

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

Objections of: HECTOR ESCARZAGA)
)
)
To the Nomination) No.: 19-EB-MUN-022
Papers of: ANNA M. VALENCIA)
) Rel.: 19-EB-MUN-023
Candidate for the office of City Clerk for 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 HECTOR ESCARZAGA (“Objector”) to the nomination papers (“Nomination Papers”) of ANNA M. VALENCIA, candidate for the office of City Clerk for 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 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 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 Frank Tedesso 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, HECTOR ESCARZAGA, pro se; the Candidate, ANNA M. VALENCIA, through her attorney Michael J. Kasper.

7. The Hearing Officer has tendered to the Electoral Board his report and recommended decision. The Hearing Officer recommends that, in addition to a default judgment, 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 Report and Recommendations is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

9. Based upon the evidence presented, the Hearing Officer found that the Objector's Petition fails to state a claim for which the requested relief could be granted. The Hearing Officer found that paragraphs 3 and 4 of the Objector's Petition are the only ones containing substantive allegations. Paragraph 3 alleges that the Candidate "Anna M. Valencia is also Andrea M. Valencia ... and I believe she is trying to confuse the voter using Anna M. Valencia." Section 10-5.1 of the Election Code expressly allows a candidate to use a nickname by which they are commonly known in the community. 10 ILCS 5/10-5.1. The Objector, however, has failed to plead that this Candidate is not commonly known by the name "Anna," which very well could be a nickname for "Andrea," nor has the Objector alleged any other violation of section 10-5.1. Therefore, the Hearing Officer found that even if the allegations in paragraph 3 are accepted as true, there still would not be any legal basis for invalidating the Candidate's nomination papers nor removing her name from the ballot.

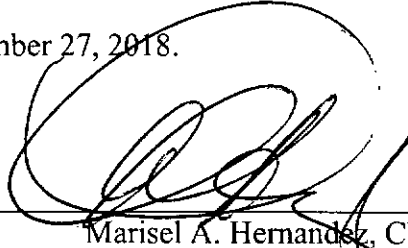
10. Paragraph 4 of the Objector's Petition alleges that the Candidate's signature is different on her Statement of Candidacy, Statement of Economic Interests and the petition sheets she signed. However, while it may be true that those various signatures are not identical, the Objector has failed to plead that the signatures are not genuine, that they are the product of fraud, or any other legal invalidity. Thus, the Objector has failed to state fully the nature of the objection, as required by 10 ILCS 5/10-8, and no relief can be granted in regards to paragraph 4 even if the factual allegations are accepted as true.

11. Once filed, an Objector's Petition may not be added to, altered or amended. *Solomon v. Scholefield*, 2015 IL App (1st) 150685. 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. For these reasons, the Board hereby denies the Objector's Rule 20 Motion and the Objector's subpoena request is denied as moot.

IT IS THEREFORE ORDERED that the Objections of HECTOR ESCARZAGA to the Nomination Papers of ANNA M. VALENCIA, candidate for the office of City Clerk for the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of ANNA M. VALENCIA, candidate for the office of City Clerk for the City of Chicago, SHALL be printed on the official ballot for the General Municipal Election to be held on Tuesday, February 26, 2019.

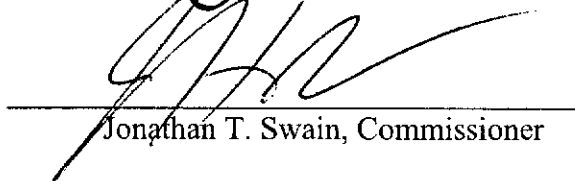
Dated: Chicago, Illinois, on Thursday, December 27, 2018.



Marisel A. Hernandez, Chairwoman



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 DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING
AND PASSING UPON OF OBJECTIONS TO NOMINATION PAPERS OF
CANDIDATES FOR ELECTION TO THE OFFICE OF CITY CLERK OF THE CITY
OF CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS TO BE VOTED UPON AT
THE FEBRUARY 26, 2019 MUNICIPAL GENERAL ELECTION**

HECTOR ESCARZAGA,)	
Petitioner – Objector,)	
)	
v.)	Case No. 19-EB-MUN-022
)	
ANNA M. VALENCIA,)	
Respondent – Candidate.)	

HEARING OFFICERS RECOMMENDED DECISION

1. The Respondent – Candidate, ANNA M. VALENCIA, filed Nomination Papers for election to the Office of City Clerk of the City of Chicago, to be voted upon at the Municipal General Election to be held on February 26, 2019.
2. Petitioner – Objector, HECTOR ESCARZAGA, filed a timely petition objecting to the Nomination Papers of the Candidate.
3. On December 10, 2018 this matter appeared on the Board’s Initial Trial Call. The Hearing Officer received the following Board Group Exhibits into evidence: Board Group Exhibit A consisting of the Candidate’s Nomination Papers; Board Group Exhibit B consisting of the Objector’s Petition and Attachments; Board Group Exhibit C consisting of a copy of the call and proof of service; and Group Exhibit D consisting of the parties’ appearances. The parties acknowledged service and waived any and all issues regarding service. The Respondent filed a Motion to Dismiss; the Hearing Officer set a briefing schedule, and the matter was continued until December 14, 2018 for hearing on the Motion to Dismiss.
4. Respondent-Candidate moved to strike and dismiss the Objector’s Petition in that it failed to state a legal basis for the Candidate’s Nomination Papers to be declared invalid.

5. Objector alleges in paragraph 3 that “Anna M Valencia is also Andrea M. Valencia . . . and I believe she is trying to confuse the voter using Anna M. Valencia.” Section 10-5.1 of the Election Code provides that “In the designation of the name of a candidate on a certificate of nomination or nomination papers the candidate's given name or names, initial or initials, a nickname by which the candidate is commonly known, or a combination thereof, may be used in addition to the candidate's surname. *10 ILCS 5/10-5.1*. The Objector does not allege that the Candidate is not commonly known as “Anna M. Valencia” or the use of said name violates section 10-5.1. Therefore, the objection contained in paragraph 3 is stricken and dismissed.

6. Paragraph 4 of Objector’s Petition states the Candidate’s signature is different on the Statement of Candidacy, The Statement of Economic Interest and the Petition Sheets Candidate signed. The Objector does not allege that the signatures are forgeries or that the Candidate did not sign the documents in question. Section 10-8 of the Election Code requires that an objector’s petition state fully the nature of the objections to the certificate of nomination or nomination papers or petitions in question. *10 ILCS 5/10-8* Paragraph 4 of the Objector’s Petition does not fully state the nature of the objection and therefore is stricken and dismissed.

7. It is the Hearing Officer’s recommendation that the Objector’s Petition be dismissed as factually and legally insufficient and Anna M. Valencia appear on the February 26, 2019 ballot as a Candidate for City Clerk of the City of Chicago.



Frank A. Tedesso, Hearing Officer