

**IN THE CHANCERY COURT FOR COFFEE COUNTY TENNESSEE AT
MANCHESTER, TENNESSEE**

STATE OF TENNESSEE,)	
<i>ex rel. Scott Van Velsor et al.,</i>)	
Petitioner)	
)	
vs.)	Case No. 22CV-311
)	
JENNA RENEE AMACHER)	
Respondent)	

ORDER

THIS CAUSE CAME ON FOR HEARING before the Chancery Court on March 2nd and 3rd, 2023, upon the petition for writ of Quo Warranto filed by the Relator “relator” against Tullahoma Alderman Jenna Amacher, and the Court after reception of the evidence, hearing the arguments of counsel, and being otherwise duly advised on the premises, FINDS as follows:

This is a petition for a writ of Quo Warranto filed by the State District Attorney on relation of several citizens of the town of Tullahoma on October 26th, 2022, challenging the authority of Alderman Amacher to hold office. The Petitioner relying on the city charter alleges that Amacher vacated her office when she sold her home inside the city limits and moved to an address in the Blue Creek subdivision of Franklin County Tennessee, outside the city limits of Tullahoma. The city charter provides: No person shall be an Alderman unless he be a citizen

of the State of Tennessee and a bona-fide resident of the city for which he is elected. Any alderman after his election removing from the city thereby vacates his said office. (Tullahoma City Charter, Trial Exhibit 2).

The Petitioner contends that Amacher vacated her office when she removed herself from the city limits when she sold her Macon Manor property and moved out. In defense, Amacher contends that she is and always has been a resident for the purposes Tennessee residence and domicile law.

The Court is bound by Tennessee Code Annotated § 2-2-122, Principles for determination of residence and the corresponding case law: Tenn. Code Ann. § 2-2-122 provides in part:

(a) The determination of whether a person is a resident or where the person resides or has residence for purposes of the election code shall be made in the light of the following principles:

(1) The residence of a person is that place in which the person's habitation is fixed, and to which, whenever the person is absent, the person has a definite intention to return; provided, that a person may not register to vote using a business location as the registration address when the sole basis for the person's presence at such location is based on a business or commercial use;

(2) A change of residence is generally made only by the act of removal joined with the intent to remain in another place. There can be only one (1) residence;

(3) A person does not become a resident of a place solely by intending to make it the person's residence. There must be appropriate action consistent with the intention;

(4) A person does not lose residence if, with the definite intention of returning, the person leaves home and goes to another country, state or place within this state for temporary purposes, even if of one or more years duration;

(5) The place where a married person's spouse and family have their habitation is presumed to be the person's place of residence, but a married person who takes up or continues abode with the intention of remaining at a place other than where the person's family resides is a resident where the person abides;

(6) A person may be a resident of a place regardless of the nature of the person's habitation, whether house or apartment, mobile home or public institution, owned or rented; however, a commercial address may not be used for residential purposes, unless the applicant provides evidence of such applicant's residential use of such address;

(7) A person does not gain or lose residence solely by reason of the person's presence or absence while employed in the service of the United States or of this state, or while a student at an institution of learning, or while kept in an institution at public expense, or while confined in a public prison or while living on a military reservation; and

(8) No member of the armed forces of the United States, or such member's spouse or dependent, is a resident of this state solely by reason of being stationed in this state.

(b) (1) The following factors, among other relevant matters, may be considered in the determination of where a person is a resident:

(A) The person's possession, acquisition or surrender of inhabitable property;

(B) Location of the person's occupation;

(C) Place of licensing or registration of the person's personal property;

(D) Place of payment of taxes which are governed by residence;

(E) Purpose of the person's presence in a particular place; and

(F) Place of the person's licensing for activities such as driving.

When the word residence refers to a person's "domicile" or "legal residence" the term indicates a dwelling where one has a permanent home with the current intention to remain or ultimately return. Denny v. Sumner County 134 Tenn. 486 473-474; 184 S.W.14, 16 (Tenn. 1915). Furthermore, a person may have 2 or more "residences", but only one domicile or "legal residence". Snodgrass v. Snodgrass 357 S.W. 2d 829, 831 (Tenn. App. 1961).

The facts are as follows: Amacher purchased a home in the Macon Manor Subdivision in Tullahoma in 2019. In 2020, she was elected to a 3-year term to serve as alderman. This has subsequently been extended to a 4-year term. In February 2021, she sold her Macon Manor property. She stayed temporarily at various relatives' homes or on vacation for a few months thereafter, but in April 2021, she made an offer on a 20-acre unimproved plot of ground owned by Mr.

Jim Waters. She was assisted in this acquisition by her realtor, Carolyn Williams, who testified that the parameters given Ms. Williams by Amacher were that the property must be within the city limits. The directives were given to the realtor prior to the sale of the Macon Manor Property.

In August, 2021, Amacher, with her father Stanley Amacher co-signer, obtained financing under a consumer construction balloon note, which was exhibited at trial as Exhibit 21. Significantly on the note where the purpose of the note is spelled out, it has, "purchase of land and construction of primary residence". The Amachers closed on the property on August 5th, 2021 (Exhibit 5, Warranty Deed, Waters to Amacher).

Amacher took possession of the property and did some work but on December 6th, 2021, a tornado touched down in the Ledford Mill area of Tullahoma. It downed trees and destroyed property in the area. Again, Mr. Waters, the adjacent land owner testified that he suffered property damage of over \$400,000 and it took him 15 months to restore his property to a habitable condition. He testified that Amacher's property had extensive damage as well.

