



Shelby County Government

MARK H. LUTTRELL, JR.
MAYOR

MARCY INGRAM
COUNTY ATTORNEY

June 24, 2014

Honorable James Harvey, Chairman
Board of Commissioners of Shelby County
160 North Main Street Suite 450
Memphis, Tennessee 38103

Re: Brooks Residence Inquiry and Review
File No.: A8088-14

Dear Chairman Harvey:

We are writing this letter in response to an inquiry and review conducted by this office as a result of our awareness of questions raised regarding whether Commissioner Henri Brooks' ("Commissioner Brooks") purported residence is, in fact, 1867 Crump, Memphis, Tennessee 38107 which is in County Commission District 2. When this office becomes aware of potential violations of the Shelby County Charter ("County Charter"), Code of Ordinances, state law or other County policies, it is our duty and practice to conduct an inquiry and review to determine whether such violations have actually occurred.

We conducted informal interviews, contacted individuals, conducted site visits and gathered and reviewed documents/records for this inquiry and review. After our review of this matter, we have concluded that Commissioner Brooks does not reside at 1867 Crump, Memphis, Tennessee 38107 which was the residence listed on the Shelby County Human Resources Department ("County HR") Employee Information Control form in January 2013. Commissioner Brooks' use of 1867 Crump as her place of residence is not true and accurate based on the public documents reviewed herein. It is our conclusion that Commissioner Brooks resides somewhere other than County Commission District 2 and has violated the County Charter and potentially state law as a result.

Background History

According to the County Assessor's website, in 1994, Commissioner Brooks was a joint tenant with Chanda Brooks as referenced in a warranty deed for property located at 1247 South Parkway East, Memphis, Tennessee 38106. In 2006, Commissioner Brooks was elected to represent District 2 on the Board of Commissioners of Shelby County ("County Commission"). She continued to maintain her residence at the referenced address in 2006 according to County

HR records. The County Residency Certification form and Employee/Retiree Enrollment form both reference 1247 South Parkway East as Commissioner Brooks' residence.

On October 27, 2008, Commissioner Brooks and/or her representative contacted County HR personnel regarding a change of her home address. The new address was 38 Riverview Drive West, #101, Memphis, Tennessee 38103. This change of address was listed on the Employee Information Control form and communicated to County HR Director Mike Lewis via email.

On August 11, 2010, Commissioner Brooks filed her campaign financial disclosure statement ("financial statement") with the Shelby County Election Commission as required by law. Commissioner Brooks continued to maintain her residence at 38 Riverview Drive West, #101 as referenced on the financial statement. The County election date was on August 5, 2010. As required by law, the next statement filed was on October 26, 2010. On this financial statement, Commissioner Brooks referenced a new residence located at 1867 Crump, Memphis, Tennessee 38107. This address is referenced as Commissioner Brooks' residence on subsequent financial statement filings. Further, in January 2013, she submitted a change of her home residence on the County HR Employee Information Control form. The address referenced on the form is 1867 Crump.

On June 12, 2014, a warrant was issued by the Memphis Police Department for the arrest of Commissioner Brooks and signed by the Judicial Commissioner. On the face of the warrant, the address referenced was 1867 Crump with a photo of Commissioner Brooks. It appears that this address is recorded with the Department of Motor Vehicles.

In further verification of the said residence, utility records were reviewed for 1867 Crump. As of June 22, 2014, some type of utility service was connected in the name of Robert Brown at 1867 Crump. It does not appear that any utility records are in Commissioner Brooks' name. After reviewing whether Commissioner Brooks maintained utilities in her name at any residence, it was discovered that as of June 22, 2014, there have been utility services including cable, telephone and other connections at 1141 Red Fern Circle, Cordova, Tennessee 38108 from time to time in her name. According to the County Assessor's website, the warranty deed for the referenced address on Red Fern Circle is in the name of Chanda Brooks. Further, an employment record received from Qu'ran Folsom, Chief Administrator of the County Commission, referenced 1867 Crump as the "primary address" for Commissioner Brooks. In that same record, Chanda Brooks was referenced as the emergency contact located at "1141 Red Fern Circle, Memphis, Tennessee 38018." It also appears that Commissioner Brooks has used P.O. Box 613382 as an address in the past.

