

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

Objections of: SUZANNA PURRINGTON)
)
)
To the Nomination) No.: 15-EB-ALD-105
Papers of: JEDIDIAH L. BROWN)
)
Candidate for the office of)
Alderman of the 5th 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 SUZANNA PURRINGTON ("Objector") to the nomination papers ("Nomination Papers") of JEDIDIAH L. BROWN, candidate for the office of Alderman of the 5th 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 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 8, 2014 and was continued from time to time.
5. The Electoral Board assigned this matter to Hearing Officer June A. Brown for further hearings and proceedings.
6. The Objector and the Candidate were directed by the Electoral Board to appear before the Hearing Officer on the date and at the time designated in the Call. The following persons, among others, were present at such hearing; the Objector, SUZANNA PURRINGTON, by her attorney, Randy Crumpton; and the Candidate, JEDIDIAH L. BROWN, pro se.
7. The Hearing Officer ordered that an examination of the voter registration records be conducted by 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 Officer directed all parties to appear and be present, either personally and/or by their authorized representatives during this records examination.
9. The Candidate and/or his duly authorized representative was present during the examination of the registration records.
10. The Objector and/or her duly authorized representative were present during the examination of the registration records.
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 a copy has been provided or made available to the parties.

12. 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 473.

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 1,694.

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 1,012.

D. The remaining number of signatures deemed valid as a result of the records examination total 682.

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 5th Ward of the City of Chicago.

14. The Objections further allege that the Candidate does not reside at the address listed as his residence on his Nomination Papers.

15. The Hearing Officer conducted a hearing to allow the Objector an opportunity to present evidence in support of her claim that the Candidate does not satisfy the residency requirement for Alderman of the 5th Ward of the City of Chicago.

16. Section 21-14(a) of the Revised Cities and Villages Act pertaining to the qualifications of Alderman in the City of Chicago provides that "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. 65 ILCS 20/21-14. In the election following redistricting, a candidate for alderman may be elected from any ward containing a part of the ward in which he or she resided for at least one year next preceding the election that follows the redistricting, and, if elected, that person may be reelected from the new ward he or she represents if he or she resides in that ward for at least one year next preceding the reelection.”

17. In *Maksym v. Board of Election Commissioners*, 242 Ill.2d 303, 950 N.E.2d 1051 (2011), the Supreme Court discussed four “well-settled principles.” First, to establish residency, two elements are required: (1) physical presence, and (2) an intent to remain in that place as a permanent home. Second, once residency is established, the test is no longer physical presence but rather abandonment. Indeed, once a person has established residence, he or she can be physically absent from that residence for months or even years without having abandoned it. Third, both the establishment and the abandonment of a residence is principally a question of intent. Fourth, once a residence has been established, the presumption is that it continues, and the burden of proof is on the contesting party to show that it has been abandoned. 242 Ill.2d at 319. Thus, a voter's temporary absence from an established residence will not cause him to lose that residence for voting purposes if at all times he intends to return and never intends to permanently abandon the place as his permanent residence. *Stein v. County Board of Trustees of DuPage County*, 85 Ill.App.2d 251, 229 N.E.2d 165, aff'd, 40 Ill.2d 477, 240 N.E.2d 668 (1968). *Stein* also pointed out that domicile is a continuing thing and a person must, at all times, have a domicile. Accordingly, one's domicile may not be abandoned until another is acquired. Whether a person has acquired a new residence, however, is a separate question depending on his physical

