

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

March 21, 2018

Jacques N. Couture
[REDACTED]

Stark, NH [REDACTED]

Re: **Cease and Desist Order**
Warning for violation of RSA 659:34

Dear Mr. Couture:

On November 8, 2016, our office received two complaints which raised concerns about the eligibility of certain voters in Dixville Notch during the 2016 Presidential Primary and General Election. As a result of these complaints, our office conducted an investigation.

A Department of Justice Investigator, Todd Flanagan, interviewed you in connection with this complaint. You indicated that you lived and worked at the Balsams Resort in Dixville Notch for 22 years and, as a result, voted there every year. However, in 2010 you moved to Stark, NH after the Balsams Resort closed. Although you occasionally visit Dixville Notch, you indicated that you have not lived there since 2010 and you now primarily live and sleep in Stark in addition to registering your vehicles there. You stated that you "hope[d] to go back to Dixville to live someday," but confirmed that you do not have any residence there to return to. You stated that you continued to vote in Dixville Notch since 2010 because for each presidential election the moderator, Tom Tillotson, calls you and asks if you are "coming up to vote."

In New Hampshire, in order to vote in a town, ward, or unincorporated place you must be domiciled in that place. "An inhabitant's domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government." RSA 654:1, I. "A domicile for voting purposes acquired by any person...shall not be lost by a temporary absence therefrom with the intention of returning thereto as his or her domicile." RSA 654:2, I. The plain and ordinary meaning of the word "temporary" means "[l]asting for a time only; existing or continuing for a limited (usually short) time." BLACK'S LAW DICTIONARY, p. 1504 (8th Ed. 2004). A "voter can only have one domicile for voting purposes." RSA 654:2, I.

It is clear that you now live in Stark more than any other place, and that you no longer maintain a physical presence in Dixville Notch. Therefore, the question of whether you can continue to claim Dixville Notch as your domicile for voting purposes turns upon whether or not you are temporarily absent from that location.

You do not maintain a residential home, apartment, or other living quarters in Dixville Notch. In 2010, the Balsams Resort closed for an indefinite period and it remains closed today. Although you express some generalized hope to return to Dixville Notch once the Balsam's reopens, this purely speculative desire, without more, is insufficient to prove that your absence is temporary. It is not known when the resort will re-open, if ever. Further, even if it does reopen, there is no guarantee that you will be able to live there. Under the circumstances presented here, your indefinite absence from Dixville Notch for the past eight years can no longer be considered temporary as of this date.

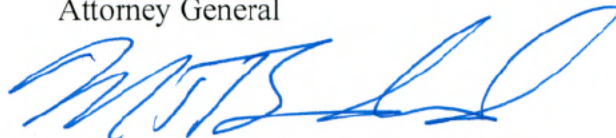
For the foregoing reasons, we have concluded that you are domiciled in Stark, not Dixville Notch. Please note that a person may be subject to a fine of up to \$5,000 or criminal prosecution if he or she "vote[s] for any office or measure at an election if such person is not qualified to vote as provided in RSA 654." RSA 659:34, I (e), II.

Pursuant to Part I, article 11 of the New Hampshire Constitution, RSA 659:34, and RSA 654:1, and based upon the investigation conducted by our office, you are hereby ordered to **Cease and Desist from voting in Dixville Notch, New Hampshire unless and until you establish your domicile there.** Failure to comply with this Cease and Desist Order may result in this office pursuing criminal prosecution or civil penalties.

If you have any additional questions, please do not hesitate to contact me.

Cease and Desist Order Issued
By Authority of:

Gordon J. MacDonald
Attorney General



Matthew T. Broadhead
Assistant Attorney General

cc: Honorable William M. Gardner, Secretary of State
David Scanlan, Deputy Secretary of State
Rick Samson, Coos County Commissioner
Susan Croteau, Town Clerk, Town of Stark
Tom Tillotson, Moderator, Dixville Notch