

Tennessee Secretary of State
Tre Hargett



Elections Division
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Mark Goins
Coordinator of Elections

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April 18, 2022

Lee Mills
12903 Shane Hollow Drive
Arlington, TN 38002

Re: Residence Determination for Qualification for Ballot

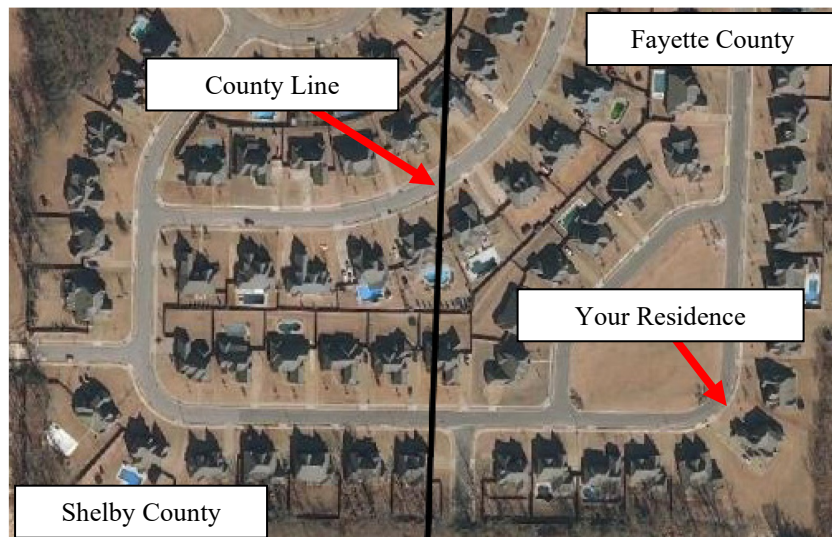
Dear Lee:

I am responding to your email sent April 17, 2022. The reason the issue is being raised now is because I was recently informed of the boundary line by Doug Himes. Mr. Himes is an attorney who worked on the 2020 House redistricting legislation.

You are seeking to qualify to seek the office of Tennessee House District No. 99 which is in Shelby County. No portion of Fayette County is in District No. 99. Article II, Section 9 of the Tennessee Constitution provides the following:

No person shall be a Representative unless he shall be a citizen of the United States, of the age of twenty-one years, and shall have been a citizen of this state for three years, and a resident in the county he represents one year, immediately preceding the election. [Emphasis added.]

The map below identifies the issue.



This map is a screenshot of the Comptroller's District Lookup tool. A fuller version of the screenshot and a link are included with this letter. Additionally, Shelby County ReGIS maintains a map of 2020 Census Data on its website. Their map shows the same boundary.

To meet the Tennessee Constitutional requirements, you must be a resident of Shelby County for one year preceding the election. Based upon the information provided to this office, 12903 Shane Hollow Drive, Arlington, TN 38002, sits in Fayette County.

Your email points out that you have been a registered voter in Shelby County. However, there is a narrow exception in the law that allows you to be registered in Shelby or Fayette County under the circumstances. T.C.A. § 2-2-122(d)(1) states:

Notwithstanding any other provision in this chapter to the contrary, a person shall be eligible to register to vote in the county where the person pays property taxes on the person's primary residence even though the property is partially or totally located in another county, but the only access to the property is through the county where the person pays property taxes. Any person residing at such property shall make a one-time election to register to vote in either the county where the property taxes are paid or the county where the property is located. [Emphasis added.]

You also question the inclusion of VTDs ARL-01 and ARL-02 in House District 99. As Public Chapter No. 598 and T.C.A. § 3-1-103 state, the VTDs are a reference to Census geography. These maps do not always align with the actual voting precincts in a county. While VTDs ARL-01 and ARL-02 are part of House District 99, your residence is not included in either on the attached map from the Census Bureau. Instead, it is included on the Fayette County side of the line for Census, and therefore redistricting, purposes.

Incidentally, the question has been raised as to what responsibility the election commission has regarding keeping non-qualified candidates off the ballot. Specifically, Op. Tenn. Att'y Gen. 02-032 (March 15, 2002) cites T.C.A. § 2-5-204 and states:

It is the duty of each county election commission to place only qualified candidates on the ballot. Therefore, if a county election commission is aware that a candidate does not meet the qualifications for the office he/she seeks, then it is the duty of the commission to refuse to place that individual's name on the ballot.

