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

Objections of: JUAN CALDERON	)	
	)	
	)	
To the Nomination	)	No.: 19-EB-ALD-055
Papers of: THERESA SIAW	)	
	)	Rel.: 19-EB-ALD-153
Candidate for the office of Alderman for the	)	
26th Ward of the City of Chicago	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of the Board of Election Commissioners for the City of Chicago, Commissioners Marisel A. Hernandez, William J. Kresse and Jonathan T. Swain, organized by law in response to a Call issued by Marisel A. Hernandez, Chair of said Electoral Board, for the purpose of hearing and passing upon objections ("Objections") of JUAN CALDERON ("Objector") to the nomination papers ("Nomination Papers") of THERESA SIAW, candidate for the office of Alderman for the 26th Ward of the City of Chicago ("Candidate") at the General Municipal Election to be held on Tuesday, February 26, 2019, having convened on Monday, December 10, 2018, at 8:30 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 were duly and timely filed.

2. The Electoral Board was legally constituted under the laws of the State of Illinois.

3. A Call to the hearing on said Objections was duly issued by the Chair 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 Monday, December 10, 2018 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Joseph Morris 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, JUAN CALDERON, and/or his Attorney MICHAEL J KASPER; the Candidate, THERESA SIAW, and/or her Attorney JAMES P. NALLY.

7. The Hearing Officer has tendered to the Electoral Board his report and recommended decision. The Hearing Officer recommends that the Objections to the Candidate's Nomination Papers be overruled and that the Nomination Papers be declared valid. Specifically, the Hearing Officer found that the Candidate has been a lawful resident of the 26th Ward for the requisite time period prior to the Election and is therefore eligible to be a candidate for alderman of that ward.

8. 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.

9. For the reasons stated above, the Electoral Board overrules the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are valid, in accord with the Board's decision in related case 19-EB-ALD-153.

IT IS THEREFORE ORDERED that the Objections of JUAN CALDERON to the Nomination Papers of THERESA SIAW, candidate for the office of Alderman for the 26th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of THERESA SIAW, candidate for the office of Alderman for the 26th Ward of the City of Chicago, SHALL be printed on the official ballot for the General Municipal Election to be held on Tuesday, February 26, 2019.

Dated: Chicago, Illinois, on Saturday, January 12, 2019.

Marisel A. Hernandez, Chair

William J. Kresse, Commissioner

Jonathan T. Swain, 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 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 26, 2019, MUNICIPAL GENERAL ELECTION
FOR MAYOR, CLERK, TREASURER, AND ALDERMAN
IN THE CITY OF CHICAGO

JUAN CALDERON, *Objector*,	)	
vs.	)	No. 19-EB-ALD-055
THERESA SIAW, *Candidate.*	)	Hearing Officer Morris

REPORT OF THE HEARING OFFICER

Introduction

1. This is a case in which the Objector alleged that the Candidate does not reside at the address stated in her Nomination Papers and does not reside within the district (the 26th Ward of the City of Chicago) in which she seeks election as Alderman. The Hearing Officer finds that the Objector failed to bear his burden of proof regarding residency (and, indeed, that the evidence convincingly establishes that the Candidate resides in the Ward and at the address stated). For the reasons set forth below, the Hearing Officer reports and recommends that this Objector's Petition be denied and that the residency issue be resolved in favor of the Candidate. A decision in this case will not in itself dispose of the overall question of this Candidate's access to the ballot, however, as there is pending a related case involving the same Candidate, *Herrera v. Siaw*, No. 19-EB-ALD-153, which must also be decided.

Procedural Background

2. An Initial Hearing was held herein on December 10, 2018. The Objectors attended by counsel, Michael Kasper, and the Candidate attended by counsel, James M. Nally. Appearances of the parties were entered and exchanged and counsel on both sides submitted e-mail addresses from and through which they agreed to file and serve papers and otherwise communicate with the Electoral Board, the Hearing Officer, and each other. Confidentiality and non-disclosure Agreements were properly executed and filed. The Candidate's Nomination Papers were marked as Board Exhibit A and received into the record. The Objectors' Petition was marked as Board Exhibit B and received into the record. The Notice of Call and the parties' waivers of service of summonses were marked as Board Group Exhibit C and received into the record. The parties' written appearances and confidentiality and non-disclosure agreements were marked as Board Group Exhibit D and received into the record.

