



RAYMOND

2255 76th Street | Franksville, WI 53126-9539 | Phone: (262) 835-4426 | Fax: (262) 835-4449 | Website: www.raymondwi.com

RESPONSE TO WISCONSIN ELECTIONS COMMISSION

Complaint Filed with Wisconsin Elections Commission
EL 22-18: Mitchell Berman and Jillian Berman v. Linda Terry

Attorney Hunzicker:

Per your request, I submit the following response to the above-referenced complaint.

1. I am the Village Clerk for the Village of Raymond.
2. On February 11, 2022 I received the Wisconsin Voter Registration Applications from Complainants. Copies of the Applications are attached as Exhibit 1.
3. Later on February 11, 2022 I received the sworn Affidavit of Gwendilynn E. Keller filed under Wis. stat. §6.48 (1)(a) challenging the registration of the Complainants. A copy of the Affidavit is attached as Exhibit 2.
4. Pursuant to Wis. stat. §6.48 (1)(b), I notified the Complainants and challenging elector to appear before me on February 18, 2022.
5. On February 18, 2022 I conducted an evidentiary hearing. The Complainants and challenging elector were sworn under oath and testified as to facts each deemed pertinent to the issue of residency.
6. The most pertinent fact adduced at the hearing, in my judgment,¹ was the admission by both Complainants that neither had ever spent an overnight in the Village of Raymond at any time.

¹ Wis. stat. §6.48 (1)(b) – “[j]udgment rests with the municipal clerk ...

7. Based upon that admission together with the facts recited in my Determination (copy of which is attached to the Complaint filed herein), I concluded that the Complainants did not meet the qualification under the plain language of Wis. stat. §6.10 (1) which provides: “Residence as a qualification for voting shall be governed by the following standards: (1) The residence of a person is the place where the person's habitation is fixed, without any present intent to move, and to which, when absent, the person intends to *return*.”
[Emphasis supplied]
8. The evidence unequivocally established that the 8 Mile Road residency had not been fixed or established, and while there was a future intent to fix that home as Complainants’ residence, Complainants would not be *returning* to the residence, they would in fact be establishing this home as their residence for the first time.
9. In addition to the plain language under Wis. stat. §6.10 (1), I also relied on the following in making my determination:
 - a. Wis. stat. §6.10 (5): “A person shall not lose residence when the person leaves home and goes into another state or county, town, village or ward of this state for temporary purposes with an intent to return.”
 - b. 60 Op. Att’y Gen. 214 (1971): “Very generally speaking, the residence of a person is said to be determined by a combination of two elements, intent and physical presence. ...Although physical presence is essential to the establishment of a residence in the first instance, continuous physical presence is not essential to maintain that residence. *Although intention alone is insufficient to establish a residence for voting purposes*, it is an important factor to be considered in determining whether or not a residence has been acquired. In fact, a good-faith intent of a voter to make a place his home for all purposes is an essential element entering into the determination of the question of residence. The intention to be considered is that which is manifested by the voter's acts. *If there exists a discrepancy between declarations of intention and acts, the declarations yield to the conclusion to be drawn from the acts.* *[Emphasis supplied]*.”

10. Under the facts established at the hearing, there was no question of Complainants' intent to establish the 8 Mile home as their residence. However, there was never the physical presence that is a condition precedent to meet the residency requirements under Wis. stat. §6.10 (1).
11. Complainants testified that during construction of their 8 Mile Road home, they and their children have been staying in family or friends' homes.
12. It is noteworthy that in the "Factual Background" section of the Complaint, Complainants did not allege that they are homeless. Rather, they stated: "As a result, they are more or less homeless, and have been forced to stay temporarily with family members."
13. In my Determination, I did not make any finding regarding the "homeless" issue based upon general guidance from the Wisconsin Elections Commission which states: "Homeless individuals may designate a fixed location for their residence for voting purposes if it is an identifiable location in the state of Wisconsin which could conceivably serve as a temporary residence. This location may be a homeless shelter, a park bench, or other location where a homeless individual may spend time or return to when absent."²
14. I determined that under Raymond Village Ordinances, this particular "identifiable location in the state of Wisconsin" could not conceivably serve as a temporary residence, as such occupation would be illegal.
15. In particular, §20-101³ of the Code provides: "No vacant land shall be occupied, used, or developed; and no building hereafter erected, altered or moved shall be occupied; and no floodland shall be filled, excavated, or developed; and no nonconforming use shall be

