NBCOFF-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: PAMELA COLLIER	)	
	)	
To the Nomination	)	
Papers of: JOHN W. ROBERTSON	)	No.: 99-EB-ALD-181
	)	
Candidate for the office of	)	
Alderman of the 37th Ward	)	

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 PAMELA COLLIER to nomination papers ("Nomination Papers") of JOHN W. ROBERTSON, candidate for the office of Alderman of the 37th 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 Objector, PAMELA COLLIER, by counsel; and the Candidate, JOHN W. ROBERTSON, by counsel.

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

7. The parties agreed that the sole issue in the objections is the residency of the Candidate. The Objector alleges in paragraph 21 that the Candidate is not a resident at the address shown on the Nomination Papers as required by law.

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

9. The Electoral Board finds that the Candidate filed Nomination Papers stating his residence address as 4857 West Walton, Chicago, Illinois, which is an address within the 37th Ward of the City of Chicago.

10. The Candidate testified before the Hearing Examiner that he purchased the property at 4857 West Walton in August, 1998. The Candidate testified his former residence is 1636 North Merrimac, which is and address outside of the 37th Ward. The Candidate testified that he is not separated from his wife, but his wife, children and grandchildren continue to reside at 1636 North Merrimac. The Candidate still receives his mail at the 1636 North Merrimac address. The Candidate changed his address on his driver's license on January 14, 1999, five days before the evidentiary hearing in this matter was conducted and after the initial hearing. The Candidate further admitted that four years ago he moved from his then current home to a new location simply to run for alderman and that, after he lost the election, he returned to his original residence.

11. 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, 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.

12. The Electoral Board finds that the Candidate has not maintained a physical presence at 4857 West Walton and that the Candidate has not demonstrated intent to remain there as a permanent home. The Electoral Board finds that the Candidate does not reside at 4857 West Walton, the address listed on the Candidate's Nomination Papers.

13. The Electoral Board finds that Section 10-4 of the Election Code requires that nominating petition sheets be circulated by a resident of and a registered voter in the political subdivision or district in which the candidate is seeking nomination or election.

14. The Electoral Board finds that because the Candidate is not a resident of or a bona fide registered voter of the 37th Ward, all 47 sheets that he signed as the circulator are invalid.

15. The Electoral Board finds that although there is no requirement that a candidate for the office of alderman in the City of Chicago reside in the ward in which he or she is seeking election, the Candidate stated falsely on his Statement of Candidacy placed on file with the Board that he resided at 4857 West Walton, rendering such statement void.

16. The Electoral Board sustains the objections filed against the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED, that the Objections of PAMELA COLLIER to the Nomination Papers of JOHN W. ROBERTSON, candidate for election to the office Alderman of the 37th Ward for the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of JOHN W. ROBERTSON, candidate for election to the office of Alderman of the 37th Ward for the City of Chicago, SHALL NOT 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.