

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

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**Objections of: DANIEL FITZGERALD** )  
 )  
**To the Nomination** ) **No.: 07-EB-ALD-159**  
**Papers of: JUAN M. SOLIZ** ) **(rel. ALD-094)**  
 )  
**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 DANIEL FITZGERALD (“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 was held on these Objections commencing 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 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, DANIEL FITZGERALD, by counsel, Brian F. Hynes and Sheri Thornton-Pierce; and the Candidate, JUAN M. SOLIZ, pro se.

7. The Hearing Examiner ordered that an examination of the registration records be conducted by its 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 Examiner directed all parties to appear and be present, either personally and/or by their authorized representatives during this records examination.

9. The Candidate or his duly authorized representative was present during the examination of the registration records at all times.

10. The Objector and/or his duly authorized representatives were present during the examination of the registration records at all times.

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 was made available to the parties.

12. The Electoral Board has reviewed the applicable law and has considered all evidence and arguments tendered by the parties and the Hearing Examiner's report of recommended findings and conclusions of law.

13. The Electoral Board finds that:

A. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 149.

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 748.

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 402.

D. The remaining number of signatures deemed valid as a result of the records examination total 346.

14. 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 Twenty-fifth Ward of the City of Chicago.

15. The Objector also alleged that the Candidate did not, in fact, reside at the address listed on his Nomination Papers, that his Statement of Candidacy is false and that the Candidate's Nomination Papers.

16. 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.

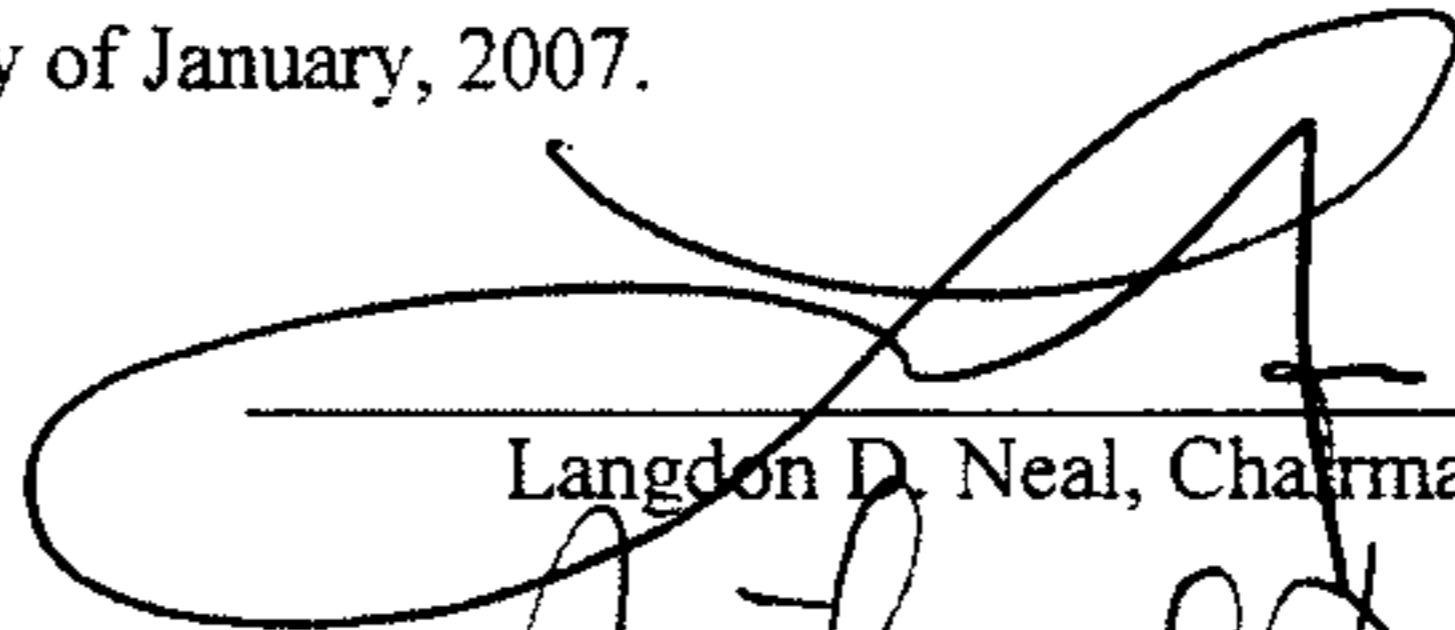
17. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Examiner, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Examiner's recommended findings and conclusions of law. 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.

