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VIA EMAIL

Chairman George R. Gilmore
Ocean County Board of Elections
129 Hooper Ave
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**Re: Unlawful Voter List Maintenance Practices**

Dear Chairman Gilmore:

The American Civil Liberties Union of New Jersey ("ACLU-NJ") writes to express serious concerns regarding your recent efforts to conduct an unlawful mass voter challenge. Relying on a misguided premise, you targeted voters based on their constitutionally protected speech and association and chilled their political participation on the eve of an election.

We understand that you received a list of voters from Dennis Shaning, President of the Bay Head Borough Council and Bay Head GOP, purportedly identifying voters who receive their tax bills at addresses outside Bay Head. This list included registered Democrats and unaffiliated voters but omitted Republican voters. You then mailed the listed voters a letter appending a "Domicile Questionnaire," scheduled a meeting to review their submissions and "determine [their] eligibility to vote," and threatened that their "right to vote may be challenged" if they did not respond. **These actions reflect a stark misunderstanding of the rules governing voter eligibility and offend the integrity of the democratic process, in violation of several state and federal laws as well as the Constitutions of New Jersey and the United States.**

We urge you to immediately (1) cancel the announced meeting, (2) cease any further action to challenge or purge the affected voters based on the list transmitted by Mr. Shaning, and (3) send a corrective notice to every recipient of the letter and Domicile Questionnaire. If you do not, the ACLU-NJ is prepared to seek relief in court.

## I. Background

We understand the recent events as follows. Dennis Shaning, who serves both as President of the Bay Head Borough Council and President of the Bay Head GOP, reviewed tax records to identify registered Bay Head voters whose tax bills are mailed to an address outside the borough. Mr. Shaning compiled a list of these individuals but omitted all Republican-registered voters. On August 21, 2026, he sent that list to the Ocean County Clerk and Board of Elections (the "Board"), claiming "sufficient reason" to believe that the listed voters "should not be voting in Bay Head." He urged you to remove the identified voters from the rolls if you found them to be ineligible to vote in Bay Head.

On behalf of the Board, on September 15, 2026, you mailed the listed voters a letter threatening that their "right to vote may be challenged for the November 3, 2026 General Election and future elections," and enclosing a "Domicile Questionnaire" to be returned by September 30, 2026. The Questionnaire apparently required voters to append certain "copies of documentation." The letter stated that the Board would review voters' "Domicile Questionnaire, submitted documents, and written statements to determine their eligibility to vote in Ocean County." The letter also indicated that the Board would hold a meeting on October 13, 2026, and that voters could attend the meeting to provide additional information for the Board's consideration.

## II. A Tax Bill's Mailing Address Has No Established Bearing on Voting Domicile

New Jersey law entitles an elector to vote in the "election district in which he actually resides, and not elsewhere." N.J.S.A. 19:4-1. "Residence" is generally equated with "domicile." *See e.g.*, *State v. Benny*, 20 N.J. 238, 252 (1955); *In re Kriso*, 276 N.J. Super. 337, 341 (App. Div. 1994). Domicile has been construed "broadly and flexibly" for purposes of meeting voting requirements. *Kriso*, 276 N.J. Super at 341. When a person has more than one residence, "he, and he alone, can decide" where his policial "interests" are more important to him, and there is no basis for the State to "decide for any voter that he ought to vote from one abode rather than another." *Worden v. Mercer Cnty. Bd. of Elections*, 61 N.J. 325, 349-50 (1972) (Weintraub, C.J., concurring).

The mailing address on a tax bill provides no direct evidence of domicile. It reflects the location where an individual has asked the tax collector to send correspondence (perhaps the address of a relative, a second home, or an accountant's office), and it furnishes no basis to doubt or displace a voter's sworn registration address. N.J.S.A. 19:31-6. A comprehensive statutory scheme prescribes the methods for determining voter eligibility in New Jersey. The process that you have concocted here is not part of it.

## III. The Board's Conduct Violates the NVRA's 90-Day Quiet Period

Section 8(c)(2)(A) of the National Voter Registration Act requires that "any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters" be completed "not later than 90 days prior to the date of a primary or general election for Federal office." 52 U.S.C. § 20507(c)(2)(A). The 90 days prior to a federal election are known as the "quiet period." The Department of Justice's own list-maintenance guidance confirms that the quiet period "also applies to list maintenance programs based on third-party challenges derived from any large, computerized data-matching process," which describes precisely the program underway here. U.S. Dep't of Just., *Voter Registration List Maintenance: Guidance under Section 8 of the National Voter Registration Act*, *52 U.S.C. § 20507* 4 (2024), https://www.justice.gov/crt/nvra-list-maintenance-guidance.

