NBCON-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: CONWAY C. NEWTON	)	
	)	
To the Nomination	)	
Papers of: SYDNEY A. WASHINGTON	)	No.: 99-EB-ALD-192
	)	
Candidate for the office of	)	
Alderman of the 18th 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 CONWAY C. NEWTON to the nomination papers ("Nomination Papers") of SYDNEY A. WASHINGTON, candidate for the office of Alderman of the 18th 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 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, CONWAY C. NEWTON, by counsel; and the Candidate, SYDNEY A. WASHINGTON, by counsel.

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

7. Paragraph 5 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.

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 2541 W. 79th Street, Chicago, Illinois.

10. John Davis, Jr., the husband of one of the Candidate's opponents in the election, testified that on the outside of the building located at 2541 W. 79th Street where there is a sign outside indicating that there was an insurance business inside. Mr. Davis testified that he went inside the building on two occasions and asked for an insurance quote. Mr. Davis testified that while inside, he observed that the interior of the building is a business office with a back room in the back. He could see a furnace and a bathroom, but he could not see anything else. He stated that he did not go to the back of the building nor could he see the entire back room. Mr. Davis also testified that on two occasions in December 1998, once at about 10:00 P.M. and once at 11:30 P.M., he saw the Candidate turn off the building lights, leave the building through the front entrance, get into his car and drive away. Mr. Davis testified that on both occasions he kept going back to the building to see if the Candidate returned. On both occasions, he made his last check at 2:00 A.M. and the Candidate had not returned on either occasion. Mr. Davis also testified that he had observed a marked Cook County Sheriff's police car parked in the rear of the building.

11. The Candidate testified under oath that he resides at 2541 West 79th Street in Chicago, Illinois and that he has resided there since approximately March 1996 when he separated from his wife who still resides on Artesian Street. The Candidate testified that he is employed as a Cook County Sheriff's Police patrol officer and that he is also an insurance broker with an office located at 2541 West 79th Street, Chicago. The Candidate testified that he was required under the regulations of the Cook County Sheriff's Department to park his patrol car at his residence when he was off duty. The Candidate further testified that he has a bed and sleeper sofa, a refrigerator, clothes, personal property and a stove in the rear of 2541 West 79th Street. The Candidate owns the building at 2541 West 79th Street and introduced evidence of this address as his mail depository. The Candidate testified that there is a locker room and shower facility at the police station where he bathes and that the Candidate occasionally stays at the home of his girlfriend on South Racine Avenue. The Candidate also submitted documentary evidence supporting his testimony.

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.

13. The Electoral Board finds that the Candidate has maintained a physical presence at 2541 West 79th Street and that the Candidate has demonstrated intent to remain there as a permanent home. The Electoral Board finds that the Candidate resides at 2541 West 79th Street, the address listed on the Candidate's Nomination Papers.

14. The Electoral Board finds, therefore, that the Nomination Papers of the Candidate, SYDNEY A. WASHINGTON, are valid, and overrules paragraph 5 of the Objector's petition.

IT IS THEREFORE ORDERED, that the Objections of CONWAY C. NEWTON, to the Nomination Papers of SYDNEY A. WASHINGTON, candidate for election to the office of Alderman of the 18th Ward are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of SYDNEY A. WASHINGTON, candidate for election to the office of Alderman of the 18th 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 Fifteenth 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.