

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

Objections of: MARQUIS FRAZIER,)
ROBERT ALLEN)
)
To the Nomination) No.: 15-EB-ALD-069
Papers of: JOSEPH C. ZIEGLER, JR.)
)
Candidate for the office of)
Alderman of the 21st 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 MARQUIS FRAZIER and ROBERT ALLEN (“Objectors”) to the nomination papers (“Nomination Papers”) of JOSEPH C. ZIEGLER, JR., candidate for the office of Alderman of the 21st Ward of the City of Chicago (“Candidate”) to be elected at the Municipal General Election to be held on February 24, 2015, having convened on December 8, 2014, 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 Objectors 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 8, 2014 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Joe Ponsetto for further hearings and proceedings.

6. The Objectors 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 Objectors, MARQUIS FRAZIER and ROBERT ALLEN, by their attorney Michael J. Kasper; the Candidate, JOSEPH C. ZIEGLER, JR., pro se.

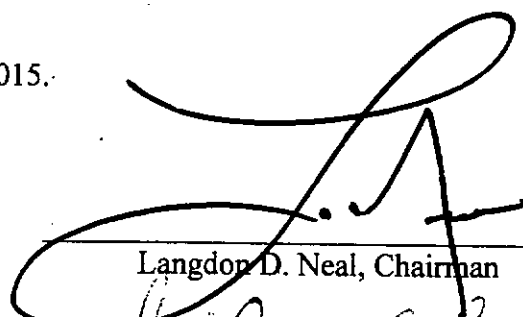
7. The Hearing Officer has tendered to the Electoral Board his report and recommended decision. The Hearing Officer recommends that the Objections to the Candidate's Nomination Papers be overruled and that the Nomination Papers be declared valid.

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's report and recommendations is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

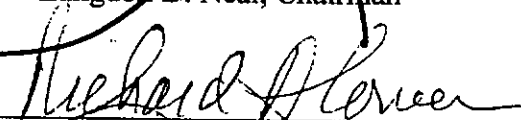
9. For the reasons stated above, the Electoral Board overrules the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of MARQUIS FRAZIERROBERT ALLEN to the Nomination Papers of JOSEPH C. ZIEGLER, JR., candidate for election to the office of Alderman of the 21st Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of JOSEPH C. ZIEGLER, JR., candidate for election to the office of Alderman of the 21st Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election to be held on February 24, 2015.

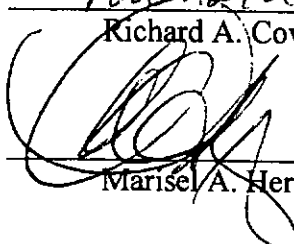
Dated: Chicago, Illinois, on January 9, 2015.



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.

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

MARQUIS FRAZIER AND ROBERT ALLEN

PETITIONER –OBJECTOR

V.

No. EB-Ald-069

JOSEPH C. ZIEGLER, JR.

Joseph Ponsetto

RESPONDENT CANDIDATE

Hearing Officer

RECOMMENDED DECISION

This matter having come before the Chicago board of Election Commissioners ("CBOE") on the objection of Marquis Frazier and Robert Allen ("Objector") to the nomination papers for the Office of Alderman of the 21st Ward of the City of Chicago, State of Illinois of Joseph C. Ziegler Jr.. Proceedings including an evidentiary hearing were conducted. Joseph L. Ponsetto, Hearing Officer, being duly advised finds and recommends as follows:

Issue addressed:

The sole issue raised by the objectors in this matter was that the nomination papers of the Candidate were invalid in that it was alleged that the Candidate does not reside at the address indicated on the Statement of Candidacy and the Petitions.

The Factual Findings are as follows:

- 1) An evidentiary hearing was held. The objectors were represented by counsel who presented their case. The Candidate proceeded pro se after being admonished that he would still be held to all legal standards.
- 2) The Objector submitted certified copies of documents from the Cook County Assessor's Office reflecting that the Candidate had availed himself to the tax benefits of the "Homeowners Exemption" at an address of 9629 South Carpenter, City of Chicago, State of Illinois for the years 2007 through 2013.
- 3) The candidate testified on his own behalf that he currently resides at 8529 South Winchester in the City of Chicago and will have resided at said address for more than one year preceding the upcoming February 24, 2015 General Municipal.
- 4) In response to a Motion to produce from the Objectors the Candidate also provided in a group exhibit voluminous documentary evidence showing 8529 South Winchester to be his residence.

Among the persuasive documents were his valid Illinois Driver's license issued by the State of Illinois in 2011, his Illinois firearms owners identification card valid through 2019, His voter registration card from that address, utility bills in his name, City of Chicago vehicle registration, State of Illinois vehicle registration.

- 5) The candidate submitted numerous affidavits from neighbors reflecting that they interacted with him and considered him to reside at the Winchester address and also had his brother testify that the Winchester address is what he know the Candidate's home and residence to be.

- 6) The Candidate under questioning by the representative attorney for the objectors did not dispute the possible taking of the Homeowners Exemption and in fact indicated that he had begun to reach out to the assessor's office in an attempt to straighten the matter out. He indicated that he now understood that the exemption is only available to one's actual residence. He acknowledged that he was the owner of the Carpenter address but indicated that it is a rental income property.

Legal arguments and positions of the parties:

The Objectors petition alleges that the Candidate's Nomination Papers are invalid in their entirety in that his Statement of Candidacy and petition sheets are false and perjurious in that he does not reside at the address indicated of 8529 South Winchester, City of Chicago. To sustain their burden of proving said allegation they have put forth evidence showing that the Candidate availed himself to a tax benefit at another location and that said tax benefit is only available to residents.

The Candidate argues that while in fact he may have indeed taken said tax advantage he did not do so intentionally and produced substantial evidence that he does in fact live and reside at 8529 South Winchester, Chicago. His evidence of residence was un rebutted and unimpeached by the Objectors.

Hearing Officer's Conclusions of Law

In order to establish residency for voting purposes, two elements are necessary: 1) physical presence in the place, and 2) the intention to remain thereof as a permanent home. *Stein v. County Board of Trustees of Dupage County*, 40 Ill 2d 477 (1968) , 240 N.E. 2nd 668 (1968). In the instant matter in bringing forth the above detailed evidence as to his residence the Candidate clearly has shown that he resides at the address reflected in his nomination papers.

The objectors, while appearing to be well meaning calling attention to what appears to be an improper tax benefit on another piece of property, brought forth no evidence to support their allegation that the Candidate does not reside at 8529 South Winchester, Chicago. Ironically the attempt to besmirch the credibility of the Candidate only works if he in fact does reside on Winchester while representing to the assessor that he resides on Carpenter. The tax issue while established here is best left for another forum or the actual campaign to address.

Recommendation

In light of the foregoing, it is my recommendation that the Objection of Marquis Frazier and Robert Allen to the Nomination Papers of Joseph C. Ziegler Jr. be stricken and dismissed in its entirety. It is my further recommendation that the nominating papers for Joseph C. Ziegler Jr. for the are sufficient in law and fact for the office of Alderman for the 21st Ward of the City of Chicago and that the name Joseph C. Ziegler Jr. as a candidate for said office appear on the ballot at the General Election to be held on February 24, 2015.

Respectfully Submitted,

Joseph Ponsetto /s/

Joseph Ponsetto, Hearing officer

January 4, 2015