presence and intent with respect to a new residence. "Residence is lost upon abandonment; however, 'an absence for months, or even years, if all the while intended as a mere temporary absence for some temporary purpose, to be followed by a resumption of the former residence, will not be an abandonment'." *People ex rel. Madigan v. Baumgartner*, 355 Ill.App.3d 842, 847, 823 N.E.2d 1144, 1150 (Fourth Dist., 2005), citing *Stein, supra*, in turn quoting *Kreitz v. Behrensmeyer*, 125 Ill. 141, 195, 17 N.E. 232, 253 (1888). "[W]here a person leaves his residence and goes to another place, even if it be another [s]tate, with an intention to return to his former abode, or with only a conditional intention of acquiring a new residence, he does not lose his former residence so long as his intention remains conditional." *Baumgartner*, 355 Ill.App.3d at 847-848, quoting *Pope v. Board of Election Commissioners*, 370 Ill. 196, 201, 18 N.E.2d 214, 216 (1938). "To change residence, 'there must be, both in fact and intention, an abandonment of the former residence and a new domicile acquired by actual residence, coupled with the intention to make it a permanent home'." *Baumgartner*, 355 Ill.App.3d at 848, quoting *Welsh v. Shumway*, 232 Ill. 54, 77, 83 N.E. 549, 559 (1907). "Implicit in the residency requirement of intention to make a place a person's permanent home is the ability of that person to choose whether he wishes to exercise the rights afforded to a permanent resident in his new location or if he wishes to continue his residence at the home he has temporarily left. As long as he does not seek to 'exercise the rights of property or of citizenship incident to or resulting from permanent residence' at his new location but instead continues to exercise those rights, including the right to vote, at his original location, he remains a resident at the original location." *Baumgartner*, 355 Ill.App.3d at 849. "If a person has established a physical presence in two places where he may reside, he may choose which he intends to make his permanent home." *Baumgartner*, 355 Ill.App.3d at 850.

18. "It is the responsibility of the trier of fact to assess the credibility of the witnesses and the weight of their testimony, resolve conflicts in the evidence and draw reasonable inferences from the evidence" *People v. McCulloch*, 404 Ill.App.3d 125, 131-132, 936 N.E.2d 743 (2nd Dist. 2010). Here, the Hearing Officer listened to the testimony of the witnesses, adjudged their credibility and weighed the evidence before her. The Hearing Officer concluded that the Candidate here established residency in the 5th Ward at least one year before the February 24, 2015 Municipal General Election.

19. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer found that the Candidate's Nomination Papers contained 682 valid signatures, which 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 5th Ward of the City of Chicago, that the Candidate met the 1-year durational residency requirement of 65 ILCS 20/21-14(a) and that the Candidate's Nomination Papers should be found valid.

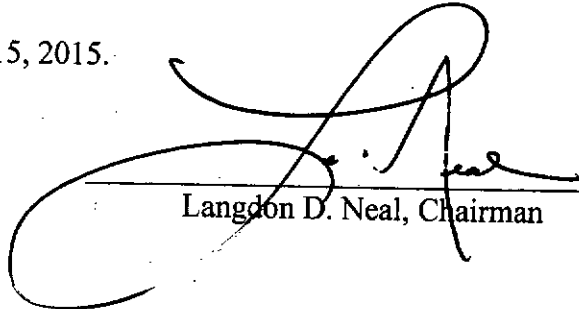
20. The Electoral Board, having considered the evidence and arguments tendered by the parties and the Hearing Officer's report of recommended findings and conclusions of law, hereby adopts the Hearing Officer's recommended findings and conclusions of law. A copy of the Hearing Officer's report is attached hereto and is incorporated herein and made a part of the Electoral Board's decision in this case.

21. For the reasons stated above, the Electoral Board overrules the Objections filed in this matter and finds that the Nomination Papers of JEDIDIAH L. BROWN are, therefore, valid.

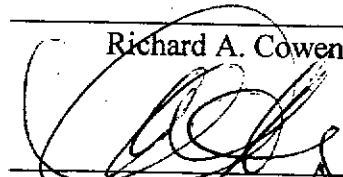
IT IS THEREFORE ORDERED that the Objections of SUZANNA PURRINGTON to the Nomination Papers of JEDIDIAH L. BROWN, candidate for election to the office of

Alderman of the 5th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of JEDIDIAH L. BROWN, candidate for election to the office of Alderman of the 5th 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.

