

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

Objections of: BOBBY K. FULLER, JR)
)
To the Nomination) **No.: 07-EB-ALD-094**
Papers of: JUAN M. SOLIZ) **(rel. ALD-159)**
)
Candidate for the office of)
Alderman of the Twenty-fifth 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 and Richard A. Cowen, 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 BOBBY K. FULLER, JR, (“Objector”) to the nomination papers (“Nomination Papers”) of JUAN M. SOLIZ, candidate for the office of Alderman of the Twenty-fifth Ward of the City of Chicago (“Candidate”) to be elected at the Municipal General Election to be held on February 27, 2007, having convened on January 2, 2007, at 10:00 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 January 2, 2007 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner Thaddeus Wilson 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 Examiner on the date and at the time designated in the Call. The following persons, among others, were present at such hearing; the Objector, BOBBY K. FULLER, JR, *pro se*; and the Candidate, JUAN M. SOLIZ, initially *pro se* and subsequently, by counsel, Greg Wolpoff.

7. The Objector alleged that

A. The Candidate does not live in the City of Chicago;

B. The Statement of Candidacy does not state that it is for a non-partisan election;

C. The date of the election was incorrect; and

D. All of the petition sheets are invalid because of various reasons not set forth in the recapitulation sheets attached to the Objector's Petition.

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

9. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Examiner, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Examiner's recommended findings and conclusions of law. A copy of the Hearing Examiner's Report and Recommended Decision is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

10. 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.

11. The Electoral Board finds that there was another objection filed against the Candidate's Nomination Papers in case 07-EB-ALD-159 and that the objection in that case was overruled and the Candidate's Nomination Papers were deemed valid.

IT IS THEREFORE ORDERED that the Objections of BOBBY K. FULLER, JR. to the Nomination Papers of JUAN M. SOLIZ, candidate for election to the office of Alderman of the Twenty-fifth Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of JUAN M. SOLIZ, candidate for election to the office of Alderman of the Twenty-fifth Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election to be held on February 27, 2007.

Dated: Chicago, Illinois, this 28th day of January, 2007.



Langdon D. Neal, Chairman



Richard A. Cowen, 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 10 days after the decision of the Electoral Board.

STATE OF ILLINOIS)
)
 COUNTY OF COOK)

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**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 27, 2007 MUNICIPAL GENERAL ELECTION
 FOR MAYOR, CLERK, TREASURER, AND ALDERMAN
 IN THE CITY OF CHICAGO**

2007 JAN 24 P 9:30

BOBBY K. FULLER, JR.,)
)
 Objector,)
)
 - VS -)
)
 JUAN M. SOLIZ,)
)
 Candidate.)

Case No. 07-EB-ALD-094
 (related Case No. 07-EB-ALD-159)

Hearing Examiner's Report and Recommended Decision

This matter first came before the hearing examiner on January 2, 2007. The Objector, BOBBY K. FULLER, was pro se. The Candidate, JUAN M. SOLIZ, who is a licensed attorney, first appeared pro se but was represented at trial by attorney Greg Wolpoff. The parties identified matters that were to be resolved by a records examination and those to be resolved on purely legal grounds. The Objector sought a records on the bald arguments of his petition that all 47 pages of the Candidate's petition showed signs of round tabling and forgery, the signatures of the voters and circulators were forged and the notary was not present when the circulator affidavits were signed. The hearing examiner overruled the Objector's request for a records examination because the Objector failed to attach the appropriate recapitulation sheets to his petition and/or otherwise properly identify the signatures and pages he was objection to with specificity. The case was

continued for a full evidentiary hearing on the remaining issues.

I. Objections Presented.

The Objector argues: (1) the Candidate does not live in the City of Chicago; (2) the Statement of Candidacy does not state that it is for a non-partisan election; (3) the date of the election was incorrect; and (4) all of the petition sheets are invalid because of various reasons not set forth in recapitulation sheets.

