BCCON-ALD

BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO AS A DULY CONSTITUTED ELECTORAL BOARD

Objections of: WANDA G. MARTIN	)	
	)	
To the Nomination	)	
Papers of: DOROTHY OLIVIER-HARRIS	)	No.: 03-EB-ALD-034
	)	
Candidate for the office of	)	
Alderman of the Third 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, Theresa M. Petrone, and Richard A. Cowen, 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 WANDA G. MARTIN ("Objector") to the nomination papers ("Nomination Papers") of DOROTHY OLIVIER-HARRIS, candidate for the office of Alderman of the Third Ward of the City of Chicago ("Candidate") to be elected at the Municipal General Election to be held on February 25, 2003, having convened on December 30, 2002, at 10:00 a.m., in Room 800, 69 West Washington Street, 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 was held on these Objections commencing on December 30, 2002 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner CHRISTOPHER AGRELLA for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board to appear before the Hearing Examiner on the date and at the time designated in the Trial Call. The following

persons, among others, were present at such hearing; the Objector, WANDA G. MARTIN, by counsel; and the Candidate, DOROTHY OLIVIER-HARRIS, by counsel.

7. The Hearing Examiner 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 Hearing Examiner directed all parties to appear and be present, either personally and/or by their authorized representatives during this records examination.

9. The Candidate or her duly authorized representative was present during the examination of the registration records at all times.

10. The Objector or her duly authorized representative was 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 Electoral Board has considered all evidence and arguments tendered by the parties and the Hearing Examiner's report of recommended findings and conclusions of law.

13. The results of the records examination indicate that:

    a. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 240;

    b. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 1,848;

    c. The number of signatures deemed invalid because of objections sustained total 1,392;

    d. The remaining number of signatures deemed valid total 456;

14. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of 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 Third Ward of the City of Chicago.

15. The Electoral Board finds, therefore, that paragraphs 2-8 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. Paragraph 20 of the Objector's Petition alleges that the Candidate's Nomination Papers contain petition sheets which are not consecutively numbered and do not contain sheet numbers 77, 78 or 81 in violation of the Election Code, and all sheets following in sequence after the first missing sheet number are invalid, and every signature on such sheets is invalid.

17. The Hearing Examiner found that the Candidate submitted 96 petition sheets in total, with the numbering consecutive and in order from pages 1 through 76, followed by pages 79 and 80, and thence from pages 82 through 99, this latter group also consecutively numbered. There were no petition sheets numbered 77, 78, or 81.

18. Section 10-4 of The Election Code (10 ILCS 5/10-4) requires that petition sheets, before being presented to the electoral board or filed with the proper officer, shall be neatly fastened together in book form and the sheets shall then be numbered consecutively. The page numbering requirement in the Election code is mandatory and not directory and the failure to comply with this requirement invalidates the nomination papers. *Wollan v. Jacoby*, 274 Ill.App.3d 388, 653 N.E.2d 1303 (First Dist. 1995). However, substantial compliance with a mandatory requirement can be sufficient. *King v. The Justice Party*, 284 Ill.App.3d 886, 672 N.E.2d. 900, (First Dist 1996) (Section 10-4 had been "substantially complied with" as 4,427 pages of the Justice Party's petition were numbered, sixteen pages were not numbered, and two pages, numbered 1791 and 1792 were missing, rendering the numbering of the petition non-consecutive).

19. The Hearing Examiner has recommended that only pages 1 through 76 be deemed valid, and that all other sheets after page 76 be disregarded. Based on the signature count produced by the Board's staff, the number of valid signatures on pages 1 through 76 equals 341 signatures, more than the minimum 240 signatures required by law. Therefore, the Hearing Examiner recommends that paragraphs 20 of the Objector's Petition to be overruled.

20. The Hearing Examiner recommends that all other objections in the Objector's Petition be overruled.

21. The Electoral Board, having reviewed the applicable law and having considered all evidence and arguments submitted by the parties, as well as the Hearing Examiner's report and recommendations, finds that, based on these facts, the Candidate substantially complied with the sheet numbering requirements of Section 10-4. Besides, even if all petition sheets after sheet 76 were disregarded, the Candidate would still have a sufficient number of valid signatures on sheets 1 through 76. Therefore, the Electoral Board finds that the Objector's Petition should be overruled, including the Objections based on the

petition sheet numbering requirement in Section 10-4. The Electoral Board finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of WANDA G. MARTIN to the Nomination Papers of DOROTHY OLIVIER-HARRIS, candidate for election to the office of Alderman of the Third Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of DOROTHY OLIVIER-HARRIS, candidate for election to the office of Alderman of the Third Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election to be held on February 25, 2003.

Dated: Chicago, Illinois, this Twenty-Eighth day of January, 2003.

Langdon D. Neal, Chairman

Theresa M. Petrone, Commissioner

Richard A. Cowen, 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.