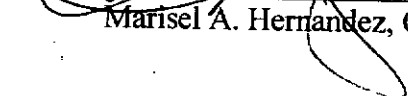
Dated: Chicago, Illinois, on January 15, 2015.



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.

ALD-105 RECOMMENDATION.pdf - 01/12/2015
**BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
AS THE DULY CONSTITUTED ELECTORAL BOARD**

4:42 pm

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)	
SUZANNA PURRINGTON)	
Objector(s))	15-EB-ALD-105
)	
-v-)	
)	
JEDIDIAH L. BROWN)	JUNE A. BROWN
Candidate)	Hearing Officer

HEARING OFFICER'S REPORT AND RECOMMENDATION

The above named cause came to be heard before the Chicago Board of Election Commissioner's ("CBOE") on verified objection **SUZANNA PURRINGTON**, (Objector"), represented by **ATTY. RANDY CRUMPTON**, to the nomination papers of **JEDIDIAH L. BROWN** ("Candidate")-*Pro Se*.

JUNE A. BROWN, Hearing Officer, finds and recommends as follows:

1. The above matter came to be heard before this Hearing Officer on December 10, 2014.
2. The parties agreed that the issues in this Matter are:
 - a. That the Candidate, **JEDIDIAH L. BROWN**, lacked the requisite number of 473 valid signatures to be a candidate for the **Alderman of the FIFTH Ward**, of the City of Chicago, Illinois. A Records Examination was also requested at the December 10, 2014 initial hearing.
 - b. The Candidate, **JEDIDIAH L. BROWN**, lacked the requisite residency to run as Alderman for the Fifth Ward of the City of

3. At the initial hearing, the Hearing Officer gave notice to all parties that the due date for Motions to Strike and/or Dismiss on December 11, 2014, with reply due by December 12, 2014.
4. The Objector's Counsel, **RANDY CRUMPTON**, submitted a Notice to Produce of documents and/or affidavits, regarding the address of the Candidate, **JEDIDIAH L. BROWN**.
5. The parties stipulated as to the manner of service of documents to be made upon each via **EMAIL**.
6. The Candidate, **JEDIDIAH L. BROWN-Pro Se**, filed a timely Motion to Dismiss the Objector's Petition to the Electoral Board, but failed to provide a timely Motion to Dismiss to Attorney **RANDY CRUMPTON**.
7. The Objector, through her Attorney, **RANDY CRUMPTON**, reply to the Motion to Dismiss the Objector's Petition was found timely based on the time of receipt of the Motion to Dismiss from the Electoral Board.
8. The Objector, through Attorney, **RANDY CRUMPTON**, submitted *Subpoena and Subpoena Duces Tecum requests, which were granted with a hearing being set for December 30, 2014.*
9. The Objector, through Attorney, **RANDY CRUMPTON**, submitted a Motion to Compel and a Notice to Produce the records of the Chicago Electoral Board for Jedidiah Brown, which was granted.
10. There was also a Continuance granted on December 30, 2014 until January 6, 2015, to hear all open Matters and place the results of the Records

Examination on the record.

11. The Motion to Dismiss oral arguments commenced on December 17, 2014, and concluded on January 6, 2015, with the oral arguments of both parties as to the Objector lack of *personal knowledge* of the allegations stated in the Objector's Petition as to the validity of the signatures on the Candidate's Nomination Petitions.

The Motion to Dismiss was **DENIED**, based on the following:

- a. Section 10-8 of the Election Code requires that the objector's petition shall (a) give the objector's name and residence address; (b) state fully the nature of the objections to the certificate of nomination or nomination papers; (c) state the interest of the objector; and (d) state what relief is requested of the electoral board. If the objector's petition substantially complies with the requirements of Section 10-8 of the Election Code, it is a valid objector's petition. *Crosby v. Beavers*, 95-EB-ALD-202, CBEC, January 24, 1995.
- b. An objector who set forth his interest in filing his objection "...to disqualify the Candidate as his nomination papers are not lawfully prepared or filed..." is a sufficient interest to deny candidate's motion to strike. *Beiszczat v. Daley*, 91-EB-ALD-94, CBEC, January 30, 1991.
- c. Further, an objection petition must adequately and sufficiently apprise the candidate of the specificity of each objection, thus making evaluation possible. *Elysee v. Patterson*, 04-EB-RGA-14, January 20, 2004.
- d. Objector's motive is not a prerequisite to filing an objection to a candidate's nomination papers. *Drew v. Pletsch*, 12-EB-RES-01, CBEC, July 23, 2012, citing *Nader v. Illinois State Board of Elections*, 354 Ill.App.3d 335, 819 N.E.2d 1148 (1st Dist. 2004), wherein the court held that the electoral board was correct to deny subpoenas requested by candidate in an effort to determine whether the objector's petition was compiled in violation of the Election Code. The *Nader* court held that the electoral board was not required or empowered to conduct an investigation into how the objector's petition was compiled, noting that such issues were irrelevant to

the issues of whether the candidate's nominating papers satisfied the requirements of the Election Code and whether the candidate's petition contained enough valid signatures to be placed on the ballot. *Nader* further supports the denial of subpoenas attempting to require objector to testify as to his "interest, basis, reasoning, intent, cause, motive or analysis."

- e. Objector's potential "ulterior motive" in filing the objection is irrelevant to the proceedings, so long as the objector is otherwise qualified to bring the objections in the first place. *Ley v. Williams III*, 14-EB-CON-06, CBEC, January 6, 2014.

12. The Objector met the stated requirements and **IT IS HEREBY ORDERED** that the Candidate's Motion to Strike & Dismiss be **DENIED**.

13. A Hearing was on results of the Record Examination were presented for the record at the January 6, 2015 hearing at 2:00PM.

14. On December 28, 2014, at 2:38 PM, the examination of the records was completed and is hereby adopted and incorporated by reference to the results of the records examination.

15. On December 28, 2014, at 2:38 PM, the Objector(s) and the Candidate received a copy of the Record's Examination Results.

16. On January 6, 2015, the matter came to be heard and results placed on the record.

17. The Candidate failed to file a timely Rule 8 Motion and rested on the results of the records exam.

18. The Hearing Officer has considered all evidence and arguments proffered by the parties and finds the following:

- A. The minimum number of valid signatures required by law for placement on the ballot for the office in question 473
- B. Total Pages: 86

C. Total Signatures	<u>1694</u>
D. Total Objections:	<u>1272</u>
E. Total Ruled On:	<u>1272</u>
F. Total Remaining:	<u>0</u>
G. Total Sustained	<u>1012</u>
H. Total Overruled:	<u>260</u>
I. For Review (Candidate):	<u>381</u>
J. For Review (Objector):	<u>287</u>
K. Total Valid Signatures:	<u>682</u>
L. Total Unchallenged Signatures:	<u>422</u>

209 Signatures greater than the required minimum.

19. The Hearing Officer finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination is **greater than** the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for nomination for the office of **ALDERMAN OF THE FIFTH WARD, CITY OF CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS** in the **February 24, 2015 Municipal General Election**.
20. The Hearing Officer finds, therefore, that the objections to signatures appearing on certain sheets and lines of the Objector's Petition are sustained in part; and overruled in part, as more fully indicated in the results of the records examination.
21. There remaining stated Objections to the Candidacy of **JEDIDIAH L. BROWN** for the office of **ALDERMAN** was the issue of his **RESIDENCY** in the **FIFTH WARD , CITY OF CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS** in the **February 24, 2015 Municipal General Election**.

The Objector, through Counsel, alleges that Jedidiah Brown does not reside at the address listed as his residence on his Nomination Petitions. The Law on Residency is:

(65 ILCS 20/21-14) (from Ch. 24, par. 21-14)

Sec. 21-14. Member residency before election; member not to hold other office.

