

and employees are immune from liability “for an act or omission relating to information obtained, maintained or disclosed pursuant to the provisions of this chapter . . . (179D).” [NRS 179D.850\(2\)](#).

QUESTION THREE

Can the Team provide sensitive and otherwise confidential information to another state’s assessment team when the sex offender moves to that state?

ANALYSIS

The federal government envisions a gap-free nationwide community notification network. Our Legislature recognized that sex offenders move from time to time. The Team, in assessing sex offenders, must base their decisions on information from “agencies of this state and *agencies from other jurisdictions*.” [NRS 179D.720\(2\)](#) (emphasis added). If a sex offender moves to Nevada, the Team should request and receive from the previous state’s assessors “all records of the sex offender that are necessary to conduct (an) assessment.” [NRS 179D.720\(3\)](#). Likewise, if a sexual offender from Nevada moves to another state, the Team should provide that state’s assessment team with “all records of the sex offender that are necessary to conduct (an) assessment.” [NRS 179D.720\(3\)](#). The “sex offender shall be deemed to have waived all rights of confidentiality and all privileges relating to those records for the limited purpose of the assessment.” *Id.*

CONCLUSION

In the event of an incorrect assessment and tier level assignment, please take the corrective measures suggested above. Regardless, law enforcement officers are not precluded from notifying the public about a person who poses a threat to their safety. Finally, Nevada’s Team should provide all records of the sex offender, necessary for an assessment, to the state’s assessment team where the offender has relocated.

FRANKIE SUE DEL PAPA
Attorney General

By: JOE WARD, JR.
Deputy Attorney General

AGO 98-31 COUNTIES; ELECTIONS; SECRETARY OF STATE; VOTERS/VOTING: A rent receipt for the voter’s place of business may not be accepted as proof of residency after a challenge to vote has been filed unless the voter can also prove the voter actually resides at the voter’s place of business.

Carson City, October 29, 1998

The Honorable Janet Hess, Storey County District Attorney, Post Office Box 496, Virginia City, Nevada 89440

Dear Ms. Hess:

(k) The infliction or threatened infliction of damage or injury, in whole or in part, to real or personal property. [emphasis added].

You have requested an opinion from this office regarding the use of rent receipts to prove residency when a voter has been challenged.

QUESTION

May a rent receipt for a voter's place of business be accepted by the county clerk or the election board as proof of residency after a challenge to vote has been filed questioning the legal residence of a voter who registered to vote by mail or registered to vote with a deputy registrar? Is the answer different if the voter previously voted in the county?

ANALYSIS

According to the facts you presented, challenges have been filed with the county clerk alleging registered voters in the county are using business addresses as their residence address for voting purposes. When a person registers to vote, the county clerk shall require the person to submit official identification as proof of residence and identity, such as a driver's license or other official document, before registering the person to vote. [NRS 293.517](#). Because the Legislature chose the term "official" identification or document to prove residency prior to registering a person to vote, it must be concluded "official" means some form of government documentation, such as a driver's license, social security card, or identification card issued by the department of motor vehicles and public safety. See [NRS 293.507\(4\)\(a\)](#). However, if a registered voter is challenged pursuant to [NRS 293.303\(1\)](#), the election board shall not issue the person a ballot until he furnishes satisfactory identification that contains proof of the address at which he actually resides. [NRS 293.303\(7\)](#). Hence, it appears a challenged voter must only produce satisfactory evidence of residency while a person registering for the first time must have official identification.

In *Robinson v. Smith*, 683 A.2d 481 (D.C. 1996), and *Braddock v. Smith*, 711 A.2d 835 (D.C. 1998), the courts, in determining residency for tuition purposes, concluded that receipts for payment of rent on a District of Columbia residence in which the applicant actually resided was evidence of residency. One question is whether rent receipts for one's business address are sufficient. [NRS 293.507\(4\)\(c\)](#) answers this by stating, "The form for an application to register to vote must include a notice that the voter may not list his address as a business unless he actually resides there."

In 1962, the Attorney General opined that under [NRS 293.497](#), the residence of a man for voting purposes, who works in one county and maintains a family home in another county, is the family home absent evidence of different intent. Op. Nev. Att'y Gen. No. 276 (March 7, 1962).

In *De La Cruz v. Dufresne*, 533 F. Supp. 145 (D. Nev. 1982), the issue of whether a brothel can also be a residence for voting purposes was addressed and the court held a place of business or post office address is not per se equivalent to a residence. *Id.* at 149. *De La Cruz* also stated upon a challenge, the election board members have a right to ask any relevant question of the challenged voter as may be considered necessary to arrive at a decision. *Id.*

Therefore, it appears that in Nevada, rental receipts for a place of business are not appropriate documentation of residency for voting purposes unless the voter can prove that the voter lives at the business and intends that to be the voter's home. The burden is on the voter to prove the voter's residency. [NRS 293.303\(7\)](#) (the voter must furnish satisfactory identification which contains proof of the address at which he actually resides); [NRS 293.495](#) ("If a person having a fixed and permanent home in this state breaks up such home and removes to another state, territory or foreign country, the intent to abandon his residence in this state shall be presumed, and the burden shall be upon him to prove the contrary. The same rule shall apply

when a person removes from one county to another within the state, or from one precinct to another within the county”).

