to vote elsewhere and whether or not such person has legitimate, significant, and continuing attachments to his or her voting residence of choice, which determination will satisfy the statutory requirement of "a fixed, permanent and principal home and to which he, wherever temporarily located, always intends to return,"

(c) an injunction requiring the Board to apply this standard in its future determinations of the voting residence of dual residents in connection with both their registration applications and any challenges to their registration; and

(d) any other relief the Court deems just and proper.

DATED: July 30, 2007
New York, NY

WILLKIE FARR & GALLAGHER LLP

By: 
Bruce Kraus, Esq.
Richard Mancino, Esq.
Daniel M. Burstein, Esq.
787 Seventh Avenue
New York, New York 10019
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Attorneys for Petitioners

Peter Henner, Esq.
P.O. Box 326
Clarksville, NY 12041-0326
Tel: (518) 768-8232
Fax: (518) 768-8235

Attorney for Petitioner Hall F. Willkie

VERIFICATION

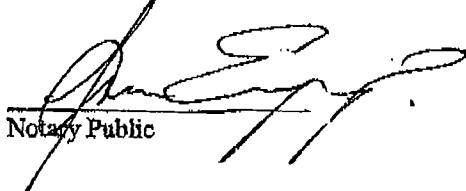
California
STATE OF ~~NEW YORK~~)
: ss.:
COUNTY OF San Diego)

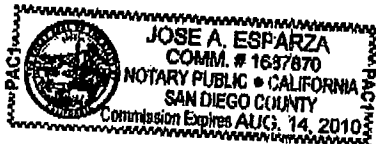
Hall F. Willkie, being duly sworn, deposes and says:

1. I am a Petitioner in this proceeding.
2. I have read the foregoing Verified Petition, and its contents, other than those facts pertaining specifically and exclusively to other Petitioners, are true to the best of my knowledge, except as to the matters alleged herein upon information and belief, and as to those matters, I believe them to be true.


Hall F. Willkie

Sworn to this 18th
day of July, 2007


Notary Public



VERIFICATION

STATE OF NEW YORK)
: ss.:
COUNTY OF Rockland)

Juliet F. Lauricella, being duly sworn, deposes and says:

1. I am a Petitioner in this proceeding.
2. I have read the foregoing Verified Petition, and its contents, other than those facts pertaining specifically and exclusively to other Petitioners, are true to the best of my knowledge, except as to the matters alleged herein upon information and belief, and as to those matters, I believe them to be true.

Juliet F. Lauricella
Juliet F. Lauricella

Sworn to this 20th
day of July, 2007

Diana R. Esposito
Notary Public

DIANA R. ESPOSITO
Notary Public, State of New York
Commissioned in Orange County, NY
Registration No. 01ES6097501
My Commission Expires August 18, 2007

VERIFICATION

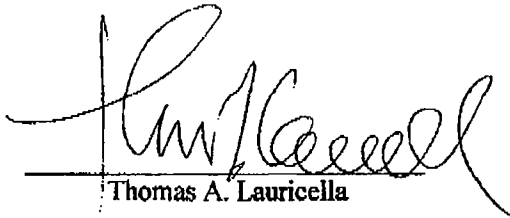
STATE OF NEW YORK)
COUNTY OF Rockland) ss.:

Thomas A. Lauricella, being duly sworn, deposes and says:

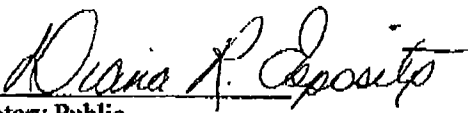
1. I am a Petitioner in this proceeding.

2. I have read the foregoing Verified Petition, and its contents, other than

those facts pertaining specifically and exclusively to other Petitioners, are true to the best of my knowledge, except as to the matters alleged herein upon information and belief, and as to those matters, I believe them to be true.