² *Enabling Qualified Homeless Individuals to Vote*

³ The Village of Raymond has adopted the Racine County Zoning Ordinance by reference *see §25-02 of the Raymond Zoning Ordinance*— this section of the County Code governs occupancy in the Village.

maintained, renewed or changed until an occupancy permit shall have been issued by the zoning administrator.”

16. Thus, to legally occupy the 8 Mile Road parcel in any manner, Complainants would need to apply for and receive an occupancy permit, which they have not.

17. If I was compelled to issue my judgment on the homeless issue, I would determine that the Complainants are not homeless based upon their testimony. The definition of “homeless” is: “(of a person) without a home, and therefore typically living on the streets.”⁴

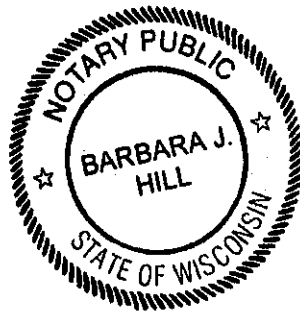
18. Moreover, it is my judgment that the plain language of Wis. stat. §6.10 (1) is somewhat at odds with the WEC guidance and, as the clerk of the Village, I am duty bound to follow dictate of the statute, and this is precisely what I did to the best of my ability.

Dated this 17th day of March 2022.

Linda M. Terry
Linda Terry, Village Clerk

Subscribed and sworn to before me
this 17th day of March 2022.