In Texas, the court found where a voter’s driver’s license showed the address of her business which is located in the voting district, but she received mail at a different county’s address, was not conclusive evidence that she did not reside in the voting district where her business was located. The court concluded that some probative evidence existed that the voter resided in the voting district and therefore legally voted in that district. Although there was also contradicting evidence, the record did not show that the judge’s findings were so weak as to render the outcome manifestly unjust or clearly wrong. *Slusher v. Streater*, 896 S.W.2d 239, 244 (Tex. 1995).

At issue is the fundamental right to vote; therefore, the government must have a compelling interest to infringe upon that right. In *Sloane v. Smith*, 351 F. Supp. 1299 (D. Penn. 1972), the court held the requirement that members of the student class meet a more stringent test of residency than other voter registration applicants is unjustifiable and violates the equal protection clause of the Fourteenth Amendment. *Id.* at 1305. The court enjoined the county commissioners from requiring additional documentation of residency beyond the sworn affidavit of an applicant unless defendants reasonably believed the individual applicant’s claim of residency was untrue. *Id.* In *Sloane*, college students were denied the right to vote because they could not produce driver’s licenses, two or more credit cards, or “black and white factual proof” that each applicant actually intends to claim the county address as the applicant’s legal residence. *Id.* at 1301. However, nonstudents were allowed to register to vote without furnishing any proof of residency, although their current driver’s licenses showed another state’s address. *Id.* at 1300. The county attempted to argue their compelling government interest was to prevent a “community takeover” by the large student population. *Id.* at 1303. The court found for the students and enjoined the county from discriminating against students by applying different standards of eligibility from those applied to other registrants. *Id.* at 1305.

The challenge statute, [NRS 293.303](#)(8), does not require a higher standard of proof for voters who registered to vote by mail. The voter must furnish satisfactory identification which contains proof of the address at which the voter actually resides regardless of whether the voter registered to vote by mail or with a deputy registrar. There is also no distinction made for a voter who previously voted in the county. The standard of proof the voter must provide to overcome a challenge is the same for all voters.

Applying this analysis to the facts you presented, if a challenged voter furnishes a rent receipt as proof of residency and the rent receipt is for the voter’s place of business, unless the voter can also prove the voter resides at the voter’s place of business, such a rent receipt alone would not overcome the challenge.

CONCLUSION

A rent receipt for the voter’s place of business may not be accepted by the county clerk or the election board as proof of residency after a challenge to vote has been filed questioning the legal residence of a voter who registered to vote by mail or registered to vote with a deputy registrar, unless the registered voter can also prove the voter actually resides at the voter’s place of business. This conclusion also applies to a voter who previously voted in the county.

FRANKIE SUE DEL PAPA
Attorney General

By: KATERI CAVIN
Deputy Attorney General

AGO 98-32 BONDS; INDUSTRIAL DEVELOPMENT REVENUE BONDS; PUBLIC UTILITIES; UTILITIES: The director does not have any statutory authority to directly issue industrial development revenue bonds for the benefit of public utilities.

Carson City, November 5, 1998

Mr. Steve Ghiglieri, Chief, Department of Business and Industry, Office of Business Finance and Planning, Kietzke Plaza, Building F, 4600 Kietzke Lane, Suite 154, Reno, Nevada 89502

Dear Mr. Ghiglieri:

You have requested an Attorney General opinion regarding whether the director of the Department of Business and Industry (director) may issue state obligations in the form of Revenue Bonds for Industrial Development (IDR bonds) for the benefit of public utilities pursuant to [NRS 349.580](#)(2).

QUESTION

May the director issue revenue bonds for industrial development for the benefit of public utilities pursuant to [NRS 349.580](#)(2)?

ANALYSIS

Pursuant to [NRS 349.580](#), the director shall not finance a project unless, before financing:

1. The director finds that:

(a) The project to be financed has been approved for financing pursuant to the requirements of [NRS 244A.669](#) to [244A.763](#), inclusive, or 268.512 to 268.568, inclusive; and

(b) There has been a request by a city or county to have the director issue bonds to finance the project; or

2. The director finds and both the board and the governing body of the city or county where the project is to be located approve the findings of the director that:

(a) The project consists of any land, building or other improvement and all real and personal properties necessary in connection therewith, excluding inventories, raw materials and working capital, whether in existence, suitable for new construction, improvement, preservation, restoration, rehabilitation or redevelopment.

(1) For manufacturing, industrial, warehousing, civic, cultural or other commercial enterprises, educational institutions or organizations for research and development;

(2) For a health and care facility or a supplemental facility for a health and care facility;

(3) Of real or personal property appropriate for addition to a hotel, motel, apartment building, casino or office building to protect it or its occupants from fire; or

(4) Of a historic structure.

(b) The project will provide a public benefit;

(c) The contemplated lessee, purchaser or other obligor has sufficient financial resources to place the project in operation and to continue its operation, meeting the obligations of the lease, purchase contract or financing agreement;