BCCON-ALD

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

Objections of: VERDEAN ANDERSON	)	
	)	
To the Nomination	)	**No.: 07-EB-ALD-034**
Papers of: HAROLD NOONIE WARD	)	**(rel. ALD-080)**
	)	
Candidate for the office of	)	
Alderman of the Ninth 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 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 VERDEAN ANDERSON ("Objector") to the nomination papers ("Nomination Papers") of HAROLD NOONIE WARD, candidate for the office of Alderman of the Ninth Ward of the City of Chicago ("Candidate") to be elected at the Municipal General Election to be held on February 27, 2007, having convened on January 2, 2007, 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 January 2, 2007 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner Barbara Goodman 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 Call. The following persons, among others, were present at such hearing; the Objector, VERDEAN ANDERSON, by counsel, James P. Nally; and the Candidate, HAROLD NOONIE WARD, pro se.

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 his duly authorized representative was present during the examination of the registration records at all times.

10. The Objector and/or her duly authorized representatives were present during the examination of the registration records at all times.

11. The examination of the registration records was terminated after examining 4 petition sheets. The Candidate's nominating petition at 181 signatures that were not objected to.

After completing the examination of 4 petition sheets, the Candidate had 191 valid signatures, putting him over the required minimum of 187 valid signatures.

12. 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 a copy was made available to the parties.

13. 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 Ninth Ward of the City of Chicago.

14. The Objector also alleged that because the Candidate's Statement of Candidacy designated the Candidate's political party affiliation (Democratic), the feminine papers were invalid.

15. Finally, the Objector alleged that the Candidate is not a resident at the address listed on his Nomination Papers and therefore his Statement of Candidacy is false. The Objector further alleged that the Candidate was not a resident of the Ninth Ward for the requisite period of time and therefore his Nomination Papers are invalid.

16. The Hearing Examiner has tendered to the Electoral Board her report and recommended decision. The Hearing Examiner recommends that the Objections to the Candidate's Nomination Papers be overruled and that the Nomination Papers be found valid.

17. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Examiner, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Examiner's

recommended findings and conclusions of law. A copy of the Hearing Examiner's Report is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

18. For the reasons stated above, the Electoral Board overruled the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of VERDEAN ANDERSON to the Nomination Papers of HAROLD NOONIE WARD, candidate for election to the office of Alderman of the Ninth Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of HAROLD NOONIE WARD, candidate for election to the office of Alderman of the Ninth Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election to be held on February 27, 2007.

Dated: Chicago, Illinois, this 25th day of January, 2007.

Langdon D. Neal, Chairman

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.

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 27, 2007 MUNICIPAL GENERAL ELECTION
FOR MAYOR, CLERK, TREASURER AND ALDERMAN
IN THE CITY OF CHICAGO

VERDEAN ANDERSON Objector	)	
-v-	)	07-EB-ALD-034
HAROLD NOONIE WARD Candidate	)	

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HEARING EXAMINER'S REPORT

This cause came to be heard before this Hearing Examiner on January 2, 2007. The candidate appeared pro se and subsequently through his attorney Frank Avila and the objector appeared through his attorney James Nally. At that time, the parties were given an opportunity to file preliminary motions and responses. The parties declined the opportunity to file preliminary motions.

The Objector's Petition contained allegations regarding the validity of various signatures and a records examination was ordered. The minimum number of signatures for this office is 187 signatures. The results of the records examination indicated that the candidate had more than the minimum number of signatures required and the records examination was therefore terminated.

The Objector's petition further alleged that because the candidate's Statement of Candidacy designated the candidate's party affiliation (Democratic), the nominating papers were invalid. The Board has had an opportunity to address this issue and has previously determined that the designation of the candidate's party on the Statement of Candidacy at a non-partisan election is not

a sufficient basis to invalidate the nominating papers. Dix v Terry, 03-EB-ALD-071, CBEC, January 31, 2003. Here, as in Dix, no party affiliation was contained on the individual petition sheets and there was no evidence that the petition signers were confused or unduly influenced.

The Objector's Petition also alleged at paragraphs 24 and 25 that the candidate is not a resident at the Ellis address and therefore his Statement of Candidacy is false. The Objector's Petition further alleged at paragraph 26 that the candidate was not a resident of the ward for the requisite period of time and therefore the nominating papers are invalid.

In support of these allegations, the objector called three witnesses. The first witness was the candidate, Harold Noonie Ward.