(a) 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. In the election following redistricting, a candidate for alderman may be elected from any ward containing a part of the ward in which he or she resided for at least one year next preceding the election that follows the redistricting, and, if elected, that person may be reelected from the new ward he or she represents if he or she resides in that ward for at least one year next preceding the reelection.

The Illinois Election Code (10 ILCS 5/10-5) (from Ch. 46, par. 10-5)

Sec. 10-5. All petitions for nomination shall, besides containing the names of candidates, specify as to each:

3. The place of residence of any such candidate or candidates with the street and number thereof, if any.

Such certificate of nomination or nomination papers ... must include a statement of candidacy for each of the candidates named therein... Each such statement shall set out the address of such candidate ... and shall be subscribed and sworn to by such candidate ...

The following testimony was taken regarding the issue of RESIDENCY.

MICHELLE JARRELL

Michelle Jarrell, Court Appointed Receiver for the property at 1743-1745 E. 71st Street Chicago, Illinois was subpoenaed, appeared and testified on December 30, 2014. Michelle Jarrell stated that she was appointed by the Court as the Receiver for this property in September 2014. Ms. Jarrell stated that she is the sole owner of a property management company, Clark -Maple LLC. She stated that she is

the court appointed receiver for a building located at 1743 through 1745 East 71st Street. She stated that she was appointed a receiver of that building to act as an independent third party while the primary parties decided how they would proceed as with a foreclosure, or a deed in lieu for the title to the property. Michelle Jarrell stated her property management qualifications for the record as follows: *"I have been managing property full time since 2006. I grew up in the business. My grandfather started it over 50 years ago. I am trained to see buildings. I'm in building court probably two to three times a month. I'm in circuit court. I'm in landlord tenant court. I have many attorney friends that are real estate attorneys. This is a trade that I know very well."*

Michelle Jarrell stated that the current owner of the building is 1743 East 71st Corp., and that the status of the building is substantially occupied and stabilized. She stated that in her position as receiver for the building, she prepares written reports for the Court and a Court report for the stated property was presented as Objector's Exhibit #1. Michelle Jarrell stated that the report was part of the Court record and that she prepared the report concerning the building at 1743 East 71st, Chicago, Illinois, for case number -- Cook County Case Number 2014 CH 11729. She stated that the report was submitted to the Court on December 9th at 9:10 a.m.

Ms. Jarrell stated that she is familiar with the Candidate, Jedidiah Brown, as an inherited tenant, when she was appointed the receiver subject to getting a bond on September 18, 2014 for the building, with her starting to work as the receiver on September 23, 2014. Michelle Jarrell stated that while she inherited Jedidiah Brown as a "tenant", she does not have a lease for Jedidiah Brown for properties at the building, although she received leases for other tenants in the building from

the Building Owner. She stated that she does not know how long Jedidiah Brown has resided at the building, and it is debatable as to whether he rightfully has two spaces in the building. She stated that he has keys to two spaces in the building, an apartment, a residential unit and a retail storefront unit.

Michelle Jarrell first described the retail space stating that it is substantially an uninhabitable retail space, between nine and 1,100 square feet. There is not a kitchen in the space, and while there is a toilet, but no shower. She stated that the retail space as it is now, based on City of Chicago standards and her professional opinion as a property manager, the space is not habitable for occupancy. Michelle Jarrell stated that, as the Receiver with regard to the retail space, there is currently a 30-day termination notice that has been filed with Sanford Kahn & Associates to gain possession of the units. She stated that to her knowledge, no one has ever lived in the retail space, and no one lives there now.

As to the residential apartment unit, Michelle Jarrell stated that Jedidiah Brown has the keys to the unit and there is someone occupying the unit, although she is not sure if Jedidiah Brown is the occupant. He's told me he does community outreach. He has some nonprofit organization that he's involved with, and I did know that he was running for alderman. He and I did speak about that very early in my being appointed receiver. ...he was running for alderman. ...Something to the effect that it would be his campaign headquarters, but I don't remember exactly when or exactly what circumstance, but we did talk about that. She stated that he stated several times that he was running for alderman of the 5th Ward of Chicago.