Barbara J Hill
Notary Public State of Wisconsin
My Commission Expires: 5-1-25



⁴ “Homeless” Oxford English Dictionary on-line

Wisconsin Voter Registration Application		<input type="radio"/> Submitted by Mail (Official Use Only)																					
Confidential Elector ID #: (HINDI - sequential #) (Official Use Only)		WisVote ID # (Official Use Only)																					
Instructions	Instructions for completion are on the back of this form. Return this form to your municipal clerk, unless directed otherwise. Proof of Residence (see reverse) must accompany this application unless you are a military or permanent overseas voter. If this is a change of address, upon completion of this application your voting rights will be cancelled at your previous residence. Please print your information clearly and legibly. Fill in circles as applicable.																						
1	<input type="radio"/> New WI Voter <input type="radio"/> Name Change <input checked="" type="radio"/> Address Change																						
Municipality: <input type="radio"/> Town <input checked="" type="radio"/> Village <input type="radio"/> City Raymond		County: Racine																					
2	WI Driver License or WI DOT-issued ID #: (Req. if not expired or cancelled) B655-5418-6047-01	Expiration Date: 02/07/2027																					
Social Security Number - Last Four Digits: (required if driver license or state ID is not issued, has expired, or has been cancelled)		XXX-XX-4705																					
3	Last Name: Berman																						
Current	First Name: Mitchell																						
	Middle Name: Alan	Suffix: (e.g. Jr, II, etc.)																					
	Date of Birth: (MM/DD/YYYY) 2/7/1986	Phone #: (715) 923-8611																					
If you are a military or permanent overseas elector, fill in the appropriate circle (see instructions for definitions): <input type="radio"/> Military <input type="radio"/> Permanent Overseas																							
4	Residence Address: Street Number & Name: 3905 County Line Rd																						
5	Apt. Number:	City: Caledonia																					
	State & ZIP: WI 53108																						
6	Mailing Address: Street Number & Name: 3905 County Line Rd																						
	Apt. Number:	City: Caledonia																					
State & ZIP: WI 53108																							
7	Last Name: Berman																						
Previous	First Name: Mitchell																						
	Middle Name: Alan	Suffix: (e.g. Jr, II, etc.)																					
	Previous Address: Street Number & Name: 5906 Autumn Trl																						
8	Apt. Number:	City: Racine																					
	State & ZIP: WI 53400																						
Accommodation needed at poll location (e.g. wheelchair access): <input type="checkbox"/> I am interested in being a poll worker.																							
If you do not have a street number or address, use the map to show where you live.																							
<ul style="list-style-type: none"> • Mark crossroads • 'X' where you live • Use dots for landmarks 																							
<table border="1" style="width: 100%; border-collapse: collapse; font-size: 0.8em;"> <tr> <td style="width: 30%;">Example</td> <td style="width: 10%; text-align: center;">↑</td> <td style="width: 10%;">Library</td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> </tr> <tr> <td colspan="3" style="text-align: center;">Marmot Road</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>High School</td> <td></td> <td></td> <td style="text-align: center;">X</td> <td></td> <td></td> <td></td> </tr> </table>			Example	↑	Library					Marmot Road							High School			X			
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Marmot Road																							
High School			X																				
9	Please answer the following questions by filling in "Yes" or "No":																						
1. Are you a citizen of the United States of America?		<input checked="" type="radio"/> Yes <input type="radio"/> No																					
2. Will you be 18 years of age or older on or before the first election at which you will offer to vote?		<input checked="" type="radio"/> Yes <input type="radio"/> No																					
If you filled in "No" in response to EITHER of these questions, do not complete this form.																							
10	I hereby certify, to the best of my knowledge, that I am a qualified elector, a U.S. citizen, at least 18 years old or will be at least 18 years old at the time of the first election at which I will offer to vote, having resided at the above residential address for at least 28 consecutive days immediately preceding this election, with no present intent to move. I am not currently serving a sentence including incarceration, parole, probation, or extended supervision for a felony conviction, and not otherwise disqualified from voting. I certify that all statements on this form are true and correct. If I have provided false information I may be subject to fine or imprisonment under State and Federal laws. If completed on Election Day: I further certify that I have not voted in this election.																						
11	Elector Signature:	Today's Date: (MM/DD/YYYY) 2/11/2022																					
	Proof of Residence Type: DL	Proof of Residence Issuing Entity: WI																					
Proof of Residence #: 4701		Election Day Voter #:																					
Falsification of information on this form is punishable under Wisconsin law as a Class I felony.																							
12	Assistant Signature:	Assistant Address:																					
Election Official Signature:		Date complete & POR received: 2/11/2022																					
SRDs printed name and SRD#:																							
Ward	Sch. Dist.	Alder																					
		City, Supr.																					
		Ct. of App.																					
		Assembly																					
		St. Senate																					
		Congress																					



Wisconsin Voter Registration Application Instructions

Each section on the front side of this document corresponds to the sections below (1-12)

These documents constitute proof of residence if they contain the voter's current and complete first and last name and residential address, and are valid on the day used to register to vote.

Electronic versions are also acceptable.

- A WI Driver License / ID Card, if not expired or cancelled. May be used even if driving privileges have been revoked.
- Any other official identification card or license issued by a Wisconsin governmental body or unit.
- An employee ID card with a photograph, but not a business card.
- A real property tax bill or receipt for the current year or the year preceding the date of the election.
- A residential lease (Does not count as proof of residence if elector submits form by mail).
- A picture ID from a university, college or technical college coupled with a fee receipt or an on-campus housing listing, provided by the university, college or technical college to the municipality that denotes US Citizenship.
- A utility bill for the period commencing not earlier than 90 days before the day registration is made.
- (Homeless voters only) A letter from an organization that provides services to the homeless that identifies the voter and describes the location designated as the person's residence for voting purposes.
- A contract or intake document prepared by a residential care facility indicating that the occupant resides in the facility.
- A bank statement. • A paycheck. • A check or other document issued by a unit of government.