Interview with Commissioner Henri Brooks

Despite several requests to interview and meet with Commissioner Brooks to verify whether her residence is, in fact, located at 1867 Crump, Memphis, Tennessee 38107, in County Commission District 2, she declined said requests¹.

Interviews with Neighbors (1867 Crump)²

While conducting this inquiry and review, on June 17, 2014, interviews were conducted with several neighbors to determine whether Commissioner Brooks' purported residence is, in fact, 1867 Crump, Memphis, Tennessee 38107.

Neighbor #1

Neighbor #1 stated that the man who lives at 1867 Crump is named Robert "Robin" Brown. He is a widower, retired and lives alone. He has seen a woman at the house that he later realized may have been Commissioner Brooks, but he stated that she does not live there. He said "she comes and goes" more like a friend. He recalled seeing Commissioner Brooks from television and recognized her because of her hair. This particular neighbor has lived in his house for over (20) years. Further, he provided that Mr. Brown has been at 1867 Crump for over (10) years. He said Mr. Brown and his wife moved to Memphis from Chicago. Mr. Brown's wife died a few years ago. When asked if he had seen Mr. Brown, he stated that Mr. has been gone for the past few days.

Neighbor #2

Neighbor #2 indicated that Mr. Brown is a nice man who has lived near her for a significant number of years (she could not recall how many years). She indicated that he is a widower who lives alone. She believed Mr. Brown and his wife moved into the house in the early 1980s, and his wife died some time after that. She stated that she pays attention to vehicles that come and go on Crump due to an elderly female neighbor living alone near her residence. She saw Commissioner Brooks' truck on the news, and said she has never seen it at Mr. Brown's house. This neighbor did qualify all of this information by saying that Mr. Brown's driveway goes behind his house, and she cannot see back there. She indicated that Mr. Brown left town not long after the media began approaching him about this matter.

Neighbor #3

Neighbor #3 stated that she is not familiar with Mr. Brown. She stated that a man lives at 1867 Crump, but she is not on a first name basis with him, or with any of her neighbors. She indicated that she saw the report on television, but she has never seen a woman at that house.

¹ Commissioner Brooks declined said interview and meeting through her counsel, Attorney Andre Wharton.

² The neighbors interviewed requested their names and addresses be omitted from any and all reports related to this matter.

Interview with Neighbor (1141 Red Fern Circle E)³

On the same day interviews were conducted on Crump, an interview was conducted on Red Fern Circle in Cordova. Certain utilities at 1141 Red Fern Circle are in Commissioner Brooks' name.

Neighbor #1

Neighbor #1 indicated that Commissioner Brooks' daughter lives at 1141 Red Fern Cir. E. along with her grandchildren. He stated that he sees Commissioner Brooks' black SUV there frequently. The majority of the time that he sees the residents of 1141 Red Fern Cir. E. it is just Commissioner Brooks' daughter and her grandchildren. He did point out that he used to see Henri Brooks' black SUV across the street more often before the media attention. The neighbor's wife confirmed that she has seen an older woman at that address before, but not frequently. She pointed out, however, that she is frequently in the back yard with their daughter, so she does not frequently see the residents of that address. No other neighbors were available to discuss this matter with us.

Site Visits to 1867 Crump

On June 17, 2014, at approximately 11:30 a.m., we attempted to interview Mr. Brown at 1867 Crump, but we were unsuccessful contacting anyone at the residence. There was not a vehicle parked in the driveway of the residence. On June 19, 2014, at approximately 7:35 a.m., there was not a vehicle parked in the driveway of the residence and no one appeared to be at the residence.

Robert "Robin" Brown

Commissioner Brooks previously represented District 92 in the Tennessee State House. After reviewing Commissioner Brooks' state campaign financial disclosure statements, Robin Brown was listed as a vendor receiving funds from the Brooks campaign under "expenditures." In some instances, he received funds for the purpose of reimbursements from the campaign. In other instances, he received funds as a "campaign worker." In one circumstance, he received funds as a "campaign manager." At all times referenced in the state financial statements, Mr. Brown's vendor address listed was 1867 Crump, Memphis, Tennessee 38107. Mr. Brown was not listed on County Commission campaign financial disclosure statements that were reviewed. Mr. Brown was not available for an interview for this review since he left town approximately a week ago.