Michelle Jarrell stated that she spoke to the representatives of the Corporation, which owns the property, including Larry Hlista, the gentleman that she worked with in the early part of transferring files and rent rolls for the property. She stated that she met him a couple of times to get keys and some of the paperwork for the property. Michelle Jarrell stated that Larry Hlista mentioned Jedidiah Brown as an "occupant", but she cannot conclude that this meant that he was a resident. She stated that she does not know whether Jedidiah Brown was delinquent in his rent, when she became the Receiver. She also stated that Jedidiah Brown provided her access to the retail space, because she did not have a key. She stated that she recalls Jedidiah Brown telling her that he was rehabbing the space, but she does not know the previous condition of the property and could not speak to whether there were improvements to the space, as it appeared to be in need of repairs. She agreed that Jedidiah Brown asked for a lease, before he paid rent, and she informed him that to be put on a lease, and in order to occupy a retail space she will need a copy of the general liability insurance, a business license, and the space would have to be ...a decent, safe and sanitary that could pass a City inspection. In summary, Michelle Jarrell testified:

- *Michelle Jarrell confirmed with the previous owners that Jedidiah Brown did not pay the rent for October 2014 prior to her request of him;*
- *Michelle Jarrell has seen Jedidiah Brown at the retail space and the apartment, but she has no knowledge if Jedidiah Brown has ever resided in either location-stating that he was at Unit 202, at the time she scheduled an appointment to visit the unit*

JEDIDIAH BROWN

On January 6, 2015, the Candidate, Jedidiah Brown was called as a witness by Objector's Counsel, Randy Crumpton. Jedidiah Brown stated that he has lived at

1743 E 71st Unit 202, Chicago, Illinois, since approximately January 2014. He stated that he did not actually receive the written lease until April 2014, with a June 2014 expiration date, and now lives month to month. He stated that he lived alone from January 2014 to April 2014, when Alicia Spikes moved into the unit as his roommate. Jedidiah Brown stated that he is currently registered to vote at 1743 E. 71st Street, but admitted that he previously made a mistake and registered with an address of 1745 E. 71st, Chicago, Illinois, which is a commercial space. Jedidiah Brown stated, "...I made the initial error, because I had the facility, and I put down the address, because I was using both of the 1745 and 1743, and I put down 1745 instead of 1743, which is then when I caught that error, I then updated my voter registration to reflect 1743, which it currently reflects now." (See Tr. Pg33-line2-8). He stated that he only corrected the information in November 2014 when he realized the mistake that was on his registration. He stated that it does not matter which address he used on his voter registration, both are located in the 5th Ward. Jedidiah Brown was asked about several items requested in the December 10, 2014 "Notice to Produce" including the following:

<u>Item</u>	<u>Response</u>
• Automobile Registration	Did not provide
• Illinois Driver's License/State ID	Issued 4/2/2014
• Bank Accounts	Did not provide
• Credit Card info	Did not provide
• Income Tax Statements	Did not provide
• Utility Bills	Did not provide

As to the property issues, Jedidiah Brown, testified that he was renting with the intention of purchasing the property, but he could not produce an agreement

documenting this assertion. When he was informed that the Owner, Ron Braver, told the Objector's Counsel that he did not know Jedidiah Brown and there was no pending sale of the property to him, Jedidiah Brown replied that he only dealt with Larry Hlista, who managed the property. Jedidiah Brown stated that he has had several verbal agreements with Larry Hlista, *former property manager*, but he could not produce him to testify. He also stated that, because of the several problems he has had with the property, he stopped paying rent in October 2014. Jedidiah Brown testified that he could not produce prior rent checks, money orders or receipts for the residential unit at 1743 E. 71st Street, Chicago Illinois; nor could he produce receipts for the repairs he said he made to the retail space at 1745 E. 71st Street, Chicago, Illinois. He stated that they are the same building and one is his residence-1743, and the other 1745 is his office-*where he sometimes sleeps* (See Tr. Pg14-line17-23).