3. The Objector's Petition asserted three principal claims: First, that the Nomination Papers contained fewer than the minimum number of valid signatures of qualified electors — 473 — required to earn access to the ballot; second, that the Nomination Papers contained sheets that were circulated by persons other than the persons subscribing to the circulators' affidavits or were otherwise unlawfully circulated; and, third, that the Candidate does not reside at the address stated in her Nomination Papers, does not reside in the district — the 26th Ward of the City of Chicago — in which she seeks election, but resides in Burr Ridge, Illinois, (that is, outside the City of Chicago altogether) and, thus, has not resided in the City and in the 26th Ward for the minimum amount of time — one year — required by law.

4. It appearing that a records examination was required, at the Initial Hearing the

Hearing Officer entered a directive for the conduct of a records examination.

5. A Status Hearing was held on December 17, 2019, at which the Objector withdrew Paragraph 13 of the Objectors' Petition and, thus, abandoned his allegations to the effect that the Nomination Papers contained sheets that were circulated by persons other than the persons subscribing to the circulators' affidavits or were otherwise unlawfully circulated.

6. Also at the Status Hearing on December 17, 2018, the Objector identified, and requested that a subpoena be issued to, a witness to be called to testify at a trial on the residency issues set forth in the Objector's Petition. The Hearing Officer recommended that the requested subpoena issue and the Board issued the subpoena.

7. An inspection of the face of the Nomination Papers disclosed that, if the petition sheets that had been attacked in Paragraph 13 of the Objector's Petition were not rendered invalid because of a defect in circulation, then the Candidate's Nomination Papers were supported by more than the minimum number of valid signatures of electors required for access to the ballot. On or about December 21, 2018, the Deputy Executive Director of the Board, acting in his capacity as superintendent of the Board's records examiners, so informed the Hearing Officer and the parties.

8. A further Status Hearing was held herein on December 21, 2018, at which the parties agreed that the only issue remaining in the case was the question of the Candidate's residency. It is agreed that the address set forth on the Candidate's Nomination Papers, 3615 West Hirsch Street, is within the 26th Ward of the City of Chicago. Accordingly, the Hearing Officer established a schedule under which the parties were to exchange exhibits, affidavits, and witness lists and the matter was set down for evidentiary hearing on the question of residency (as framed by Paragraphs 12, 14, and 15 of the Objector's Petition) on January 2, 2019.

Questions Presented

9. With the issues thus winnowed down and clarified, this case presents the questions:

(a) Does Candidate reside at 3615 West Hirsch Street in Chicago, Illinois?

(b) Has she resided there since at least February 26, 2018?

Statutes Involved

10. (a) Section 3.1-10-5(a) of the Illinois Municipal Code, 65 ILCS § 5/3.1-10-5(a), provides in pertinent part as follows:

> A person is not eligible for an elective municipal office unless that person is a qualified elector of the municipality and has resided in the municipality at least one year next preceding the election or appointment....

(b) Section 3.1-10-5(c) of the Illinois Municipal Code, 65 ILCS § 5/3.1-10-5(c), provides in pertinent part as follows:

> A person is not eligible for the office of alderman of a ward unless that person has resided in the ward that the person seeks to represent, and a person is not eligible for the office of trustee of a district unless that person has resided in the municipality, at least one year next preceding the election or appointment....

(c) Section 21-14(a) of the Illinois Revised Cities and Towns Act of 1941, 65 ILCS § 20/21-14(a), provides in pertinent part as follows:

> No member may be elected or appointed to the city council after the effective date of this amendatory Act of the 93rd General Assembly unless he or she has resided in the ward he or she seeks to represent at least one year next preceding the date of the election or appointment.

The Evidence

11. An evidentiary hearing was held herein on January 2, 2019. Counsel for both parties were accorded opportunites to deliver opening statements and closing arguments, and both counsel waived such opportunities, electing to "let the evidence speak for itself". The evidence may be

marshaled succinctly.