Furthermore, Op. Tenn. Att'y Gen. 82-312 (June 23, 1982) states:

The county election commission has the duty to exclude from the ballot a potential candidate who is clearly unqualified, as would be the case if he had not resided in the district for one year immediately preceding the November election.

I hope this guidance proves to be helpful to you. Should you have additional questions, please let me know.

Sincerely,

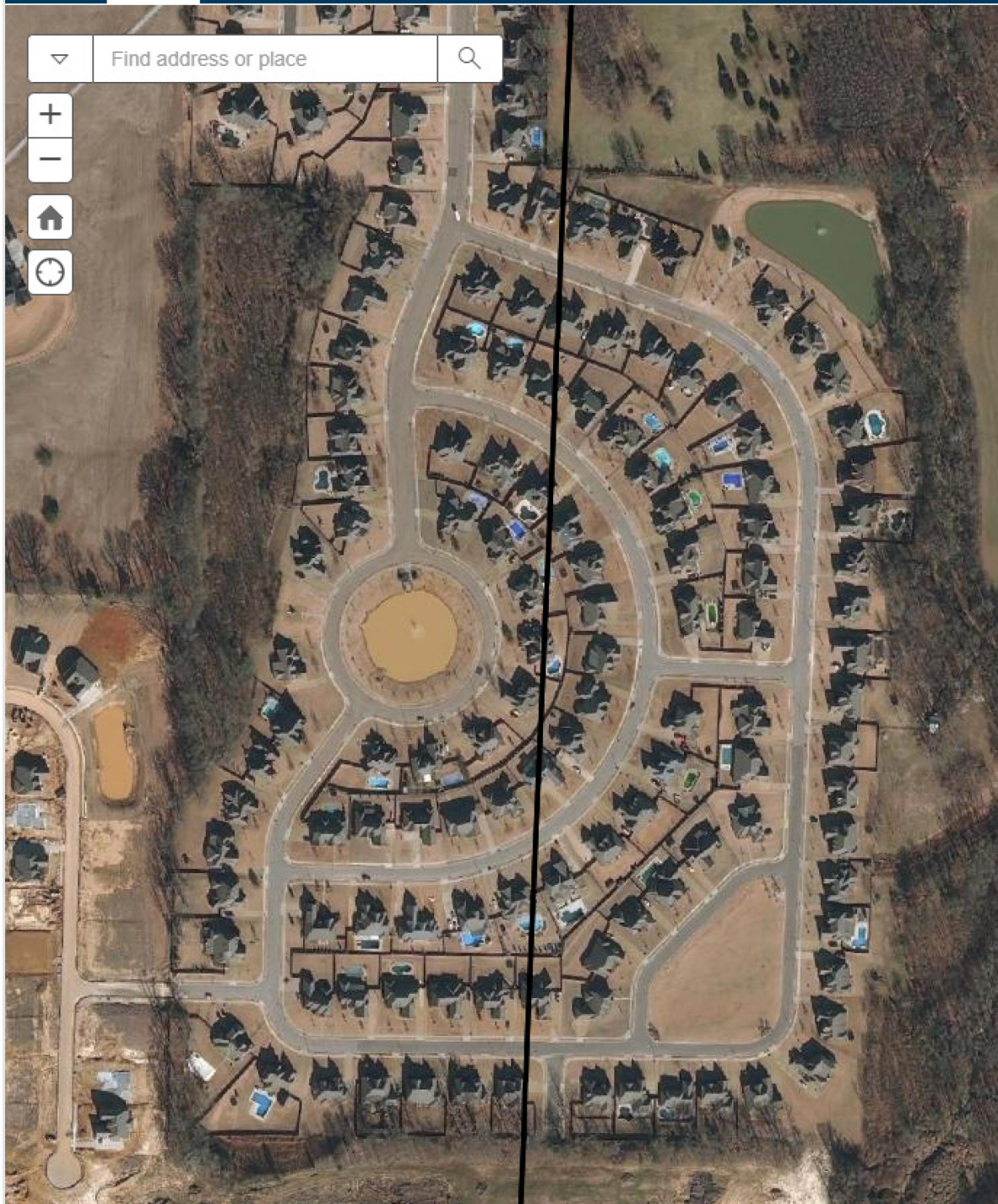


