STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

NBC

BEFORE THE ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO NOMINATING PETITIONS FOR THE OFFICES OF: WARD COMMITTEEMAN IN THE CITY OF CHICAGO

IN RE: Objection of: Robert H. Bailin)
)
To the)
Nominating Petition of: Robert N. Oberg)
) NO: 88-EB-WD-68
)
Candidate for the Office of Ward Committeeman in)
the 44th Ward in the city of Chicago, Illinois.)

DECISION

The duly constituted Electoral Board, consisting of JAMES R. NOLAN, NIKKI M. ZOLLAR AND MICHAEL J. HAMBLET, organized by law in response to a Call issued by MICHAEL E. LAVELLE, then Chairman of said Electoral Board, for the purpose of hearing and passing upon Objections to Nominating Petitions for the Office of Ward Committeeman in the City of Chicago, having duly convened and having heard and determined the objections to the petition in the above entitled matter find 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;

5. The following persons, among others, were present at such hearings: the members of the Electoral Board, the Objector, by counsel, and the Candidate by counsel;

6. The Board incorporates the findings of the hearing officer as the findings of the Board.

IT IS THEREFORE ORDERED that the name of Robert N. Oberg, as candidate for election to the office of Ward Committeeman in the 44th Ward, Republican party, in the city of Chicago shall be printed on the ballot for the Primary Election to be held on March 15, 1988.

Dated: Chicago, Illinois, this 22nd day of January, 1988.

James R. Nolan
JAMES R. NOLAN, COMMISSIONER

Nikki M. Zollar
NIKKI M. ZOLLAR, COMMISSIONER

Michael J. Hamblet
MICHAEL J. HAMBLET, COMMISSIONER

BEFORE THE CHICAGO BOARD OF ELECTION COMMISSIONERS

Robert H. Bailin,	)	
	)	
Petitioner-Objector,	)	
	)	
vs.	)	No. 88-EB-WD-68
	)	
Robert N. Oberg,	)	
	)	
Respondent-Candidate.	)	

MEMORANDUM OPINION AND RECOMMENDED ORDER

This case involves but one issue: the residency of the candidate, Robert N. Oberg, in the 44th Ward at 3032 North Lincoln Avenue, Chicago. Both parties presented testimony and evidence at an extensive hearing on January 12, 1988 before me. I have since reviewed my notes, the exhibits, the transcript, the relevant case law, and any memoranda submitted by the parties.

Under Stein v. County Board, 85 Ill. App. 2d 251, 229 N.E. 2d 165 (1967), aff'd, 40 Ill. 2d 477, 240 N.E. 2d 668 (1968), residency for the purpose of candidacy for office is determined by two factors: one, physical presence in the place, and two, intent to remain there as a permanent home.

It was shown that Mr. Oberg is registered to vote from the Lincoln address, and that the registration dates from the time he says he moved there in late 1986. While Mr. Oberg pays no rent or utilities on Lincoln, he has an arrangement to stay with Mr. & Mrs. Koestenberger there in their apartment free until his home on George is renovated. While this arrangement may be unusual, it is certainly not implausible like the situation of the candidate in Delk v. Board of Election Commissioners, 112 Ill. App. 3d 735 (1984).

The testimony that Mr. Oberg stayed at the Lincoln address at least five nights per week. He has a bed on Lincoln, and uses the Koestenbergers' bathrooms. Mrs. Kuhn testified that she has visited him on Lincoln on several occasions.

The evidence regarding the Belle Plaine address did show that Mr. Oberg runs a business from that address, pays utilities there, and maintains a phone there under his own name. However, there was no evidence that Mr. Oberg actually still lives

there. He has no bed on Belle Plaine, and the building manager on Belle Plaine testified that to her knowledge, the apartment on Belle Plaine was used for business purposes only, and that she had seen Mr. Oberg there "[n]ot too often. Weeks will go by. Sometimes I might see him a couple days in a row." Tr. p. 48.

The evidence that Mr. Oberg intends to remain in the 44th ward was clear. He ran briefly for alderman of the ward, is now running for ward committeeman, and is remodeling a home there. There was no evidence that Mr. Oberg intends to make the Belle Plaine address his permanent home.

I find the evidence adduced regarding Mr. Oberg's driver's license and vehicle registration on Irving Park Road of little evidentiary value. The objector's motion to admit what was marked as objector's exhibit number 4 for identification will be DENIED. The remaining exhibits will retain their original numbers.

For the foregoing reasons, I find that the preponderance of the evidence shows that Mr. Oberg is physically present at the Lincoln address, and that he intends to remain in the 44th Ward as a permanent home. My recommendation to the Board of Election Commissioners will be that the objection be OVERRULED and that the name of ROBERT N. OBERG be printed on the official republican ballot for the office of Ward Committeeman, 44th Ward.

MATHIAS W. DELORT
Hearing Officer

MATHIAS W. DELORT
134 North LaSalle Suite 1502
Chicago, IL 60602
641-0363