Joe Dodson testified that he helped Amacher clear the trees away from the site for 4 to 5 weeks from December 6th, 2021, to January 2022, when Amacher told him to stop. Dobson also laid down gravel for Amacher's driveway. Amacher testified that in January 2022 she applied for and was awarded \$14,000 for tree and debris damage with the FDA. This was awarded to her in May 2022. (Exhibit

25, Coffee County FDA Disaster Relief Cleanup Program Application).

Stanley Amacher testified that he was Amacher's father. He retired from pipeline construction in 2015 but had enough general contractor's knowledge to build a residence. He helped Amacher build the residence starting in the fall of 2021, was delayed by the tornado, but then resumed in 2022 and throughout the current date. He testified that the house "should be habitable in about 6 months". He testified that in August 2022, he completed a 1600-foot water line to her house. Mr. Amacher also testified as to some of the delays that have hampered the house completion; the tornado, supply problems due to the pandemic; changes in house plans, and volatile lumber and material pricing.

Andy Farrar, Coffee County Election Commissioner testified. He testified that Amacher picked up a petition to run as county commissioner in February 2022 for the May election and was qualified as a candidate to run. She listed as her residence: 1944 Ledford Mill Road, Normandy Tennessee. (Qualifying Petition, dated 2-15-2022, Exhibit 20). On 9-30-2022 Amacher changed her driver's license address to 1744 Ledford Mill Road.

On October 10th, 2022, Amacher was confronted with the residency issues at a Board of Mayor and Alderman meeting. At that point, the construction project sped up considerably; the building permit was issued November 9th, 2022; the remaining permits were issued. The foundation was poured and the home began to be framed in on January 2023. The house is currently roofed and "framed in".

Sheriff Chad Partin testified that he served Amacher with the petition at 762 Blue Creek Road. He couldn't find her ever at Ledford Mill. Investigator Jason Kennedy testified that he conducted extensive surveillance on 762 Blue Creek Road and that Amacher, her children, her pets and vehicles were always there. UPS deliveries were exhibited showing she accepted 56 packages there. The 762 Blue Creek water bill was consistent showing family usage from January 2021 through December 2022. Tullahoma City School official Shannon Duncan testified that she visited the Ledford Mill property 11 times between September 22 and December 22 and could never find Amacher there. Sergeant Cody Brandon of the Tullahoma Police Department testified that he was Amacher's neighbor at Blue Creek and that she was always there.

RESIDENTIAL ANALYSIS

In order to determine residency in this instance, the Court is guided by Tenn. Code Ann. 2-2-122 et. seq. and the case law¹. Relator clearly proved that Amacher occupied the Franklin County Blue Creek address at least from August 2021 to present date. Her assertions that she "lives" at the Ledford Mill property are unconvincing and damaging to her credibility.

However, the analysis under the statute and the case law doesn't end there.

¹ Petitioner argued that T.C.A. § 6-3-103 (d) covered this situation. It holds that any officer/alderman moving from municipality during the term of office shall be presumed to have vacated its office; and that the office be declared vacant pursuant to T.C.A. 6-3-107. It doesn't apply here. It still involves the residential analysis and no procedure has been implemented to declare the office vacant. If vacancy was to have been declared, it should have happened 2 years ago when Amacher first moved.

Residency determination, as viewed under the guidelines set forth in T.C.A. § 2-2-122 require an analysis of the person's intent and whether or not her physical actions confirm her proffered intent or whether they indicate otherwise. T.C.A. § 2-2-122 (a) (4) covers this scenario where a person may not be physically present, but has always manifested an intent to reside in a certain place.

For a public official who touts transparency, had Amacher been a little more forthcoming about her activities during the summer and fall of 2021 and 2022, a lot of trouble may have been saved. Nevertheless, the evidence showed an unwavering if very plodding effort to establish the Ledford Mill Road property as her residence. The delays are unusual but explainable given the pandemic, supply issues, and the tornado. Two months from the sale of the Macon Manor property to Amacher's offer on the Ledford Mill property is not unreasonable. The 5 months it took for Amacher to obtain financing is not unreasonable. While it is suspicious that Amacher really sped up the construction process after being confronted on October 10, 2022, Amacher did just enough in pursuit of her home construction to manifest her intent to remain there permanently. Viewed another way, the Petitioner showed no evidence that Amacher abandoned her intention. The Court is not convinced that the Blue Creek Road property was anything more than a temporary arrangement for Amacher while the Ledford Mill property was being built. The length of time that it has taken Amacher to finish the home is

unimportant when T.C.A. § 2-2-122 (a)(4) principles are analyzed: it excuses absence for “one or more year’s duration” as long as the person retains the definite intention of returning. Hence, there was no evidence she ever abandoned that intention.

IN LIGHT OF THE FOREGOING IT IS the finding of the Court that Amacher successfully pled that Ledford Mill Road was her residence. The Relator was unable to prove that Amacher’s actions are not covered by Tenn. Code Ann. § 2-2-122 (a)(4) in that Amacher occupied Blue Creek Road as a temporary location while completing the Ledford Mill Residence. The Petition is DENIED.

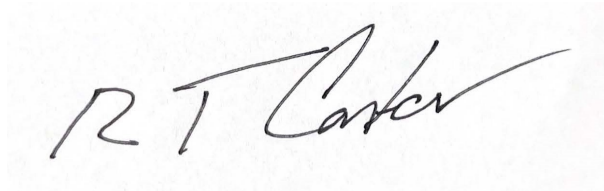
SO ORDERED this _____ day of _____, 2023

Case Title: State Of Tennessee vs Jenna Renee Amacher

Case Number: 22CV-311

Type: ORDER

It is so ordered.

A handwritten signature in black ink, appearing to read "R T Carter", is written over a light gray rectangular background.

/S/ Robert Carter, Circuit Judge Sitting as
Chancellor