1	<ul style="list-style-type: none"> • Fill in the circle (New WI Voter, Name Change, Address Change) describing why you are completing this form. • A "New WI Voter" is anyone who is not currently registered to vote in Wisconsin. You can check your voter registration status at MyVote Wisconsin website (https://myvote.wi.gov) • Indicate your county and municipality of residence (e.g. Village of Cambridge, Dane County).
2	<ul style="list-style-type: none"> • If you have been issued a WI driver license or WI DOT-issued ID that is unexpired, you must provide the number, even if your driving privileges have been revoked. If you are unsure of the number, please call DMV at (608) 266-2353. • If you have been issued a WI driver license or WI DOT-issued ID that is currently expired or has been cancelled, please provide the number. You must also provide the last 4 digits of your Social Security number. • If you have not been issued a WI driver license or WI DOT-issued ID, you must provide the last 4 digits of your Social Security number. • If you have not been issued a WI driver license, a WI DOT-issued ID, or a Social Security number, indicate that fact by filling in the appropriate circle. • If you are registering to vote on Election Day and have been issued a WI driver license or ID, but are unable or unwilling to provide the number, your vote will not be counted unless you provide the number to the election inspectors by 8:00 p.m. on Election Day or to your municipal clerk by 4:00 p.m. the Friday following Election Day.
3	<ul style="list-style-type: none"> • Provide your current and complete name including your last name, first name, middle name, and suffix (Jr., Sr., etc.), if any. Please verify you have provided your name as it appears on the document, the number of which you provided in Box 2, if the name on that document is still your current and complete name. • Provide your month, day, and year of birth. • Providing your phone number and/or email address is optional and is subject to open records requests. • A "military elector" is a person, or the spouse or dependent of a person who is a member of a uniformed service or merchant marine, a civilian officially attached to a uniformed service and serving outside the United States, or a Peace Corp volunteer. Military electors are not required to register as a prerequisite to voting at any election. • A "permanent overseas elector" is a US citizen, at least 18 years old, who does not qualify as a resident of this state, but who was last domiciled in this state, or whose parent was last domiciled in this state immediately prior to the parent's departure from the United States, and who is not registered to vote in any other state.
4	<ul style="list-style-type: none"> • Provide your home address (legal voting residence) in Wisconsin. • Provide your full street name, including the type (St, Ave, etc.) and any pre- and/or post-directional (N, S, etc.). • Provide the city name and ZIP code that appears on mail delivered to your home address. • <u>You may not enter a PO Box as a residential address.</u> A rural route box without a number should not be used.
5	<ul style="list-style-type: none"> • If your mailing address is different from your home address, provide it here. A PO Box is acceptable as a mailing address. Overseas electors should provide their complete overseas address here.
6	<ul style="list-style-type: none"> • Provide your previous first, last, and middle names, along with a suffix, if any.
7	<ul style="list-style-type: none"> • Provide the most recent address where you were previously registered to vote, if any.
8	<ul style="list-style-type: none"> • If you need assistance when voting, you may describe the assistance required (e.g. curbside voting, braille materials). • If you are interested in being a poll worker for your municipality, you may fill in the circle to indicate your interest. • If you do not have a street address, use the map to show where you live.
9	<ul style="list-style-type: none"> • If you answer "No" to either question in this section, you are not eligible to vote in Wisconsin. • Please note, for question 2, you must either be at least 18 years old, or will be at least 18 years old at the time of the next election to be eligible to vote. If you are completing on election day you must be 18 years old today.
12	<ul style="list-style-type: none"> • Assistant: If you are unable to sign this form due to a physical disability, you may have an assistant do so on your behalf. That assistant must provide his or her signature and address in the space provided. By signing, the assistant certifies that he or she signed the form at your request.

Ex #1

Wisconsin Voter Registration Application

Submitted by Mail
(Official Use Only)

Confidential Elector ID #: (#NNDI - sequential #) (Official Use Only)

WisVote ID #: (Official Use Only)

Instructions

Instructions for completion are on the back of this form. Return this form to your municipal clerk, unless directed otherwise.
Proof of Residence (see reverse) must accompany this application unless you are a military or permanent overseas voter.
If this is a change of address, upon completion of this application your voting rights will be cancelled at your previous residence.
Please print your information clearly and legibly. Fill in circles as applicable.