II. Findings of Facts.

Prior to the trial, the hearing examiner overruled objection (4) above because the Objector failed to properly identify his objections in recapitulation sheets or in some other manner that properly identifies the specific signatures and sheets complained of. The hearing examiner overruled objection (3) above because there was no likelihood of confusion for the voters since the February 27, 2006 had already passed by the time the sheets were circulated, the wrong year on the Statement of Candidacy was clearly a scrivener's error and the petition signature sheets had the correct date. The hearing examiner overruled objection (2) again because there was no likelihood of confusion for the voters and the petition signature sheets had the correct information.

A full evidentiary hearing was conducted on January 11, 2007 on the sole issue of whether the Candidate was a resident of the City of Chicago and of the 25th Ward. The case was heard along with the related case of Daniel Fitzgerald v. Juan Soliz, case number 07-EB-ALD-159. Upon the conclusion of the Objector's case-in-chief, the hearing examiner found that the manifest weight of the evidence favored the Candidate. Several witnesses were called to testify in the Objector's case-

in-chief. While the evidence showed that the Candidate's current wife and two children live in Orland Park, Illinois, the evidence also showed that the Candidate owned a property in the 25th Ward of the City of Chicago. The Candidate testified that this was his third marriage and that from the beginning he and his wife agreed that he would live 90 percent of his time in the City of Chicago, that he is a resident of the City of Chicago, that he considers his residence to be the address listed in the 25th Ward, that he visits his wife and kids at the Orland Park address when he gets a chance, that he does not own the house in Orland Park and that the bills and registered vehicles are owned by his wife. A private investigator testified with respect to telephone numbers and telephone voice recorder messages. Certain utility bills and personal information were admitted into evidence. None of the information and testimony presented moved this hearing examiner with respect to the intent of the Candidate to have the Chicago property as his residence address. The Candidate's wife testified credibly and matter of factly. The Chicago property as well as its attendant obligations were in the name of the Candidate at the property address. While the living arrangements may seem odd, it is not compelling nor dispositive.

III. Findings of Law and Legal Analysis.

In order to establish residency, 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, 85 Ill. App. 2d 251 (1968). See also, Delk v. The Board of Election Commissioners of the City of Chicago, 112 Ill. App. 3d 735 (1st Dist. 1983). The Candidate must live and be duly registered at the address in his nominating papers. The Objector did not present sufficient evidence to suggest that the Candidate did not live at the address stated. There was no

private investigator testimony or neighbor testimony that the Candidate is seen a substantial amount of time at the Orland Park address, or that someone sees the Candidate leaving the Orland Park address every morning and returning at night or that the Candidate recently hired rental trucks to move furniture into the Chicago property or that the Candidate's mail and garbage always piles up at the Chicago property or any official governmental or financial documents where the Candidate claimed the Orland Park address as his residence address. Therefore, given the scarcity of the evidence presented, the objection as to residency is overruled.

With respect to Statement of Candidacy non-partisan election issue, there is no likelihood of confusion for the voters. Chicago aldermanic elections are non-partisan. However, the petition signature sheets clearly state that a general municipal election is involved. Viewing the statement of candidacy and the nominating petitions as being part of the nomination papers there is no basis for confusion if the information is contained either of the documents. As to the date of the election, this was clearly a scrivener's error and was not likely to confuse the voters since the 2006 had already passed by the time the petitions were circulated. Additionally, the petition signature sheets had the correct date of the election. In the case before us, the Candidate has substantially complied with the requirements of the Election Code. See Stevenson v. County Officers Electoral Board of DuPage County, 58 Ill. App. 3d 24 (3rd Dist. 1978). Thus, each of these objections are overruled.

Based upon the factual and legal findings outlined and discussed above and on the record, the Objector's petition should be overruled and the Candidate's name should appear on the ballot.

IV. Recommendation.

In light of the above factual findings and legal analysis and for the reasons stated on the record, it is the recommendation of this hearing examiner that the objections of the Objector, BOBBY K. FULLER, be overruled, that the nomination papers of the Candidate, JUAN M. SOLIZ, be declared sufficient as a matter of law and of fact, and that the name of the Candidate, JUAN M. SOLIZ, appear and be printed on the ballot for election to the Office of Alderman of the 25th Ward of the City of Chicago to be voted upon at the February 27, 2007 Municipal General Election.



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