12. The Objector called a witness (whose attendance had been compelled by the requested, and issued, subpoena), Jorge Chaparro. Mr. Chaparro was duly sworn and was subjected to direct, cross, redirect, and recross examination; examination by the Hearing Officer; and redirect and recross examination after the Hearing Officer's examination of him.

(a) Mr. Chaparro testified that he is 76 years old, retired, and lives with his wife at 3517 West Hirsch Street in a house which is directly across Hirsch Street from the house, located at 3516 West Hirsch Street, in the 26th Ward in the City of Chicago, in which the Candidate declares that she resides.

(b) Mr. Chaparro said that he is often out of doors, doing yardwork such as mowing his lawn (and occasionally the lawns of neighbors) and shoveling snow, and generally observing the life of his neighborhood.

(c) Mr. Chaparro stated that he had heart surgery about two years ago and is not quite as active now as he was before his illness and surgery. Although he did not require an interpreter at the trial, he exhibited, and admitted to, some difficulty in understanding and expressing himself in the English language.

(d) Mr. Chaparro testified that, in the past year, he has occasionally seen lights and shadows in the house across the street and, on a handful of occasions, has seen and spoken with the Candidate and a youngster in her company. But Mr. Chaparro testified that he has seen the Candidate so infrequently, and has otherwise observed so little activity in and at the house at 3516 West Hirsch Street that he has formed the opinion that the house is vacant and that no one actually lives there on a day-to-day basis.

(e) Mr. Chaparro admitted that he is aware that the house across the street has a garage and a back door, both of which can be accessed from an alley, and that he cannot see the garage or the back door from his house or yard.

13. The Objector offered two exhibits, both of which were received into evidence without objection.

(a) Objector's Exhibit 1 was an Illinois motor vehicle registration (license plate) renewal form for Vehicle Year 2018, relating to an Audi motor car, that had been mailed to the Candidate at 801 Ambriance Drive in Burr Ridge, Illinois.

(b) Objector's Exhibit 2 was an Illinois motor vehicle registration (license plate) renewal form for Vehicle Year 2017, relating to a Land Rover motor vehicle, that had been mailed to the Candidate at the same address in Burr Ridge.

14. The Objector rested.

15. The Candidate called herself as a witness. She was duly sworn and was subjected to direct, cross, redirect, and recross examination; examination by the Hearing Officer; and redirect and recross examination after the Hearing Officer's examination of her.

(a) The Candidate testified that she formerly resided with her parents at the address in Burr Ridge and for many years has used the Burr Ridge address as the address of corporate registration of various business enterprises that she has owned and operated, including an entity called International Medical Placement, Inc. ("IMP").

(b) She said that IMP at one time owned both the Audi and the Land Rover; and that the Land Rover, still owned by IMP, is no longer operable and is garaged at the Burr Ridge address.

(c) She testified that she has personally acquired the Audi from IMP, and has re-registered it in her name and at her current address at 3516 West Hirsch Street; that she uses the Audi daily; and that she parks it in the garage at the rear of the house of 3516 West Hirsch Street.

(d) She testified that her parents, first her mother and then her father, died some years ago, and that she has not resided at the Burr Ridge house since that time. She stated, further, that her parents' estate, including the house, is still in probate after the passage of many years; that she has older sisters; that her older sisters are the trustees of the estate; that she has no role in the administration of the estate; that to the best of her knowledge the Burr Ridge house is vacant and has been vacant for some time; and that she makes no use of the Burr Ridge house except for storage of some property, including the Range Rover, and for an address of record for some of her incorporated businesses.

(e) She testified that in recent years she has had a succession of residences; including at 2366 North Seeley Avenue and, most recently, at 701 South Wells Street, both in the City of Chicago; that she bought the house at 3516 West Hirsch Street in December 2017; that she promptly moved in upon acquiring the house; and that she has resided there, and only there, continuously since that time.

(f) She stated that she has a six-year-old son, Amir, who resides with her at 3516 West Hirsch Street, and, apart from Amir, she resides alone; that for the first many months of their residence Amir attended the British School of Chicago, to and from which she drove him each day; that since the autumn of 2018 he has been the guest of two of her sisters in Ghana where he has been attending school; and that she plans that he will rejoin her at home

once her aldermanic election campaign is ended.