1 New WI Voter
 Name Change
 Address Change

Municipality: Town Village City **Raymond**
County: **Racine**

2 WI Driver License or WI DOT-issued ID #: **6655-4388-5890-00**
(Req. if not expired or cancelled) Expiration Date: **10/30/2028**
Social Security Number - Last Four Digits: (required if driver license or state ID is not issued, has expired, or has been cancelled) **XXX-XX-**

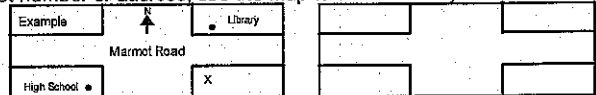
I have neither a WI Driver License/ ID nor a Social Security Number.

3 **Current**
Last Name: **Berman** First Name: **Jillian**
Middle Name: **Therese** Suffix: (e.g. Jr, II, etc.) Phone #: **262-994-8638**
Date of Birth: (MM/DD/YYYY) **10/30/1985** Email Address: **jillian.berman.rs@gmail.com**

4 **Current**
If you are a military or permanent overseas elector, fill in the appropriate circle (see instructions for definitions): Military Permanent Overseas
Residence Address: Street Number & Name: **3905 County Line Road**
Apt. Number: City: **Caledonia** State & ZIP: **WI 53108**

5 **Current**
Mailing Address: Street Number & Name: **3905 County Line Road**
Apt. Number: City: **Caledonia** State & ZIP: **WI 53108**

6 **Previous**
Last Name: **Berman** First Name: **Jillian**
Middle Name: **Therese** Suffix: (e.g. Jr, II, etc.)
7 **Previous**
Previous Address: Street Number & Name: **5906 Autumn Trail**
Apt. Number: City: **Racine** State & ZIP: **WI 53402**

8 Accommodation needed at poll location (e.g. wheelchair access): I am interested in being a poll worker.
If you do not have a street number or address, use the map to show where you live.
• Mark crossroads • 'X' where you live • Use dots for landmarks
Example: 

9 Please answer the following questions by filling in "Yes" or "No":
1. Are you a citizen of the United States of America? Yes No
2. Will you be 18 years of age or older on or before the first election at which you will offer to vote? Yes No
If you filled in "No" in response to EITHER of these questions, do **not** complete this form.

10 I hereby certify, to the best of my knowledge, that I am a qualified elector, a U.S. citizen, at least 18 years old or will be at least 18 years old at the time of the first election at which I will offer to vote, having resided at the above residential address for at least 28 consecutive days immediately preceding this election, with no present intent to move. I am not currently serving a sentence including incarceration, parole, probation, or extended supervision for a felony conviction, and not otherwise disqualified from voting. I certify that all statements on this form are true and correct. If I have provided false information I may be subject to fine or imprisonment under State and Federal laws. **If completed on Election Day:** I further certify that I have not voted in this election.

11 Elector Signature: **Jillian Therese Berman** Today's Date: (MM/DD/YYYY) **2/11/2022**
Proof of Residence Type: **DL** Proof of Residence Issuing Entity: **WI**
Proof of Residence #: **40-00** Election Day Voter #: _____

Falsification of information on this form is punishable under Wisconsin law as a Class I felony.

12 Assistant Signature: _____ Assistant Address: _____

Election Official Signature: **Linda M. Terry** Date complete & POR received: **2/11/2022** SRDs printed name and SRD#: _____

Ward Sch. Dist. Alder Cty. Supr. Cl. of App. Assembly St. Senate Congress

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- (Homeless voters only) A letter from an organization that provides services to the homeless that identifies the voter and describes the location designated as the person's residence for voting purposes.
- A contract or intake document prepared by a residential care facility indicating that the occupant resides in the facility.
- A bank statement. • A paycheck. • A check or other document issued by a unit of government.

1

- Fill in the circle (New WI Voter, Name Change, Address Change) describing why you are completing this form.
- A "New WI Voter" is anyone who is not currently registered to vote in Wisconsin. You can check your voter registration status at MyVote Wisconsin website (<https://myvote.wi.gov>)
- Indicate your county and municipality of residence (e.g. Village of Cambridge, Dane County).