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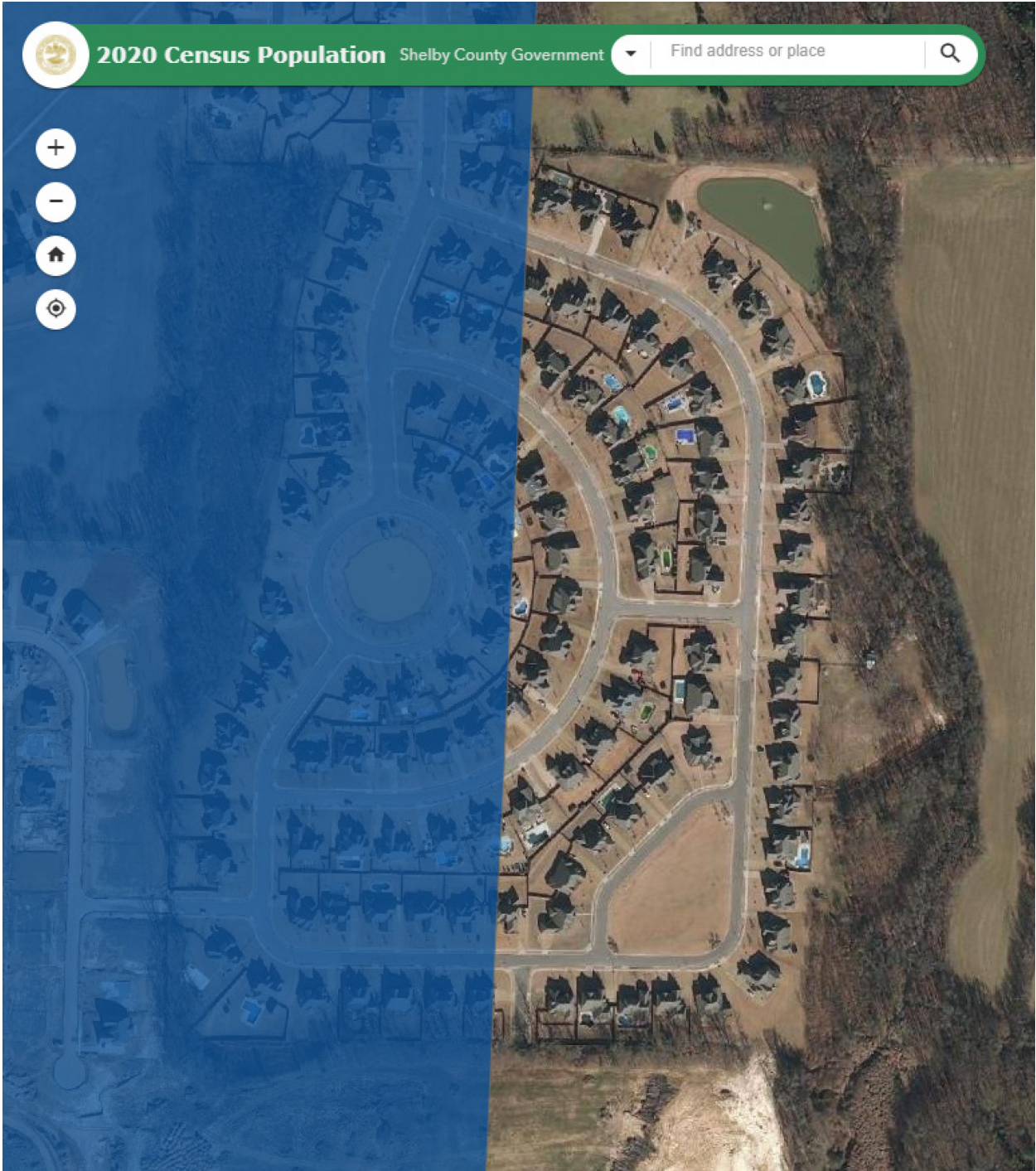
cc: Members of the Shelby County Election Commission
Linda Phillips, Administrator of Elections, Shelby County Election Commission



Tennessee District Lookup



<https://tn-cot.maps.arcgis.com/apps/InformationLookup/index.html?appid=a45bf122d3984cabb920ea396c4c6d0a>



<https://shelbycounty.maps.arcgis.com/apps/webappviewer/index.html?id=1e71e2791dad491bbf007997c20593c1>