ALICIA SPIKES

On January 6, 2015, Alicia Spikes appeared as a subpoenaed witness and testified. Alicia Spikes stated that she is the roommate of Jedidiah Brown at the 1743 E 71st Street, Chicago, Illinois residential unit #202. Alicia Spikes stated that she is a member of the Young Leaders Alliance, led by Jedidiah Brown, and the office is located at 1745 E. 71st Street. She testified that Jedidiah Brown, Candidate, moved into the unit around January 2014, and she moved in approximately three months later, in April 2014. Alicia Spikes state that this is a one-bedroom unit, she sleeps in the bedroom, Jedidiah Brown sleeps in the living room. She testified that as of three months ago, a third roommate, Victoria Davis, moved

into Unit 202, and sleeps in the bedroom. She admitted that she has not signed a lease, and did not know the rent amount for the unit. Alicia Spikes stated that the gas utility bill is in her name for Unit 202, *as of October 2014*. Alicia Spikes stated that prior to the new management, Larry Hlista paid the ComEd lights bill, and the ComEd light bill is now paid by the new management company. Alicia Spikes testified that there is cable service, and it is in the name of the third roommate, Victoria Davis, for the last four months. Alicia Spikes testified that Jedidiah Brown lives in Unit 202 at 1743 E. 71st Street, Chicago, Illinois.

The Hearing Officers findings:

A preponderance of the evidence shows that the Candidate, Jedidiah Brown, does in fact, maintain a significant physical presence at 1743 E. 71st Street Unit 202, Chicago, Illinois, the address set forth in his nomination papers. This finding is supported by the following:

The Board found the Candidate was registered to vote at 1157 West Farwell Avenue and resided at 1157-1159 West Farwell, which is one building with one common entrance with the address 1157-1159 West Farwell Avenue on the outside door and with three living units on the East side of the building and three living units on the West side of the building. Until 1992, the Candidate lived on the 1157 West Farwell Avenue side of the building. The Candidate moved to the 1159 West Farwell Avenue side of the building in 1992 and inadvertently did not re-register after the move. **The Board found that the two addresses identify the same building at the same location and that the use of either of these designations is a correct and legally sufficient designation of the Candidate's**

address for the purpose of stating his residency and for the purpose of stating his place of voter registration. (Citing *Scimo v. Maina*, 96-EB-WC-043, CBEC, January 29, 1996.) Even assuming that the Candidate's residence was at one location and his voter registration at another location, there is no statutory requirement that a candidate be a registered voter at his place of residence. (Citing *Henderson v. Miller*, 228 Ill.App.3d 260, 592 N.E.2d 570 (1992); *Brown, et al. v. Ivory*, 95-EB-ALD-106 and 95-EB-ALD-129 (consolidated), CBEC, January 31, 1995.) Further, even assuming that the Candidate's residence was at one location and his voter registration at another location, both locations are located within the 49th Ward of the City of Chicago and his failure to transfer this registration to the new location does not affect his eligibility to circulate nominating petition sheets as long as he was registered at some address within the 49th Ward of the City of Chicago. (Citing *Lukas v. Lakin*, Ill.2d 166, 676 N.E.2d 637 (1997); *Bass v. Hamblet*, 266 Ill.App.3d 1110, 641 N.E.2d 14 (First Dist. 1994); *Whelan v. County Officers Electoral Board of DuPage County*, 256 Ill.App.3d 555, 629 N.E.2d 842 (Second Dist. 1994); *Rhodes v. Miller*, 96-EB-WC-039; *Brown, et al. v. Ivory*, 95-EB-ALD-106 and 95-EB-ALD-129 (consolidated), CBEC, January 31, 1995.) *James and Klovsstad v. Balos*, 99-EB-ALD-079, CBEC, January 19, 1999.

