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**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: KENNETH HARRIS and ROSE MCDANIEL	)	
To the Nomination Papers of: LEONARD T. BARR	)	No.: 99-EB-ALD-086
Candidate for the office of Alderman of the 6th 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 ("Objections") of KENNETH HARRIS and ROSE MCDANIEL to the nomination papers ("Nomination Papers") of LEONARD T. BARR, candidate for the office of Alderman of the 6th Ward 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 Objector(s) and the Candidate, by registered or certified mail and by Sheriff's service, as provided by statute.

4. A public hearing held on these Objections commenced 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 KENNETH HARRIS and ROSE MCDANIEL, by counsel; and the Candidate, LEONARD T. BARR, by counsel.

6. The Electoral Board assigned this matter to Hearing Examiner RICHARD E. ZULKEY for further hearings and proceedings.

7. The Objectors filed objections on various grounds to the signatures on the Candidate's nominating petitions. The Electoral Board found in a preliminary exam that, excluding objections that the circulator of the Candidate's nominating petition did not reside at the address listed in the circulator's affidavit on each sheet (see discussion below), the Candidate's nominating petitions had 402 signatures without objections. The total number of legally required valid signatures for a Candidate for the office of Alderman of the 6th Ward of the City of Chicago is 280. The Electoral Board finds that Candidate has sufficient legally valid signatures on his nominating petitions for the office of Alderman of the 6th Ward.

8. The Objectors alleged that the Candidate's nominating petitions are invalid as the circulator of 26 of the 28 petition sheets, Leonard T. Barr, did not reside nor was he registered to vote at the address indicated in the circulator's affidavit as required by law.

9. Section 10-4 of the Election Code (10 ILCS 5/10-4) of the Election Code states in part that the bottom of each nominating petition sheet shall contain a statement from the circulator stating that he or she is registered voter of the political subdivision and has been a registered voter at all times he or she circulated the petition.

10. The Electoral Board finds that while a circulator must be a registered voter within the district or political subdivision in which the candidate is seeking nomination or election, the circulator need not be registered to vote at the address given in the circulator's oath so long as he or she is registered at some address within the political subdivision or district in which the candidate is seeking nomination. *Lucas v. Lakin,* 176 Ill.2d. 166, 676 N.E.2d 637 (1997). The Electoral Board further finds that although the Candidate/circulator was registered to vote at 7839 S. Indiana at all times he circulated the petition sheets and that he resided at 9726 S. Prairie, both addresses are within the 6th Ward of the City of Chicago, the district in which the Candidate is seeking nomination and election. Therefore, under *Lucas*, the petition sheets circulated by the Candidate will not be invalidated and objections brought on this ground are hereby overruled.

11. Paragraph 13A and B of the Objector's petition alleges that the Candidate is not a resident at the address shown on the Nomination Papers as required by law.

12. Section 10-5 of the Election Code (10 ILCS 5/10-5) states in part that a candidate's nomination papers shall contain the residence of the candidate.

13. The Electoral Board finds that the Candidate filed Nomination Papers stating his residence address as 9726 South Prairie Avenue, Chicago, Illinois.

14. Robert Matura is an employee of the office of the Clerk of the City of Chicago as a record keeper. He testified that the Candidate registered his vehicle on June 3, 1998, effective through June 30, 1999, listing his address as 7839 South Indiana, Chicago, Illinois. Martin F. Lynch is the payroll and personnel director at the Cook County Treasurer and works in the same office and is acquainted with the Candidate. Mr. Lynch produced the Candidate's personnel file listing the Candidate's address as 7839 South Indiana and produced payroll check records as of October 2, 1998 that listed the Candidate's address as 7839 South Indiana. Mr. Lynch testified that the Treasurer's records indicate that a change of address from 7839 South Indiana to 9726 South Prairie as going on record on December 20, 1998. Catherine Fulgenzic, supervisor for the Secretary of State for vehicle registration, testified that the Candidate registered his vehicle on September 15, 1997 and May 22, 1998 using the 7839 South Indiana address.

15. The Candidate testified under oath that he resides at 9726 South Prairie and moved to this address in June, 1997. The Candidate changed his voter registration to 9726 South Prairie on January 16, 1998. The Candidate produced documentary evidence to supporting his testimony. The utility bills submitted by the Candidate were addressed to Leroy Barnes and the name Leroy Barnes appears on the doorbell at the residence at 9726 South Prairie. The Candidate testified that the name Leroy Barnes is an *alias* name he uses as the result of being victimized by a stalker. Stanley Davis, the owner of the South Prairie property and the Candidate's landlord, testified that he leased the apartment at South Prairie to the Candidate and produced a lease with a term of 12/31/97 to 12/31/98 for $650.00/month. Mr. Davis testified that the Candidate usually paid his rent in cash and that a new lease had not yet been executed. Mr. Davis testified he visits the Candidate about twice a month and that the Candidate's apartment was furnished and contained the Candidate's clothing. Mr. Davis has witnessed people visiting the Candidate at this apartment. Anthony Jackson, the Candidate's stepfather, testified that the Candidate resides at 9726 South Prairie but does receive some mail at 7839 South Indiana.

16. The Electoral Board finds that a permanent abode is necessary to constitute a residence within the meaning of the Election Code. *Walsh v. County Officers Electoral Board,* 267 Ill.App.3d 972, 642 N.E.2d 843. Two elements are necessary to create a residence for purposes of voting: physical presence and the intent to remain there as a permanent home. Although declarations of intent are admissible as evidence thereof, acts and surrounding circumstances should be given more weight in making the factual determination of intent. *Delk v. Board of Election Commissioners of the City of Chicago,* 112 Ill.App.3d 735, 445 N.E. 2d 1232.

17. The Electoral Board finds that the Candidate has maintained a physical presence at 9726 South Prairie Avenue and that the Candidate has demonstrated intent to remain there as a permanent home. The Electoral Board finds that the Candidate resides at 9726 South

Prairie Avenue, the address listed on the Candidate's Nomination Papers. Therefore, the objections that the Candidate does not reside a 9726 South Prairie are overruled

18. The Electoral Board finds, therefore, that the Nomination Papers of the Candidate, LEONARD T. BARR, are valid, and overrules the Objector's petition.

IT IS THEREFORE ORDERED that the Objections of KENNETH HARRIS and ROSE MCDANIEL to the Nomination Papers of LEONARD T. BARR, candidate for election to the office of Alderman of the 6th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of LEONARD T. BARR, candidate for election to the office of Alderman of the 6th 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 Second day of February, 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.