BCCON-ALD

**BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
AS THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS
TO NOMINATION PAPERS OF CANDIDATES
FOR THE FEBRUARY 23, 1999 MUNICIPAL GENERAL ELECTION
FOR MAYOR, CLERK, TREASURER AND ALDERMAN
IN THE CITY OF CHICAGO**

Objections of: KATIE A. LOWE and LEE HURSTON	)	
To the Nomination Papers of: MINERVA OROZCO	)	No.: 99-EB-ALD-070
Candidate for the office of Alderman of the 37th Ward, City of Chicago	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Board of Election Commissioners of the City of Chicago Commissioners Langdon D. Neal, Richard A. Cowen, and Theresa M. Petrone, organized by law in response to a Call issued by Langdon D. Neal, Chairman of said Electoral Board, for the purpose of hearing and passing upon objections ("Objection") of KATIE A. LOWE and LEE HURSTON to nomination papers ("Nomination Papers") of MINERVA OROZCO, candidate for the office of Alderman of the 37th for the City of Chicago ("Candidate"), having convened on December 28, 1998, at 9:00 a.m., in the City Council Chambers, City Hall, Chicago, Illinois; and having heard and determined the Objections to the Nomination Papers in the above-entitled matter finds that:

1. Objections to the Nomination Papers of the Candidate herein were duly and timely filed.

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

3. A Call to the hearing on said Objections was duly issued by the Chairman of the Electoral Board and served upon the members of the Electoral Board, the Objectors and the Candidate, by registered or certified mail and by Sheriff's service, as provided by statute.

4. A public hearing was held on these Objections commencing on December 28, 1998 and was continued from time to time.

5. The following persons, among others, were present at such hearing: the members of the Electoral Board; the Objectors, KATIE A. LOWE and LEE HURSTON, pro se, and the Candidate, MINERVA OROZCO, pro se.

6. The Electoral Board assigned this matter to Hearing Examiner GREGORY GINEX for further hearings and proceedings.

7. The Electoral Board ordered that an examination of the registration records be conducted by its clerks and agents under the Board's direction and supervision, in accordance with the laws of Illinois and the rules of the Board.

8. The Electoral Board directed all parties to appear and be present, either personally and/or by their authorized representatives during this records examination.

9. The Candidate was present during the examination of the registration records at all times.

10. The Objectors were present during the examination of the registration records at all times.

11. The examination of the registration records was completed and the Electoral Board hereby adopts and incorporates by reference the results of the records examination conducted by its clerks and agents. The written report of the result of the registration records examination is contained in the Board's file in this case and is available upon request of a party.

12. The Board has considered all evidence and arguments tendered by the parties.

13. The Board finds that:

    a. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 176;

    b. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 574;

    c. The number of signatures deemed invalid because of objections sustained total 233;

    d. The remaining number of signatures deemed valid total 341;

14. The Board finds that the number of valid signatures appearing on the Candidate's nominating petition following the records examination exceeds the minimum number of valid signatures required by law to be placed upon the ballot as a candidate for election to the office of Alderman of the 37th Ward of the City of Chicago.

15. The Board finds, therefore, that paragraphs 2-6 of the Objector's Petition are sustained in part and overruled in part as more fully indicated in the results of the records examination.

16. Paragraphs A and B of the Objectors' petition alleges that sheets 8, 26, 27 and 28 of the Candidate's Nomination Papers do not contain the circulator's residence address as required by law.

17. Section 10-4 of the Election Code (10 ILCS 5/10-4) states in part that all petition sheets shall contain, above the space for signature, an appropriate heading, giving the information as to name of candidate or candidates in whose behalf such petition is signed; the office; the party, place of residence. Section 10-4 also states in part that the bottom of such petition sheets shall contain a statement from the circulator stating the street address of the circulator.

18. The Hearing Examiner found that sheets 8, 26, 27 and 28 of the Candidate's nominating petitions do not contain the circulator's residence address in the circulator's affidavit as required by law. The Hearing Examiner therefore found the 60 signatures contained on sheets 8, 26, 27 and 28 to be invalid, citing *Havens v. Miller,* 102 Ill.App.3d 558, 429 N.E.2d 1292 (First Dist. 1981).

19. The Electoral Board finds that sheet 8 of the Candidate's nominating petitions was circulated and signed by ARNULFO VALLEJO. The circulator failed to include his street number and name in the circulator's affidavit on sheet 8. However, the Board finds that ARNULFO VALLEJO also circulated and signed petition sheets 3, 10, 11, 15, 16, 19, 23, 36 and 38 and did include his street number and name on those sheets.

20. The Electoral Board finds that sheets 26, 27 and 28 of the Candidate's nominating petitions were circulated and signed by the Candidate, MINERVA OROZCO. The circulator/candidate failed to include her street number and name in the circulator's affidavit on sheets 26, 27 and 28. However, the Board finds that MINERVA OROZCO also circulated and signed petition sheets 1, 2, 4-7, 9, 12-14, 17-18, 20-22, 24-25, 29-35, 37 and 39. In addition, the Candidate MINERVA OROZCO's address is printed at the top of each of the petition sheets in the heading reserved for the Candidate's information regarding name, office sought and address.