2

- If you have been issued a WI driver license or WI DOT-issued ID that is unexpired, you must provide the number, even if your driving privileges have been revoked. If you are unsure of the number, please call DMV at (608) 266-2353.
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- Provide your current and complete name including your last name, first name, middle name, and suffix (Jr., Sr., etc.), if any. Please verify you have provided your name as it appears on the document, the number of which you provided in Box 2, if the name on that document is still your current and complete name.
- Provide your month, day, and year of birth.
- Providing your phone number and/or email address is optional and is subject to open records requests.
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- A "permanent overseas elector" is a US citizen, at least 18 years old, who does not qualify as a resident of this state, but who was last domiciled in this state, or whose parent was last domiciled in this state immediately prior to the parent's departure from the United States, and who is not registered to vote in any other state.

4

- Provide your home address (legal voting residence) in Wisconsin.
- Provide your full street name, including the type (St, Ave, etc.) and any pre- and/or post-directional (N, S, etc.).
- Provide the city name and ZIP code that appears on mail delivered to your home address.
- You may not enter a PO Box as a residential address. A rural route box without a number should not be used.

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- If your mailing address is different from your home address, provide it here. A PO Box is acceptable as a mailing address. Overseas electors should provide their complete overseas address here.

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- Provide your previous first, last, and middle names, along with a suffix, if any.

7

- Provide the most recent address where you were previously registered to vote, if any.

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- If you need assistance when voting, you may describe the assistance required (e.g. curbside voting, braille materials).
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- If you do not have a street address, use the map to show where you live.

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- If you answer "No" to either question in this section, you are not eligible to vote in Wisconsin.
- Please note, for question 2, you must either be at least 18 years old, or will be at least 18 years old at the time of the next election to be eligible to vote. If you are completing on election day you must be 18 years old today.

12

- **Assistant:** If you are unable to sign this form due to a physical disability, you may have an assistant do so on your behalf. That assistant must provide his or her signature and address in the space provided. By signing, the assistant certifies that he or she signed the form at your request.

Affidavit

STATE OF WISCONSIN
COUNTY OF RACINE

The undersigned, GWENDILYN E KELLER, being duly sworn, hereby deposes and says:

1. I am over the age of 18 and am a resident of the State of Wisconsin. I have personal knowledge of the facts herein, and, if called as a witness, could testify completely thereto.
2. I suffer no legal disabilities and have personal knowledge of the facts set forth below.
3. Electors Mitchell and Jillian Berman are not qualified to vote in the Village of Raymond based on the following reasons: 1) The address being built at 3905 8 Mile Road is still under construction. 2) The Village of Raymond Building Inspector confirmed as of February 8, 2022 no occupancy permit had been issued for residency. They do not physically live in this district. 3) At the PTO Meet and Greet February 8, 2022, Jillian Berman confirmed to Gwen Keller and Art Binhack that she does not currently live at the home.

I declare that, to the best of my knowledge and belief, the information herein is true, correct, and complete.

Executed this 11th day of February, 2022.

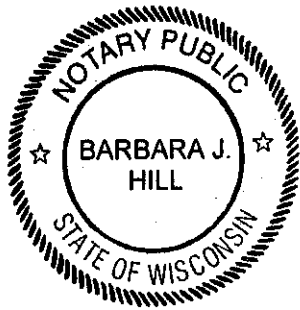
Gwendilyn E Keller

Gwendilyn E Keller

NOTARY ACKNOWLEDGMENT

STATE OF WISCONSIN, COUNTY OF RACINE, ss:

This Affidavit was acknowledged before me on this 14th day of FEBRUARY, 2022,
 by Gwendilyn E Keller, who, being first duly sworn on oath according to law, deposes and
says that he/she has read the foregoing Affidavit subscribed by him/her, and that the matters stated
herein are true to the best of his/her information, knowledge and belief.



Barbara J Hill
Notary Public

NOTARY PUBLIC
Title (and Rank)

My commission expires 5-1-25