MOOT-ALD

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

Objections of: Jeffrey W. Sarzynski	)	
	)	
	)	
To the Nomination	)	No.: 11-EB-ALD-290
Papers of: Helen A. Alex	)	
	)	Related Cases: 11-EB-ALD-165,
	)	11-EB-ALD-289
Candidate for the office of	)	
Alderman of the 38th 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 Marisel A. Hernandez, 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 Jeffrey W. Sarzynski ("Objector") to the nomination papers ("Nominating Papers") of HELEN A. ALEX, candidate for the office of Alderman of the 38th Ward for the City of Chicago ("Candidate") to be elected at the Municipal General Election to be held on February 22, 2011, having convened on December 6, 2010, at 9:00 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 held on these Objections commenced on December 6, 2010 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Linda R. Crane for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board's Call served upon them to appear before the Hearing Officer on the date and at the time designated in the Hearing Schedule. The following persons, among others, were present at such hearing: the Objector, Jeffrey W. Sarzynski, pro se; and the Candidate, Helen A. Alex, pro se.

7. The Hearing Officer has recommended in part that the Candidate's motion to dismiss be granted and in part be denied.

8. The Hearing Officer has also recommended that the Objections be overruled due to the Objector's failure to present evidence or argument in support of his Objections.

9. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Officer, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Officer's recommended findings and conclusions of law. A copy of the Hearing Officer report and recommendations is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

10. For the reasons stated above, the Electoral Board overrules the Objections to the Candidate's Nomination Papers.

11. The Board finds that this case is mooted by virtue of the decision rendered by the Electoral Board in case Related Cases: 11-EB-ALD-165, 11-EB-ALD-289, wherein the Candidate's Nomination Papers were found to be invalid.

IT IS THEREFORE ORDERED the name of Helen A. Alex, candidate for election to the office of Alderman of the 38th Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 22, 2011.

Dated: Chicago, Illinois, on January 11, 2011.

Langdon D. Neal, Chairman

Richard A. Cowen, Commissioner

Marisel A. Hernandez, 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 5 days after service of the decision of the Electoral Board.

BEFORE THE BOARD OF ELECTION COMMISSIONERS
SITTING AS THE DULY CONSTITUTED MUNICIPAL OFFICERS
ELECTORAL BOARD FOR THE CITY OF CHICAGO

BOARD OF ELECTIONS
2011 JAN -7 P 2:46

JEFFREY W. SARZYNSKI	)	
	)	
Petitioner-Objector	)	
	)	
	)	
v.	)	**No. 11 - EB – ALD-290**
	)	**Linda R. Crane**
	)	**Hearing Examiner**
	)	
HELEN A. ALEX	)	
	)	
Respondent-Candidate	)	

RECOMMENDED DECISION

This matter having come before the Chicago Board of Election Commissioners ("CBOE") on verified objections of **JEFFREY W. SARZYNSKI** ("objector") to the nomination papers of **HELEN A. ALEX,** ("candidate"), Linda R. Crane, the Hearing Examiner, finds and recommends as follows:

1. The candidate, **HELEN A. ALEX,** has filed Nomination Papers in support of her nomination to the office of Alderman of the 38th Ward in the City of Chicago to be voted upon during the upcoming election on February 22, 2011 (election).
2. The objector, **JEFFREY W. SARZYNSKI,** has filed a Verified Objector's Petition objecting to the sufficiency of the Candidate's nomination papers for the sole reason that a the candidate's Statement of Candidacy did not include the candidate's address did not contain her zip code, stating.
3. The first paragraph of the Objection states that *"(n)ot only was this zip code omitted once in her statement she failed to produce her zip code in two (2)*

different areas where it was clearly requested. Paragraph 2 of the Objection states that "(t)he *United States Postal Service has designated three (3) more different and distinct zip codes for the postal areas bound by the 38th ward."*

4. The initial hearing on this matter was held on December 6, 2010, and both parties were present and both filed their Appearances pro se. Both were advised by the Hearing Examiner to seek legal representation or counsel to be better able to protect their rights and to help navigate this process.
5. The candidate requested time to prepare and file a Rule 5 Motion to Strike the Objector's Petition. No Record Examination was requested or ordered.
6. On December 7, 2010, the candidate filed a Motion to Dismiss in which she challenged the Objector's Petition based on the fact that it was time stamped with a date of "Jan 0 2010" when it was filed at the Board and was therefore, *"invalid and ... uncertain..."* She also argued that, under Cole v Swearengen, 91 EB-ALD-043, CBEC January 30, 1991, that the *"statement of candidacy"* is *"valid to be read as a whole, the address & zip codes appeared on each of the petitions sheets & therefore no inconsistency or conflict exits* (sic)..."
7. A second hearing was scheduled for December 13, 2010 to allow the candidate an opportunity to file a Rule 5 Motion to Strike the Objector's Petition. No Records Examination was ordered.
8. On December 13, both parties appeared, again both pro se. The objector stated that he had not filed a Response to the Motion to Dismiss because the candidate had not delivered a copy of her motion before 5 pm on December 7, 2010 as required. The objector did not come prepared to offer any evidence or arguments

in support of his objections; but requested a third hearing at which he would bring evidence in support of his Petition. A third hearing was scheduled for December 20, 2010.

9. A review of the records and files of the CBOE, completed on December 17, 2010, resulted in the issuance of an affidavit certified by Lance Gough, its Executive Director: *"Jeffrey W. Sarzynski is not a registered (voter) at the address of 5235 W. Pensacola Ave. as of December 17, 2010."*
10. On December 20, 2010, the candidate appeared at the appointed time and place that had been set for the third hearing in this matter; but the objector did not.
11. The objector never pursued any of his objections with arguments or evidence in support thereof.
12. For the reasons stated above, the Hearing Examiner recommends the following to the Chicago Board of Elections Commissioners:
    a. That the candidate's Rule 5 Motion to Dismiss based on the problem with the time stamp should be denied;
    b. That the candidates Rule 5 Motion to Dismiss based on the de minimis effect of the missing zip codes in her Statement of Candidacy should be granted;
    c. That the objection(s) in the Objector's Petition should be overruled due to the objector's failure to offer and evidence or argumentation whatsoever in support thereof; and

d. That these findings be read together with those recommended by this Hearing Examiner in the Recommended Decision submitted in the matter, 11-EB-ALD-165; and in which additional objections against this candidate appear that resulted in a recommendation that her name not be included on the ballot for Alderman of the 38th Ward in the upcoming election (due to driving citations that were not paid and overdue on the date when the nomination papers were filed).

Respectfully submitted,

Date: January 6, 2011 By: _____
LINDA R. CRANE, Hearing Examiner