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STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

BILL PRYOR  
ATTORNEY GENERAL

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City of Russellville  
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Elections - Absentee Ballots – Absentee  
Voting - Municipalities

Absentee ballots must be mailed to a voter's residence address as shown on the voter list or, if requested by the voter, to an address where the voter regularly receives mail.

Dear Mr. Bouldin:

This opinion of the Attorney General is issued in response to your request on behalf of the City of Russellville.

QUESTION

What is the correct procedure for processing an absentee ballot application in a municipal election when the address listed on the application is different from the address for that applicant on the voter list?

FACTS AND ANALYSIS

Your request states that the City of Russellville elects council members from single-member districts; thus, each district has a different ballot with candidates for that specific district, as well as candidates for the office of mayor, which is elected at-large. Your question concerns an applicant for an absentee ballot who lists a residence address on his application that does not match the residence address on the voter list. You state that, in many cases, this places the voter in a different district. You question whether this information should be used to reidentify the voter and move that voter to the address as listed on

the absentee ballot application or whether the voter should be sent a ballot for the district and address as listed on the voter list.

Most municipal elections are conducted pursuant to the provisions of sections 11-46-1 through 11-46-74 of the Code of Alabama. ALA. CODE §§ 11-46-1 through 11-46-74 (1992, Supp. 1999). The voter list for a municipal election is comprised of those persons who reside within the corporate limits of the city and who are registered to vote through the county board of registrars. ALA. CODE § 11-46-36 (1992). If the city is divided into districts, the list is divided according to those districts. *Id.*

Sections 17-10-1 through 17-10-26 of the Code of Alabama govern absentee voting in municipal elections. ALA. CODE § 17-10-1 through 17-10-26 (1995, Supp. 1999). Absentee voting is available in a municipal election to any qualified elector who meets the requirements for absentee voting set forth in section 17-10-3 of the Code of Alabama. ALA. CODE § 17-10-3 (Supp. 1999). An application for an absentee ballot must contain certain information that allows the absentee election manager to verify that the applicant is a registered voter and is entitled to vote by absentee ballot. Section 17-10-4 states in pertinent part:

The application shall contain sufficient information to identify the applicant and shall include the applicant's name, *residence address*, or such other information necessary to verify that the applicant is a registered voter.

ALA. CODE § 17-10-4 (Supp. 1999) (emphasis added). Pursuant to section 11-46-38, a voter is not entitled to vote in a precinct or district where his name does not appear on the official voter list. This section states in pertinent part:

(a) At all municipal elections the elector must vote only in the ward or precinct of his residence where he is registered to vote and at the box or voting machine to which he has been assigned.

ALA. CODE § 11-46-38(a) (1992). Paragraph (b) of this section provides that no person may vote in the municipal election unless he has resided in the district for 30 days prior to the election at which he offers to vote; but any person who has moved from one district to another district within the city, within 30 days of the election, has the right to vote in the district from which he has moved. ALA. CODE § 11-46-38(b) (1992).

Section 17-10-5 specifies how delivery of an absentee ballot is to be made upon receipt of an application for an absentee ballot, in pertinent part, as follows:

(a) Upon receipt of an application for an absentee ballot as provided in Section 17-10-3(a) if the applicant's name appears on the list of qualified voters in the election to be held or if the voter makes an affidavit for a challenged vote, the absentee election manager shall furnish the absentee ballot to the applicant by: (1) forwarding it by United States *mail to the applicant's or voter's residence address* or upon written request of the voter, to the address where the voter regularly receives mail or (2) by handing the absentee ballot to the voter in person or in the case of emergency voting, his or her designee in person.

ALA. CODE § 17-10-5 (Supp. 1999) (emphasis added).

In an opinion concerning the mailing of absentee ballots for a primary election, this Office stated:

Only the county board of registrars has the authority to transfer a voter's name to a new precinct to which the voter has moved. ALA. CODE § 17-4-132 (1995). If the absentee election manager receives an application for an absentee ballot in which the applicant provides a residence address that is not the same residence address as that on the official voters' list, the absentee election manager is, thus, unable to verify that the applicant is a duly registered voter entitled to vote by absentee ballot, and no ballot should be sent to that voter. The absentee election manager may not transfer that voter to a new precinct based upon the residence address given.

Opinion of the Attorney General to Honorable Paul W. Oliver, Sr., Dallas County Absentee Election Manager, dated May 25, 2000, A.G. No. 2000-156, p. 2-3.

Similarly, in a municipal election, if the absentee election manager receives an application for an absentee ballot in which the applicant provides a residence address that is not the same as the residence address on the official voter list, the absentee election manager is unable to verify that the applicant is a duly registered voter entitled to vote by absentee ballot, and no ballot should

be sent to that voter. If the absentee election manager is able to determine that the voter has moved to a new address and a new district within 30 days of the election, the applicant may be sent a ballot for the district from which the applicant has moved. The ballot could be mailed to the new address if this is the address where the applicant regularly receives mail.

Although not required, the absentee election manager may make a copy of the application and forward it to the county board of registrars so that the board may use that information to determine whether the voter has moved to a new residence and, thus, a new voting precinct. The absentee election manager may also notify the applicant that a ballot cannot be sent to him based upon the address provided and that the applicant should notify the county board of registrars of any changes in his or her residence so that the board and the city can assign the voter to the proper precinct and district. The absentee election manager may obtain a supplemental list of registered voters from the county board of registrars to determine whether voters have updated their residence information and to get a list of newly registered voters because voters may register to vote and update voter information up to 10 days before the municipal election. ALA. CODE §§ 17-4-120 and 17-4-132 (1995). If the board of registrars has updated the applicant's residence address, an absentee ballot should then be provided to the applicant, but only if the deadline for requesting an absentee ballot has not passed. *See* ALA. CODE § 17-10-3(a) (Supp. 1999).

### CONCLUSION

Absentee ballots must be mailed to a voter's residence address as shown on the voter list or, if requested by the voter, to an address where the voter regularly receives mail.

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

Sincerely,

BILL PRYOR  
Attorney General  
By:



CAROL JEAN SMITH  
Chief, Opinions Division