(g) She testified that she almost always enters and leaves her home through the back door, usually by the car that she parks in the garage at the rear of the house.

(h) She testified that she has a passing acquaintance with Mr. Chaparro, whose house cannot be seen from the rear of her house or from her garage.

16. The Candidate offered 16 exhibits, all of which were received into evidence without objection. Among the more informative exhibits were:

(a) Candidate's Exhibit 1, an undated receipt for a Chicago city sticker related to the Audi. The receipt carried on its face a reminder that the sticker must be renewed on or before March 31, 2020, which, given that the City sells city stickers with 12-month and 24-month expirations, suggests that the sticker was acquired in or about March 2018. The receipt showed the motor car as registered to "Resident" Theresa Siaw at the address of 3516 West Hirsch Street.

(b) Candidate's Exhibit 2, an Illinois driver's license (with a photograph recognizably depicting Candidate) issued on January 3, 2018, to Theresa K. Siaw of 3516 West Hirsch Street.

(c) Candidate's Group Exhibit 3, a confirmation letter (dated December 14, 2017) and a receipt (dated December 16, 2017) from Dolly.com, a moving company, informing Candidate that a truck, a driver, and the driver's assistant, would meet Candidate on December 15, 2017, between 8:00 a.m. and 8:30 a.m. at 701 South Wells Street to move her possessions to 3516 West Hirsch Street.

(d) Candidate's Group Exhibit 6, monthly mortgage statements (for each month

in 2018 starting with a statement dated January 14, 2018, and ending with one dated December 2, 2018) from Wells Fargo Home Mortgage Co. to Candidate, addressed to her at 3516 West Hirsch Street, regarding a mortgage granted in connection with "property address: 3516 West Hirsch Street".

(e) Candidate's Exhibit 10, a water utility bill (dated May 4, 2018) from the City of Chicago Department of Finance addressed to Candidate at 3516 West Hirsch Street regarding "Utility Service Address: 3516 West Hirsch Street" and showing a volume of metered water in a two-month period large enough to justify a bill in the amount of $180.41.

(f) Candidate's Group Exhibit 16, a statement (dated May 25, 2018) from Children's Surgical Foundation, Inc., addressed to Candidate at 3516 West Hirsch Street for medical services rendered on April 16, 2018, to "Patient: Amir".

17. The Candidate rested.

18. The Board may take administrative notice of the records of the Clerk of the Circuit Court of Cook County, whose electronic docket for the Probate Division, accessed on January 6, 2019, at http://www.cookcountyclerkofcourt.org/CourtCaseSearch/ProbateDocketSearch.aspx, shows that:

(a) Only two decedent's estates have ever been opened (and recorded in the Clerk's electronic docket) in Cook County for persons named Siaw, one being of Ernestine Siaw, Decedent, and the other being Emmanuel K. Siaw, Decedent.

(b) On October 1, 2007, a decedent's estate in the matter of *Ernestine Siaw, Decedent*, was opened in the Probate Division of that Court on the petition of one Margaret O. Siaw as Cause No. 2007 P 2969; that among the heirs and interested parties in the estate

is a person named Theresa Siaw; that initially the Court appointed an Independent Administrator; that subsequently the Court appointed a Supervised Administrator; that the next hearing scheduled to be held in the matter will take place on March 5, 2009; and that as of January 6, 2009, no order appears of record closing the estate.

(c) On October 20, 2010, a decedent's estate in the matter of *Emmanuel K. Siaw, Decedent*, was opened in the Probate Division of that Court on the petition of one Margaret O. Siaw as Cause No. 2010 P 6270; that among the heirs and interested parties in the estate is a person named Theresa Siaw; that initially the Court appointed an Independent Administrator with the Will Annexed; that subsequently the Court appointed a Supervised Administrator; that the most recent hearing docketed in the matter was held on May 23, 2018; and that as of January 6, 2019, no order appears of record closing the estate.

These administratively noticeably records corroborate, or at a minimum do not contradict, the Candidate's testimony that her parents died some years ago, that matters went into probate, that other members of her family took leading roles in the proceedings, and that probate is still pending.

Analysis and Evaluation

19. Objector bears the burden of proving that the Candidate is ineligible for office. *Hagen v. Stone*, 277 Ill. App. 3d 388, 390 (1995).