Mr. Ward testified that he currently resides at 13074 South Drexel Ave. ("current address") in the 9th Ward. (T 15). He further testified that he previously resided at 13242 South Ellis Ave. ("Ellis address") in the 9th Ward which is the address on his nominating papers and that he had resided there since 1999. Both addresses are under the control of the Chicago Housing Authority (CHA) and located within the 9th Ward.

The candidate's Statement of Candidacy was notarized on December 7, 2006. The Statement of Candidacy identified his address as the Ellis address. His nominating papers were filed on December 13, 2006.

Initially, the candidate testified that he moved on the date of the filing of this petition. The candidate then clarified that while he could not recall the specific date he moved, he did recall that it was the date of the ballot placement

lottery. (T 17). He thought the date could be around December 8, 11 or 12. (T. 17, 18) According to the board's records, the lottery was conducted on December 21, 2006. After further questioning, the candidate indicated that he believed he moved to the Drexel address on December 11, 2006. (T. 57)

The candidate's move was not voluntary in the sense that it was not his decision. Rather, CHA relocated his family to the Drexel address one block away from the Ellis address because CHA had to perform some rehabilitation of the Ellis property.

The candidate further testified that he lived at the Ellis address with his wife, father-in-law and kids and that he had resided there since 1999. (T 19). Mr. Ward produced numerous documents in support of this statement. He produced an Illinois Drivers license, an Illinois ID card, a cell phone bill, letters from friends and family, bank statements and other miscellaneous pieces of mail all containing or addressed to the Ellis address. He indicated that he still receives some mail at that address. He also produced a marriage certificate establishing that he was married to his current wife since 1999.

The candidate also testified that he was not on the lease with CHA but that his wife and kids were on the lease and that he had no utility bills from either address because he did not pay utilities.

The next witness called by the objector was Leroy Bannister . Mr. Bannister is the President of East Lake Management and Development Corp. which is the company that manages properties for the CHA. Mr. Bannister testified that it is the policy of the CHA and a legal requirement that only people

on leases with CHA may live at CHA properties. The lease for the Ellis property does not contain the candidate's name. Additionally, the lease for the Drexel property does not contain the candidate's name. Mr. Bannister further testified that the Ellis property was boarded up and that he believed the board up occurred between November 29 and December 8. However, he explained that there would not have been a board up before there was a new lease for the tenant vacating the unit. The Drexel property lease is dated December 8, 2006.

Mr. Bannister was not certain of the date of the board up and it was possible that the board up could have been later than December 8. (T. 89) Mr. Bannister neither witnessed the board up of Ellis or the move to the new location so he could not be certain of the exact dates.

The objector also called Duwain Bailey who was the Director of Operations for the CHA. Mr. Bailey testified that the candidate's name was not on any CHA lease and therefore the candidate was not authorized to live at either the Ellis or the Drexel properties. Mr. Bailey did not know when the Ellis property was boarded up.

In my opinion, the testimony of the candidate establishes that he resided at the Ellis address for at least one year preceding the date of the election. The Objector failed to establish otherwise and, therefore, paragraph 26 of the objector's petition must be overruled.

The candidate filed his nominating papers on December 13, 2006. Both the Drexel and the Ellis addresses are in the 9th Ward. Regardless of whether the candidate was authorized by CHA to reside at either address, the candidate,

in fact, resided at the Ellis address and resides at the Drexel address with his wife now. Although candidate's unauthorized residency within CHA property may raise issues with CHA, it has no legal significance with respect to the issue of residency for purposes of the instant matter.

The evidence establishes that the candidate was a resident at the Ellis address at the time he signed and swore to the information on his Statement of Candidacy. The evidence further establishes that he was a resident at the Ellis address at the time the nominating papers were circulated. With respect to the issue of the veracity of the Statement of Candidacy, the evidence establishes that the information contained therein was true and correct at the time it was signed and sworn to by the candidate on December 7, 2006. Nonetheless, Objector contends that the candidate had a legal duty to update the Statement of Candidacy because of his move approximately two days prior to the filing. However, there is neither a statutory requirement nor precedent established by case law to so require. Indeed, no legal authority was cited to support the requirement suggested by the Objector. Accordingly, paragraphs 24 and 25 of the Objector's Petition must be overruled.

For the foregoing reasons, it is my recommendation that Objections of VERDEAN ANDERSON to the nominating papers of HAROLD NOONIE WARD be overruled in conformity with the foregoing findings and that the candidate's nominating papers be deemed valid.

Respectfully submitted,

Barbara Goodman

Hearing Examiner