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**For immediate release**

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## **Setting the Record Straight: Rob Roper's Commentary is Inaccurate and Misleading** **By Vermont Secretary of State Jim Condos**

Recently, Ethan Allen Institute President Rob Roper posted an op-ed with the inflammatory, sensational title, "*So Second Home Owners Can Vote in Vermont?*" Perhaps as intended, Mr. Roper's attention seeking commentary caused significant confusion and concern about Vermont's residency law for voting purposes. As Vermont's chief elections official, let me set the record straight.

Mr. Roper discusses a pending case in Essex County Superior Court which alleges that certain individuals on the Town of Victory's voter checklist are not residents of the town as defined in the election law.

Let me be perfectly clear - I do not believe, and would never suggest, that the language in the residency definition means second home owners in Vermont may register to vote here.

Roper cites testimony given during a hearing in this case by VT's Director of Elections, Will Senning:

*"[Senning] was asked under oath, "When a voter registers, does that voter have to have a principle residence in the town at the moment that they register?" Senning's answer: "Not necessarily." Asked "Why not?" His answer was, "Because they may be intending to make that place their principle residence in the near future." Pressed further with the question, "How far out can that intent be?" Senning testified, "There's no objective standard in terms of that time frame."*

Roper calls this a "wildly loose interpretation" and alleges that it means "there is no legal standard of residence for voting in Vermont." Later he asserts, "Condos is not only turning a blind eye to but actively facilitating vote fraud." While this kind of irresponsible rhetoric is fashionable in Washington DC these days – it doesn't fly in Vermont.

As Secretary of State, my role is to administer the law as it is currently written.

We do not enforce the law - that is the province of the Attorney General and the courts.

We do not write the law - that responsibility lies with the legislature.

Mr. Roper knows this, and I certainly hope that he is not asking me or the elections staff to ignore the law and administer it as we think it should be, not how it is written.

For the purpose of registering to vote, VT election law defines residency as follows: *“resident” shall mean a person who is domiciled in the town as evidenced by an intent to maintain a principal dwelling place in the town indefinitely and to return there if temporarily absent, coupled with an act or acts consistent with that intent.”* (Emphasis added).

The law does not say you must have slept here for half the nights in the past year, or for 30 days before registering, or that you intend to move here in less than 30 days. With no objective standard, a person’s intent to maintain a principal dwelling place here must be supported by “an act or acts consistent with that intent.”

The town/city clerks and local boards of civil authority (BCA), in reviewing a voter application, can request an applicant appear before the BCA and present their evidence of that intent. If the BCA feels it is not sufficient, they may deny the application. That denial may be appealed to a court and the facts ultimately heard by a judge. This is not the wild-west, as Roper would like you to believe. There is a process, a consideration of evidence, and a decision based on that evidence.

Essentially, Mr. Roper is saying these local officials are unable to make informed judgements about who is qualified based on the facts of a given case. I would like to think Mr. Roper would have more respect for our hard-working local officials than to suggest they would simply “turn a blind eye” to instances where someone may be trying to abuse the system.

Does this definition of residency require a subjective analysis based on the facts and circumstances of each case? Yes.

Is that by design? I believe it is.

The legislature decided that an objective standard simply could not address the particular, diverse circumstances surrounding an individual’s qualification for residency for voting purposes. It would risk excluding some who have a legitimate interest in registering and voting.

Mr. Roper asserts our “wildly loose” interpretation of the residency requirement “does not reflect the spirit or the language of the statute.” I could not disagree more.

In fact, I believe our interpretation reflects both the spirit and letter of the law, by relying on the fact-specific, subjective analysis that the law requires.

Mr. Roper is quick to tell readers what I think even though he has not contacted me. He had ample opportunity to express his concerns about voter registration in Vermont last year when a comprehensive election bill moved through the legislature, but he never appeared.

My door is open and I would be glad to discuss any ways in which the residency definition could be revised as long as it would not unnecessarily disenfranchise legitimate voters.

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