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6 IN THE CIRCUIT COURT FOR THE STATE OF OREGON
7 FOR THE COUNTY OF DESCHUTES

8 FOSTER FELL

9
10 Plaintiff,

Case No. 14 CV 0866

11 v.

12 ROBYN CHRISTIE, recorder of the City of
13 Bend, CITY OF BEND, a municipality, and
14 WILLIAM CASEY ROATS, an individual.

15 Defendants.

COMPLAINT

**(Declaratory Relief – ORS 28.010
And ORS 20.020)**

NOT SUBJECT TO MANDATORY
ARBITRATION

Fee Authority: ORS 21.135(2)(g)

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19 Plaintiff alleges:

20 1.

21 At all time material, Plaintiff Foster Fell is a registered voter residing in the City of Bend,
22 Deschutes County, State of Oregon. Plaintiff has a substantial interest in the matter in controversy.

23 2.

24 At all times material, defendant Robyn Christie is the Recorder of the City of Bend. This
25 Complaint is brought against Christie solely in her capacity as an official with the City. Christie is
26

1 the chief election official of the City. Pursuant to ORS 254.565(2), following each general election
2 Christie is required to prepare and deliver a certificate of election to each *qualified* candidate having
3 the most votes.

4 3.

5 The City of Bend (the “City”) is a municipality organized under the laws of the state of
6 Oregon, and is an interested party.

7 4.

8 William Casey Roats (“Roats”) was the candidate who received the most votes for Bend
9 City Council, Position No. 6.

10 5.

11 Jurisdiction lies in the State of Oregon. Venue is in Deschutes County.

12

13 **FACTUAL BACKGROUND**

14 6.

15 Casey Roats was a candidate for Position No. 6 of the Bend City Council in the general
16 election of November 4, 2012.

17 7.

18 Pursuant to Chapter IV, Section 12(1) of the City of Bend Charter of 1995:

19 A councilor shall be a qualified elector under the state constitution and shall have resided in
20 the city during the 12 months immediately before being elected or appointed to the office.
21 In this subsection, ‘city’ means area inside the city limits at the time of the election or
appointment.

22 8.

23 In September of 2013, Roats and his family had been living in a home he owned at 61047
24 Borden Drive in Bend. In September or October of 2013, Roats and his family moved to his
25 parents’ house at 61788 Teal Road, which is outside of the Bend city limits.

26 ///

1 9.

2 On November 19, 2013, Roats changed his voter registration from 61047 Borden Drive to
3 61147 Hamilton Lane, in Bend. This was his place of business, not his residence. This voter
4 registration card submitted by Roats was not accurate.

5 10.

6 On June 19, 2014, Roats submitted a Candidate Filing for his candidacy for a seat on the
7 Bend City Council. Roats stated that his residence was at 61200 Brookwood Blvd. This house
8 was under construction and not suitable for habitation. The final inspection permitting occupancy
9 was not issued until October 3, 2014.

10 11.

11 On June 30, 2014, Roats changed his voter registration to 61200 Brookwood Blvd. As
12 stated above, this was a house under construction, not his residence. This voter registration card
13 submitted by Roats was not accurate.

14
15 **FAILURE TO BE A “QUALIFIED ELECTOR”**

16 12.

17
18 “‘Elector’ means an individual qualified to vote under section 2, Article II, Oregon
19 Constitution.” ORS 247.002(1).

20 Under the Oregon Constitution, one of the requirements for being an elector is that the
21 person “[i]s **registered** not less than 20 calendar days immediately preceding any election in the
22 manner provided by law.” Oregon Constitution, Article II, Section 2(1)(c)(bold added).

23 A person is qualified to vote in “a political subdivision of this state only if the person is an
24 elector registered in the political subdivision.” ORS 247.009

1 “Registration of a qualified person occurs: (a) When a legible, **accurate**, and complete
2 registration card is received in the office of any county clerk, the office of the Secretary of State....
3 or at a location designated by a county clerk[.]” ORS 247.012(3)(a)(bold added)

4
5 13.

6 Because Roats failed to submit accurate voter registration cards, as described in paragraphs
7 9 and 11, he was not a qualified elector under the state constitution. As a result, he is not entitled to
8 receive a certificate of election.

9
10 **FAILURE TO RESIDE IN THE CITY FOR**
11 **THE 12 MONTHS PRIOR TO THE ELECTION**

12 14.

13 During approximately 11 months of the 12-month period preceding the election, Roats
14 resided at 61788 Teal Road, which is outside of the Bend city limits. That is the place in which his
15 habitation was fixed and where he intended to return when he was absent, pursuant to ORS
16 247.035(1)(a).

17 15.

18 Because Roats terminated his voter registration at the Borden Drive address and because he
19 never intended to return there, he is unable to claim that he left his place of residence only
20 temporarily, pursuant to ORS 247.035(2).

21 16.

22 As described above, Roats fails to meet the residency requirement of Chapter IV, Section
23 12(1) of the Bend City Charter. As a result, he is not entitled to receive a certificate of election.

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1 **REQUESTED RELIEF**

2 17.

3 Pursuant to ORS 28.010 and ORS 28.020, Plaintiff requests the Court to issue a Declaratory
4 Judgment specifying that Roats:

- 5 1) Is not a “qualified elector under the state constitution,” and
- 6 2) Has not resided in the city during the 12 months prior to the election.

7 Plaintiff further requests the Court to declare that Roats is is not entitled to receive a
8 certificate of election for Position No. 6 of the Bend City Council.

9 18.

10 Chapter IV, Section 12(3) of the Bend City Charter states that “the council is the final judge of
11 the election and qualifications of electors.” As of this date, the Council has made no determination
12 regarding the qualification of the electors. Despite this provision, it is appropriate for this court to
13 issue a Declaratory Judgment because:

- 14 1) Given the undisputed facts before the court, it would be an impermissible abuse of
15 discretion for the Bend City Council to find that Roats was a qualified elector; and
- 16 2) Under ORS 254.565(2), Defendant Christie is statutorily required to comply with state
17 requirements concerning electors and candidate qualifications, notwithstanding
18 determinations made by the City Council.

19 WHEREFORE, Plaintiff prays for a judgment declaring that Defendants Roats is not
20 entitled to receive a certificate of election in connection with the general election of November 4,
21 2014. Plaintiff further prays for all costs the court deems equitable and just.

22 DATED this 5th day of November, 2014.

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