Thomas A. Lauricella

Sworn to this 20th
day of July, 2007


Notary Public

DIANA R. ESPOSITO
Notary Public, State of New York
Commissioned in Orange County, NY
Registration No. 01ES6097501
My Commission Expires August 18, 20 07

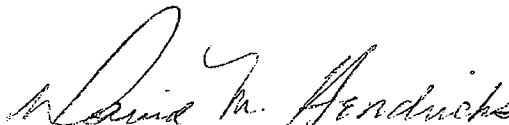
VERIFICATION

STATE OF NEW YORK)
 : ss.:
COUNTY OF New York)

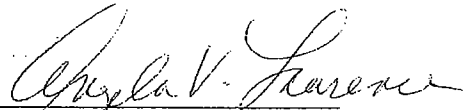
David M. Hendricks, being duly sworn, deposes and says:

1. I am a Petitioner in this proceeding.

2. I have read the foregoing Verified Petition, and its contents, other than those facts pertaining specifically and exclusively to other Petitioners, are true to the best of my knowledge, except as to the matters alleged herein upon information and belief, and as to those matters, I believe them to be true.


David M. Hendricks

Sworn to this 20
day of July, 2007


Notary Public

ANGELA V. LAWRENCE
Notary Public, State of New York
No. 01LA4715081
Qualified in Bronx County
Certificate Filed in New York County
Commission Expires July 31, 2010

VERIFICATION

STATE OF NEW YORK)
COUNTY OF Richmond) : ss.:

David Spry, being duly sworn, deposes and says:

1. I am a Petitioner in this proceeding.
2. I have read the foregoing Verified Petition, and its contents, other than

those facts pertaining specifically and exclusively to other Petitioners, are true to the best of my knowledge, except as to the matters alleged herein upon information and belief, and as to those matters, I believe them to be true.

David Spry
David Spry

Sworn to this 19
day of July, 2007

Richard Garcia
RICHARD GARCIA
Notary Public, State of New York
No. 4000403
Qualified in Richmond County
Term Expires March 30, 2011

Notary Public

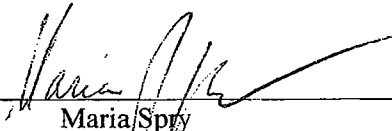
VERIFICATION

STATE OF NEW YORK)
 : ss.:
COUNTY OF Richmond)

Maria Spry, being duly sworn, deposes and says:


1. I am a Petitioner in this proceeding.

2. I have read the foregoing Verified Petition, and its contents, other than those facts pertaining specifically and exclusively to other Petitioners, are true to the best of my knowledge, except as to the matters alleged herein upon information and belief, and as to those matters, I believe them to be true.



Maria Spry

Sworn to this 19
day of July, 2007


RICHARD GARCIA
Notary Public, State of New York
No. 4808488
Qualified in Richmond County
Term Expires March 30, 20 11

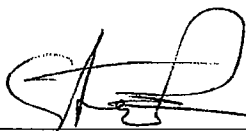
Notary Public

VERIFICATION

STATE OF NEW YORK)
 : ss.:
COUNTY OF New York)

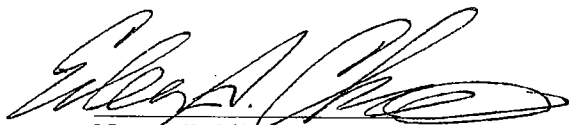
Stephen Robbins, being duly sworn, deposes and says:

1. I am a Petitioner in this proceeding.
2. I have read the foregoing Verified Petition, and its contents, other than those facts pertaining specifically and exclusively to other Petitioners, are true to the best of my knowledge, except as to the matters alleged herein upon information and belief, and as to those matters, I believe them to be true.



Stephen Robbins

Sworn to this 20th
day of July, 2007



Notary Public

EILEEN A. CHRISTIE
Notary Public, State of New York
No. 01CH5009914
Qualified in Richmond County
Certificate Filed in New York County
Commission Expires Mar. 6, 2011