STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

BEFORE THE MUNICIPAL OFFICERS ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO NOMINATING PETITIONS FOR THE OFFICE OF ALDERMAN OF THE CITY OF CHICAGO, 29th WARD.

IN RE: OBJECTION OF)
)
MELVIN DELK)
TO THE NOMINATING PETITIONS OF) CASE NO. 83-EB-ALD-11
)
IOLA McGOWAN)
CANDIDATE FOR THE OFFICE OF)
ALDERMAN OF THE CITY OF CHICAGO)
29th WARD.)

D E C I S I O N

AMENDED OPINION AND ORDER

This matter initially came before the Municipal Officers Electoral Board ("Board") on January 14, 1983. On January 14, 1983, the Board, in overruling the objections, found that Iola McGowan ("Candidate") resided at 5839 West Midway Park on December 27, 1982 when she signed her statment of candidacy as well as on December 29, 1982 when she filed her nomination papers. This finding was in accordance with the standards for residency set forth in Stein v. County Board of School Trustees (1967), 85 Ill. App. 2d. 251, 229 N. E. 2d 165, affirmed, 40 Ill. 2d 477, 240 N. E. 2d 668. According to Stein:

> For voting purposes, 'residence' means permanent abode'... (case citations) .... In sum, 'residence' is the principal dwelling place of a person - the place he considers 'home'. It denotes a permanency of some measure. Two elements are necessary to create a residence: (1) a physical presence in that place and (2) the intention of remaining there as a permanent home. Stein v. County Board., 229 N. E. 2d 165, 168

This matter is now again before the Board upon remand from the Appellate Court, First District, with mandate having issued from the Appellate Court on February 11, 1983. The Board was directed to hold a full and immediate hearing on the objections of Delk (hereinafter the "objector") to the nomination papers of the candidate. Such hearing was held on Saturday, February 12, 1983 with all parties present. Upon the close of the evidence, the case was taken under advisement. This opinion and order of the Board represents the Board's findings of law and fact.

At the beginning of the hearing on February 12, 1983, the candidate presented a motion to strike and dismiss and at the close of the evidence, the candidate presented a motion to dismiss. Both motions were taken under advisement. Those motions are now denied.

The issue framed by said Appellate Court opinion is whether the candidate resided at the Midway Park address not only on December 27, 1982, but also on October 5, 1982.

Based upon evidence presented at the February 12, 1983 hearing, the Board again finds that the candidate maintained a permanent abode at 5839 West Midway Park on December 27, 1982 as well as December 29, 1982. Indeed, not only did the candidate own the premises in question, but the record discloses that gas, electricity and telephone were fully operative at the Midway address.

However, with respect to the October 5, 1982 date, while the candidate may have intended to maintain a permanent abode at 5839 West Midway Park on October 5, 1982, the evidence indicates a permanent abode was not established. On October 5th, the candidate did not own the premises in question. In fact, a lock was placed on the Midway premises by HUD officials to deny possession of the premises to the candidate. The candidate had no gas, electricity or phone service at the Midway address until November, 1982.

Therefore, based on the evidence in light of standards of residency set forth above in Stein, supra, the Board concludes that the candidate did not maintain a "residence" at the Midway Park address on October 5th. Also see Miller v. Police Board of the City of Chicago (1976) 38 Ill. App 3d 894, 349 N.E. 2d 444. Thus, the residency requirements set forth by the Appellate Court have not been met.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Objections of Melvin Delk to the nominating petition of Iola McGowan are hereby sustained and that the name of Iola McGowan, Candidate for Office of Alderman of the City of Chicago, 29th Ward shall not be printed on the ballot for the Aldermanic Election to be held on February 22, 1983.

DATED at Chicago, Illinois this 14th day of February, 1983.

Michael E. Lavelle

MICHAEL E. LAVELLE, CHAIRMAN

James R. Nolan.

JAMES R. NOLAN, COMMISSIONER

Corneal A. Davis

CORNEAL A. DAVIS, COMMISSIONER

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

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IN RE: OBJECTION OF)
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MELVIN DELK)
TO THE NOMINATING PETITION OF) CASE NO. 83-EB-ALD-11
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IOLA McGOWAN)
CANDIDATE FOR THE OFFICE OF ALDERMAN)
OF THE CITY OF CHICAGO, 29TH WARD.)

D E C I S I O N

The duly constituted Municipal Officers Electoral Board consisting of Michael E. Lavelle, James R. Nolan and Corneal A. Davis, organized by law in response to a Call issued by Michael E. Lavelle, Chairman of said Electoral Board, for the purpose of hearing and passing upon Objections to Nomination Petitions for the Office of Alderman of the City of Chicago, 29th Ward, having convened on January 13, 1983, at 9:30 A.M., in Room 1707, Richard J. Daley Center, Chicago, Cook County, Illinois and having heard and determined the objections to the petition in the above entitled matter, finds that:

1. The said Electoral Board has been legally constituted according to the laws of the State of Illinois;

2. Objections to the nominating petition of the candidate herein were duly filed;

3. A call to the hearing on said objections was duly issued and was served upon the members of the Electoral Board, the objector and the candidate by mail and by personal service as provided by statute;

4. A public hearing was held on these objections commencing January 13, 1983;

5. The following persons, among others, were present at such hearings: The members of the Electoral Board, the objector ~~xxxxxxxxxx~~ by counsel; and the candidate, ~~xxxxxxxxxx~~ by counsel;

6. ~~Objections having been withdrawn by the objector(s)~~

~~the candidate agreeing that his name not be printed on the ballot~~ ~~a hearing on the objection~~

C. That at the close of the Objector's case, ~~the~~ Candidate's motion to overrule the objections is hereby granted.

IT IS THEREFORE ORDERED that the name of IOLA McGOWAN, Candidate for the Office of Alderman of the City of Chicago, 29th Ward shall ~~(not)~~ be printed on the ballot for the Aldermanic Election to be held on February 22, 1983.

DATED at Chicago, Illinois, this 14th day of January, 1983.

Michael E. Lavelle
CHAIRMAN

James R. Dalan.
MEMBER

Bernard A. Zorn
MEMBER