21. One purpose of the requirement that the circulator's statement at the bottom of the petition sheet include the circulator's address is to protect the integrity of the electoral process by enabling electoral board to locate the circulator, question him or her about signatures, and hold the circulator responsible for his or her oath. *Sakonyi v. Lindsay,* 261 Ill.App.3d 821, 826, 634 N.E.2d 444, 447 (Fifth Dist. 1994). It is assumed by the circulator's sworn statement at the bottom of the petition sheet that the circulator is subjecting himself or herself to possible perjury prosecution, which is a meaningful and realistic method of eliminating fraudulent signatures and protecting the integrity of the political process. *Id.* The presence of the circulator's address on other petition sheets

substantially satisfies the statute's requirements, even though the circulator's address may not be included in the affidavit of a particular sheet. *Id.* The requirement that the circulator enter his or her address on each petition sheet only serves purpose of administrative convenience. By writing the circulator's address on the top of at least one petition that he or she signed as a petitioner, the circulator fulfills the purpose of protecting the integrity of the electoral process by providing electoral board with ready access to her. Because the circulator signed each of the affidavits, the circulator is subjected to possibility of penalties of perjury notwithstanding the failure to include the address on each sheet. *Id.*

22. Because the addresses of circulators VALLEJO and OROZCO were included in the circulator's affidavit on other petition sheets circulated by them, the Electoral Board finds that sheets 8, 26, 27 and 28 substantially complied with the requirements of Section 10-4 that the circulator's affidavit contain the circulator's address and the Electoral Board overrules the recommended findings of the Hearing Examiner on this issue.

23. The Electoral Board further finds that by stating her address at the top of each sheet in the heading that includes information about the candidate, the Candidate substantially complied with the requirement of Section 10-4 that the circulator of the petition sheet state his or her address in the circulator's affidavit. See, e.g., *Schumann v. Kumarich*, 102 Ill.App.3d 454, 459, 430 N.E.2d 99 (First. Dist. 1981) (Although the circulator/candidate's address was not included in the circulator's affidavit at the bottom of each sheet, it was given at the top of each page of his own petition and this substantially complies with Section 10-4).

24. Paragraph C of the Objectors' petition alleges that sheet 19 of the Candidate's Nomination Papers does not contain the Candidate's name, address or Ward number for the office the candidate is seeking election as required by law.

25. The Electoral Board finds that sheet 19 of the Candidate's nominating petitions does not contain the Candidate's name, address or the Ward number identifying the office the Candidate is seeking as required by law. The Electoral Board finds the 15 signatures contained on sheet 19 to be invalid. The Electoral Board finds that *Winters v. Education Officers Electoral Board,* 93 CO 492, Cir.Ct. Cook Co., October 25, 1993, affirmed the decision of the electoral board which found that two (2) of the candidate's five (5) petition sheets heading did not specify a residence address for the candidate and that the disqualification of these two sheets brought the number of valid signatures below the statutory minimum. The Electoral Board finds that the failure to state the office sought on the candidate's nominating petition sheets is in violation of the mandatory requirement and the nominating petition sheets are therefore invalid. *Garcia v. Villasenor,* 88-EB-WD-88, CBEC, January 12, 1988.

26. The Electoral Board finds, therefore, that after deducting the 15 invalid signatures on sheet 19, the Candidate has 326 valid signatures remaining on her Nomination Papers and the minimum legally required number of valid signatures required by law to be placed on

the ballot as a candidate for the office of Alderman of the 37th Ward of the City of Chicago is 176.

27. The Board finds that the number of valid signatures appearing on the Candidate's nominating petition exceeds the minimum number of valid signatures required by law to be placed upon the ballot as a candidate for election to the office of Alderman of the 37th Ward of the City of Chicago.

28. For the reasons stated above, the Board overrules the Objector's objections and finds that the Nomination Papers of MINERVA OROZCO are valid.

29. The Electoral Board further finds that there is another objection filed against the Candidate's Nomination Papers in case 99-EB-ALD-180. The Electoral Board finds that the objections in case 99-EB-ALD-180 were overruled and the Candidate's Nomination Papers were found valid.

IT IS THEREFORE ORDERED, that the Objections of KATIE A. LOWE and LEE HURSTON to the Nomination Papers of MINERVA OROZCO, candidate for election to the office of Alderman of the 37th Ward of the City of Chicago are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of MINERVA OROZCO, candidate for election to the office of Alderman of the 37th Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election for Mayor, City Clerk, City Treasurer and Alderman to be held on February 23, 1999.

Dated: Chicago, Illinois, this Twenty-Eighth day of January, 1999.

Langdon D. Neal, Chairman

Richard A. Cowen, Commissioner

Theresa M. Petrone, Commissioner

NOTICE: Pursuant to Section 10-10.1 of the Election Code (10 ILCS 5/10-10.1) a party aggrieved of this decision and seeking judicial review of this decision must file a petition for judicial review with the Clerk of the Circuit Court of Cook County within 10 days after the decision of the Electoral Board.