Candidate's statement that he resided at certain address in the city of Chicago and that he was a qualified voter therein is not false and perjurious because there is no statute that requires that a candidate be a voter at his place of residence. *Brown v. Ivory*, 95-EB-ALD-106 and 95-EB-ALD-129, CBEC, January 31, 1995; see also,

Summers v. Walker, 11-EB-ALD-067, CBEC, January 3, 2011; *Pierce v. Walker*, 11-EB-ALD-299, CBEC, December 29, 2010.

However, because the Municipal Code requires only that a candidate for alderman be a qualified elector of the municipality, it is not required that a candidate for municipal office be a registered voter at place of his residence, so that Statement of Candidacy which contains sentence listing residence and later sentence stating "I am a qualified voter therein" is not equivalent of swearing that candidate is a registered voter at place of residence. *Henderson v. Miller*, 228 Ill.App.3d 260, 592 N.E.2d 570 (1992)(Statement of Candidacy stated that candidate resided at 1109 South Troy, Chicago. The fact that the candidate was registered to vote at 1647 South Springfield, Chicago and did not become a registered voter at 1109 South Troy until February 28, 1991 (election was on February 26, 1991) did not justify removal from office.

Court held that "Municipal Code requires only that a candidate for alderman *** be 'a qualified elector of the municipality.' The act does not require that a candidate be a voter at his place of residence.") The form of the statement of candidacy prescribed by Section 7-10 of the Election Code does not require that a candidate be registered to vote at the residence address stated on his/her statement of candidacy so long as the candidate is registered to vote at some address within the district in which he seeks to be nominated or elected. *Sutor v. Acevedo*, 06-EB-RGA-04, CBEC, January 30, 2006, citing *Henderson v. Miller*, 228 Ill.App.3d 260, 592 N.E.2d 570 (1992).

The principal of "ballot access" to those desiring to run for office is a highly

regarded and protected principal, and the removal of a Candidate's name from the ballot is done with caution and careful consideration, to ensure that the integrity of the electoral process is preserved. A permanent abode is necessary to constitute a residence within the meaning of the Election Code. (Citing *Walsh v. County Officers Electoral Board*, 267 Ill.App.3d 972, 642 N.E.2d 843) and that two elements are necessary to create a residence, physical presence and the intent to remain there as a permanent home. The Election Law does not require that he pay rent, it simply requires that the physical presence is permanent and in the Ward for one year prior to the February 24, 2015.

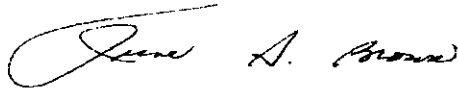
Further,

- Jedidiah Brown provided a lease reflecting a January 1, 2014 start date for the property at 1743 E. 71st Street, Unit 202, Chicago, Illinois-*submitted by Jedidiah Brown 12/10/2014;*
- The Receiver, Michelle Jarrell testified that Jedidiah Brown was noted as a tenant when she was appointed as the property manager;
- Jedidiah Brown provided keys to Michelle Jarrell to spaces in the building;
- The addresses of 1745 E. 71st Street (retail space) and 1743 E. 71st Unit 202 (residential space), are the same building located in the 5th Ward;
- The Objector did not submit addresses, *outside of the 5th Ward*, as the residence of Jedidiah Brown

I find that the Candidate, Jedidiah Brown met the requirement of One year Residency in the Fifth Ward of the City of Chicago.

For the foregoing reasons, it is my recommendation that the Objections of
SUZANNA PURRINGTON, to the Nomination Papers of JEDIDIAH L.
BROWN BE Overruled and that the Nominating Papers, for the office of
ALDERMAN OF THE FIFTH WARD, CITY OF CHICAGO, COUNTY OF
COOK, STATE OF ILLINOIS in the February 24, 2015 Municipal General
Election, of JEDIDIAH L. BROWN FOR the purposes of this matter are VALID.

Respectfully Submitted,



June A. Brown, Hearing Officer
Dated: January 12, 2015