20. Objector produced the testimony of Jorge Chaparro, a neighbor who, although manifestly sincere and without malice, is handicapped by debilities of age and ill health and by some self-admitted language difficulties. Mr. Chaparro is clearly endowed with a high level of curiosity about the comings, goings, and other doings of his neighbors, and is earnest and enthusiastic about observing and monitoring them. He is overly confident, however, about his abilities to maintain

round-the-clock surveillance of a neighboring house, even one directly across the street, particularly when its access to an alley, its garage, and its back door are all outside his field of vision, even when he is out of doors and not just peering through his windows. The Candidate had ready and plausible explanations for the paucity of activity observed by Mr. Chaparro, including her habits of entering and leaving through the back door, long hours away each day at work and school, and a solitary young child with a demanding schedule at a remote school in Chicago and, now, for many months, thanks to kindnesses accorded by gracious relatives, an opportunity at a tender age to study abroad.

21. The Objector connected the Candidate through car registrations with an address in Burr Ridge. Again, however, the Candidate had ready and plausible explanations for the registrations, pointing out that the vehicles were owned by corporate entities (in turn owned by her) whose registered business address was at the Burr Ridge location. What is more, she provided documentary evidence to support her averment that she had transferred title to the motor car that she actually drives from her business entity to herself and re-registered it accordingly, in her own name, at the 3615 West Hirsch Street address.

22. Aside from the vigilant but non-omniscient neighbor and the two vehicle registrations associated with business entities tied to the Candidate, the Objector offered no other evidence that the Candidate does not reside at 3615 West Hirsch Street. To state the matter so that the Objector is not trapped in attempting to prove a negative, the Objector offered no persuasive evidence that the Candidate resides somewhere else.

23. Although the Candidate bears no burden of proving where she does reside, she rebutted the Objector's evidence and averments with many of the normal indicia of residence: A driver's license; a moving bill; a mortgage kept current every month for a year; utility bills; and

a child's medical bill; all tied to 3615 West Hirsch Street.

24. In sum, the preponderance — indeed, virtually the entirety — of the probative evidence compels the finding that the Candidate resides at 3615 West Hirsch Street in Chicago (and nowhere else), and that she has resided there continuously since she moved in on December 15, 2017.

Recommended Decision

25. On the bases of a facial examination of the Nomination Papers, of the Objector's Petition, of all the testimony heard and exhibits received at an evidentiary hearing, and of all other proceedings held herein, the Hearing Officer recommends that the Electoral Board enter the following findings of fact:

(a) The Candidate entered into residence at 3615 West Hirsch Street in the City of Chicago on December 15, 2017.

(b) Since December 15, 2017, and continuing until today, the Candidate has resided, and resides, at 3615 West Hirsch Street in the City of Chicago.

(c) The Candidate has resided within the City of Chicago and within the 26th Ward for the year preceding the election to be held on February 26, 2019.

26. The Hearing Examiner recommends that the Electoral Board enter the following conclusions of law:

(a) The Candidate satisfies the residency requirements imposed by Section 3.1-10-5(a) of the Illinois Municipal Code, 65 ILCS § 5/3.1-10-5(a); by Section 3.1-10-5(c) of the Illinois Municipal Code, 65 ILCS § 5/3.1-10-5(c); and by Section 21-14(a) of the Illinois Revised Cities and Towns Act of 1941, 65 ILCS § 20/21-14(a); for election to the

office of Alderman of the 26th Ward of the City of Chicago.

(b) The Objector's Petition is not well founded, and the relief sought therein should be denied.

(c) The Candidate's Nomination Papers are sufficient in law and fact.

27. The Hearing Examiner recommends that the Electoral Board enter the following final administrative decision, subject to the disposition of a related case involving the same Candidate, *Herrera v. Siaw*, No. 19-EB-ALD-153 :

The name of THERESA SIAW shall appear and shall be printed on the ballot for election to the office of Alderman of the 26th Ward of the City of Chicago to be voted for at the Municipal General Election to be held on February 26, 2019.

Enter:

/s/ **JOSEPH A. MORRIS**

JOSEPH A. MORRIS
Hearing Officer

Dated: January 6, 2019.