

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

Objections of: ADOLFO MONDRAGON)
)
)
To the Nomination) No.: 15-EB-ALD-114
Papers of: RAUL O. REYES)
) Rel. ALD-058
Candidate for the office of)
Alderman of the 15th 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 ADOLFO MONDRAGON (“Objector”) to the nomination papers (“Nomination Papers”) of RAUL O. REYES, candidate for the office of Alderman of the 15th 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 10, 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 held on these Objections commenced on December 10, 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 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, ADOLFO MONDRAGON, by his attorney, Steven W. Becker; the Candidate, RAUL O. REYES, by his attorney.

7. 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."

8. Objector contends that the Candidate did not meet the durational residency requirement for the office of Alderman for the 15th Ward in the City of Chicago because he resided in a particular part of the 14th Ward *prior* to redistricting that did not become a part of the 15th Ward *after* redistricting.

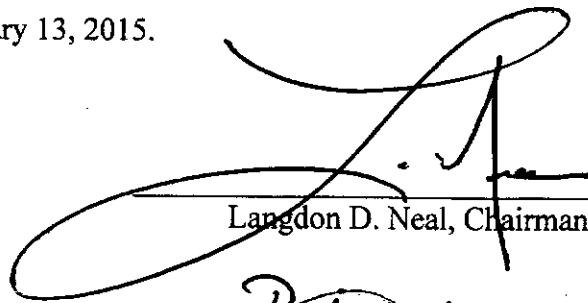
9. The Hearing Officer has tendered to the Electoral Board his report and recommended decision. The Hearing Officer recommends that the Objections to the Candidate's Nomination Papers be overruled and that the Nomination Papers be declared valid.

10. 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.


11. 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 ADOLFO MONDRAGON to the Nomination Papers of RAUL O. REYES, candidate for election to the office of Alderman of the 15th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of RAUL O. REYES, candidate for election to the office of Alderman of the 15th 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.

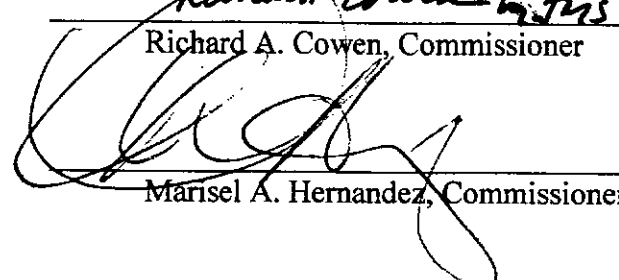
Dated: Chicago, Illinois, on January 13, 2015.



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

Objection of Adolfo Mondragon,

Petitioner – Objector

No. 15 EB – ALD - 114

To the Nomination papers of: Raul O. Reyes

Joseph L. Ponsetto

Respondent - Candidate

RECOMMENDED DECISION

This matter having come before the Chicago Board of Election Commissioners (“CBOE”) on the objection of Adolfo Mondragon (“Objector”) to the nomination papers of Raul O. Reyes (“Candidate”) and the Candidate having filed a Motion to Dismiss, Joseph L. Ponsetto, Hearing Officer, being duly advised finds and recommends as follows:

Issue addressed:

This recommendation will address the issue of access to the ballot for aldermanic candidates in parts of the City of Chicago affected by redistricting. Both parties filed written memoranda in support of their respective positions and very impressively framed the issue at hand. These memoranda are part of the record. Both parties followed the written submissions with oral argument to the hearing officer that did not deviate in any significant manner from the positions laid out in writing. Of particular relevance and as reflected in the manner in which this matter has been presented to the hearing officer there is no dispute over the facts. There were no rulings on any contested evidentiary matters and no issues with credibility of any witnesses.

The facts are as follows:

- 1) Candidate lived a portion of the year next preceding the February 24, 2015 General Municipal Election at 5723 South Whipple Street in the City of Chicago. Prior to redistricting this address was located in the 14th ward. Currently it is in the new 14th Ward.

- 2) Candidate currently lives at 4816 South Wood Street in the City of Chicago. This residence is located in the new 15th Ward.
- 3) The new 15th Ward contains parts of the old 14th Ward.
- 4) The 2015 municipal elections in Chicago will be the next following the 2012 redistricting of Wards in the City of Chicago

Legal Arguments and Positions of the Parties

Statute that applies: 65 ILCS 20/21-14(a)

In relevant part:

"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 has resided for at least one year next preceding the election that follows the redistricting, Section 21-14(a) of the Revised Cities and Villages Act, which is part of the Illinois Municipal Code (65 ILCS 20/21-14(a) establishing certain qualifications for Alderman in the City of Chicago.

The objector asks that the language in the above referenced statute be read narrowly. Specifically he asks that the phrase "a part of the ward" be read and implemented to limit the right to run as a candidate for Alderman in one of the newly configured wards only to those qualified electors that lived in part of the old ward that was affected by the redistricting in that it was portioned by a new ward or wards. If so interpreted then he contends that the Candidate is not qualified to hold the office of Alderman of the 15th ward in that he does not meet the statutory residency requirement as a matter of fact and law. Therefore he asks that the Motion to dismiss be denied

The Candidate asks that the language in the above referenced statute be read expansively and that the phrase "a part of the ward" be read and implemented to allow a Candidate run in any ward that contains a part of the old ward. Thus he contends that because the new 15th Ward contains parts of the old 14th ward where the candidate resided objector's petition be dismissed and that he be placed on the ballot in the newly configured 15th ward.

Hearing Officer's Conclusions of law

Ballot access is a substantial right and not lightly to be denied. *Vestrup v. Dupage County Election Commission*, 335 Ill. App. 3d 156, 779 N.E. 2nd 376 (2nd District 2002) Courts are mindful of "the need to tread cautiously when construing statutory language which restricts the people's right to endorse and nominate the candidate of their choice". The right to stand for office is to some extent derivative from the right of the people to express their opinions by voting. *Nader V. Keith*, 385 F3d 729 (7th Circuit 2004) Granted these rights are not absolute and States may impose reasonable restrictions upon political parties because States have an interest in requiring a demonstration of qualification in order for elections to be run fairly and effectively. *Munro v. Socialist Worker s Party* 479 U.S. 189 (1986).

In this matter we have a combination of these legal mandates to be interpreted. The Candidate has presented what we acknowledge as sufficient nomination papers to be placed on the ballot for the

position of Alderman of the 15th Ward in the City of Chicago. The 15 ward contains parts of the old 14th ward inclusive therefore of "a part". This is a reasonable restriction. In treading cautiously to construe the statutory language of the Illinois legislature it appears that the Sate did in fact feel need to impose reasonable restrictions on ballot access in parts of the City of Chicago affected by redistricting. In doing do they used very basic language. Again, to reiterate, a Candidate may be elected from any ward containing a part of the ward in which he or she has resided in for at least one year next preceding the election that follows redistricting. The phrase "a part of the ward" is very clear. It is not limiting to certain parts of the ward. It is expansive. It is acknowledged that the clear expansive reading of this opens up multiple opportunities to forum shop for a ward to consider running in but this it certainly appears to be the legislative intent when they use words like "may be elected" and " a part of the ward" as opposed to "shall" or a specific part of a ward.

Recommendation

The position and argument of the Candidate in this matter is accepted as the proper interpretation of the relevant statute and it is recommended that the Verified Objector's Petition be dismissed in its entirety as insufficient in law.

ENTERED THIS 3rd day of January, 2015

Respectfully Submitted,

Joseph Ponsetto /s/

Joseph Ponsetto

Hearing Officer