



NORTH CAROLINA

State Board of Elections & Ethics Enforcement

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August 17, 2017

VIA ELECTRONIC MAIL

Chairman Robert Robertson
Stokes County Board of Elections
wroberbu@aol.com

Dear Chairman Robertson and Board Members:

I write to you in response to concerns that have been raised regarding the continued use of the American Legion Building, 436 S. Main Street in the City of King, as a precinct location. In a letter dated August 15, the Post commander Clifton Kilby indicated that Steven Hewett has been banned from the property, and that the American Legion would permit the continued usage of their building as a polling place only if Hewett promised in writing not to enter the property. In addition to being a citizen of Stokes County, Hewett is a candidate for King City Council, and has signaled his intention to camping at the site, just as he has in past elections.

State and federal law prohibit a county board from utilizing a site as a voting place if a private party has banned or limited those legally entitled to appear, campaign, or vote at that site. Additional constitutional concerns are implicated in what appears to be an attempt to coopt the authority of your board in the unlawful restriction of protected speech at the precinct.

As counsel for the State Board has informed your director on various occasions, the use of nonpublic buildings for election related activity is governed by statute, not by the private policies of a given landlord. Specifically, G.S. § 163-166.4(b) requires the Executive Director's prior approval before using any private facility as a voting place. As the Executive Director, the statute allows me to approve a private site only if all of the following criteria are met:

- 1) No other suitable voting place can be secured for the precinct;
- 2) The county board will require the chief judge of the precinct to monitor the grounds around the voting place to ensure that the restriction on election-related activity shall apply to all candidates and parties equally; and
- 3) The pattern of voting places subject to agreement under this subsection does not disproportionately favor any party, racial or ethnic group, or candidate.

Because your board has failed to take action to select a new site once it became known that the American Legion sought to bar an individual who possesses a legal right of access to the precinct, the location has not met the requirements of G.S. §§ 163-166.4(b)(2) or 163-166.4(b)(3).

Accordingly, and effective immediately, I disapprove the use of the American Legion Building in King. I understand that other suitable public locations exist and are available within the precinct, and I encourage your board to act quickly to secure a new polling site and to publish appropriate notice required under law.

Sincerely,

A handwritten signature in blue ink that reads "Kim Westbrook Strach". The signature is written in a cursive, flowing style.

Kim Westbrook Strach

Executive Director

State Board of Ethics and Elections Enforcement