## IV. The Board's Conduct Violates the NVRA's Uniformity Requirement

Section 8(b) of the NVRA requires that any list-maintenance program "be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965." 52 U.S.C. § 20507(b)(1). According to Congress, the uniformity requirement means that any program "must be applied to an entire jurisdiction," S. Rep. No. 103-6, at 31 (1993); H.R. Rep. No. 103-9, at 15 (1993), not to some targeted subset therein. List maintenance activities that violate the uniformity and nondiscrimination provisions "extend to any list maintenance activity based on third-party submissions" and include, for example, "comparing voter files to outdated or inaccurate records or databases, [and] taking action that erroneously affects a particular class of voters . . . ." U.S. Dep't of Just., *Voter Registration List Maintenance: Guidance*, *supra*, at 4. A scheme targeting only Democratic and unaffiliated voters for undue scrutiny based on third-party data matching is the antithesis of a uniform list-maintenance program.

## V. The Board's Conduct Violates the First Amendment and Equal Protection Guarantees

A voter's party registration is a form of protected political association under the First Amendment. *See NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 460-61 (1958). Government action that burdens voters because of that affiliation is subject to exacting scrutiny. *See Elrod v. Burns*, 427 U.S. 347, 356-60 (1976). In addition, arbitrary, non-uniform treatment of similarly situated voters violates equal protection. *See Bush v. Gore*, 531 U.S. 98, 104-05 (2000) ("[T]he State may not, by [] arbitrary and disparate treatment, value one person's vote over that of another"); *see also Worden*, 61 N.J. at 348 (County unconstitutionally discriminated against students seeking to register to vote by "subject[ing] [them] as a class to questioning beyond all other applicants"). A challenge process or list-maintenance program that applies one standard (onerous proof of domicile outside established voter registration requirements) to Democratic and unaffiliated voters and a different standard (no additional proof) to identically situated Republican voters is an unconstitutional tax on protected political association and a paradigmatic example of the arbitrary, disparate treatment *Bush v. Gore* forbids.

## VI. The Board's Conduct Violates the John R. Lewis Voter Empowerment Act of New Jersey

The John R. Lewis Voter Empowerment Act of New Jersey ("NJVEA"), *L.* 2026, *c.* 31, § 15(a), prohibits "acts of intimidation, deception, violence or restraint, or obstruction that affects the right of voters to vote." A violation of the intimidation provision occurs where a person "inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation that causes or will reasonably have the effect of causing any person to vote or refrain from voting . . . [or] to place or refrain from placing their name upon a registry of voters," *id*. § 15(b)(1). The

Board's letter threatening to challenge the "right to vote" of any recipient that fails to respond to the Board's baseless demand for extra-statutory proof of eligibility operates as a tool of intimidation that will deter voter participation. To the extent the Board's letter and its accompanying Domicile Questionnaire suggests that a tax bill's mailing address bears on voting eligibility, the letter also violates the NJVEA's deception provision, *id*. § 15(b)(2), which prohibits "any deceptive or fraudulent device, contrivance or communication, that impedes, prevents or otherwise interferes with the free exercise of the elective franchise by any person, or that causes or will reasonably have the effect of causing any person to vote or refrain from voting . . . [or] to place or refrain from placing their name upon a registry of voters . . . ." Notably, Section 15, which applies to "any person, whether acting under color of law or otherwise," also reaches the conduct of Mr. Shaning, irrespective of whether he was acting in his official capacity as Council President or in his private role as Bay Head GOP President.

## VII. Next Steps

The ACLU-NJ requests that you take the following measures to avoid legal liability based on the above violations:

1. Cancel the October 13, 2026 meeting insofar as it concerns the targeted voters;
2. Confirm in writing no later than Friday, October 2, 2026, at 10:00 am that the Board will take no adverse action against the voters to whom it mailed the September 15, 2026 letter and Domicile Questionnaire based on the voters' tax bill mailing addresses;
3. Send a corrective letter to every recipient of the original September 15, 2026 letter and Domicile Questionnaire no later than Monday, October 5, 2026, confirming, at minimum, that:
    - The recipients do not need to take any action in response to the September 15, 2026 letter and Domicile Questionnaire;
    - The meeting referenced in the September 15, 2026 letter has been cancelled;
    - The September 15, 2026 letter and Domicile Questionnaire should not have been sent;
    - The recipients' voter registration remains active, no challenge to their registration is pending, no challenge will be brought based on the information described in the September 15, 2026 letter, and the fact that their tax bills were mailed to an address outside Bay Head does not impact their right to vote and is not evidence that they are ineligible to vote at their registered address.

Thank you for your attention to this matter. Please do not hesitate to contact us by phone or email should you have any questions.

Sincerely,


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