³ The neighbor interviewed requested his/her name and address be omitted from any and all reports related to this matter.

Shelby County Charter Residency Requirement

Please note that Shelby County Charter Section 5.10(a) provides, “[a]ny county official who shall voluntarily remove his or her residence outside the election district from which elected or appointed shall forfeit that office immediately.” The Shelby County Attorney has issued opinions explaining “residence” as referenced in the County Charter. This section applies to County employees and elected officials. One’s primary residence should be the individual’s “actual residency.”⁴ In determining one’s residence, one must consider “the individual’s intent, and actual physical use of or occupation of quarters for living purposes. *Id.* See Reese, Willis, 6 *Vanderbilt L. Rev.* 561, 561-565 (1953). Various indicators and circumstances must be reviewed with no one factor being determinative. *Id.*

Here, Commissioner Brooks initially petitioned, campaigned and was elected to represent County Commission District 2 in 2006. At that time, she purported to reside at 1247 South Parkway East, Memphis, Tennessee 38106. When re-elected in 2010, she purported to reside at 38 Riverview Drive West, #101, Memphis, Tennessee 38103. Within a few months after the 2010 election, Commissioner Brooks changed her primary residence address to 1867 Crump as described herein. There is no indication that Commissioner Brooks has ever resided at 1867 Crump. Our review does not indicate that any utilities have ever been connected in her name at this address. There is no finding that Commissioner Brooks ever owned the property at 1867 Crump. Robert “Robin” Brown has been the only property owner and holder of the warranty deed for 1867 Crump for over (10) years. The utilities for this address are in his name. There is an indication that Commissioner Brooks had a direct connection with the resident at 1867 Crump. Mr. Brown was actively involved in her state campaigns for hire. Commissioner Brooks’ physical presence at this address was minimal at best, per the findings referenced herein.

It is unknown where Commissioner Brooks’ resides but utility records indicate cable, telephone and other connections at a Cordova address as indicated herein from time to time.⁵ There is no other public document, record or other indication that verifies that Commissioner Brooks resides in County Commission District 2.

Tennessee Code Annotated § 8-48-101 (3)

There is a state law which may be relevant to this review. Elected officials and residency requirements are addressed under state law. Tennessee Code Annotated § 8-48-101 provides that “[a]ny office in this State is vacated by . . . (3) Ceasing to be a resident of the state, or of the district, circuit, or county for which the incumbent was elected or appointed.”

⁴ Shelby County Attorney’s Opinion, OP-94-0165 (November 16, 1994)

⁵ Commissioner Brooks declined our request for an interview to confirm or deny our findings.

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Conclusion

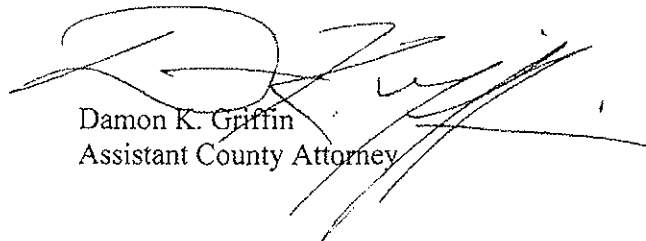
Commissioner Brooks' use of 1867 Crump as her place of residence is not true and accurate based on the public documents reviewed herein. It is our conclusion that Commissioner Brooks resides somewhere other than 1867 Crump, Memphis, Tennessee 38107, County Commission District 2 and has violated the County Charter's residency requirement and state law may be applicable as a result.

If you need further clarification on this matter, please do not hesitate to contact our office.

Sincerely,



Marcy Ingram
County Attorney



Damon K. Griffin
Assistant County Attorney

cc: Honorable Mark A. Luttrell, Jr., Shelby County Mayor
Qur'an Folsom, Chief Administrator (for distribution to all Board of Commissioners)