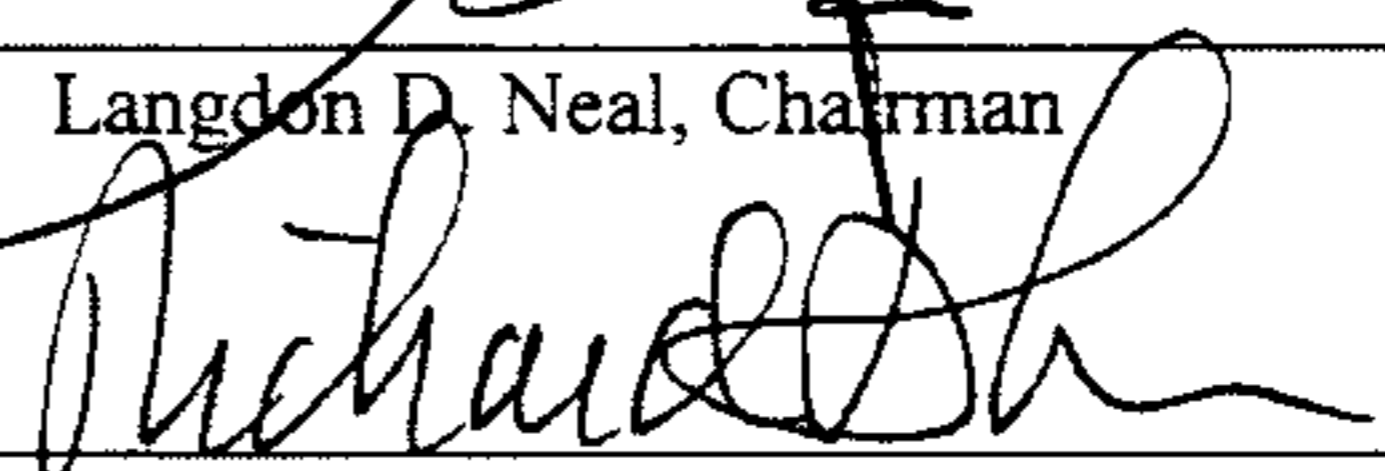
18. For the reasons stated above, the Electoral Board overrules the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are valid.

19. The Electoral Board further finds that there was another objection filed against the Candidate's Nomination Papers in case 07-EB-ALD-094 and that the objections in that case were overruled.

IT IS THEREFORE ORDERED that the Objections of DANIEL FITZGERALD 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.

  
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Langdon D. Neal, Chairman

  
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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         )       SS

**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 25 A 8:12

DANIEL FITZGERALD,                                 )  
   )  
                                   Objector,                                 )  
   )  
                                   -VS-   )  
   )  
 JUAN M. SOLIZ,   )  
   )  
   )  
                                   Candidate.                                 )

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

**Hearing Examiner's Report and Recommended Decision**

This matter first came before the hearing examiner on January 2, 2007. The Objector, DANIEL FITZGERALD, was represented in this matter by attorneys Brian F. Hynes and Sheri Thornton-Pierce. 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 hearing examiner scheduled a records examination and continued the case for a full evidentiary hearing on the issue of residency.

**I. Objections Presented.**

The issues before the hearing examiner are (1) whether the Candidate met the minimum signature requirement and (2) the residency of the Candidate.

## **II. Findings of Facts.**

The Objector asserted that the Candidate failed to file the requisite number of valid petition signatures. The hearing examiner ordered a records examination with respect to the allegations specified in the Objector's attached recapitulation sheets. A status date was set for return of the recordsexaminationresultsandanevidentiaryhearingwasscheduledtoaddresstheresidencyissue.

On January 9, 2007, the records examination was completed. Therecordsexaminationresults indicated that the Candidate, JUAN M. SOLIZ, had 748 signatures on his petition sheets, 132 objections were overruled, 402 objections were sustained, 0 signatures were invalid because of circulator, there were 346 valid signatures, and for the 25<sup>th</sup> Ward there is a 149 minimum signature requirement. Based upon the records examination, the Candidate had 197 valid signatures above the requisite minimum. Neither side filed Rule 8 motions, therefore the Objector's objection with respect to the minimum signature requirement was overruled.

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 25<sup>th</sup> Ward. The case was heard along with the related case of Bobby K. Fuller v. Juan Soliz, case number 07-EB-ALD-094. 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 25<sup>th</sup> 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 25<sup>th</sup> 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 with respect to the intent of the Candidate or the physical presence, for that matter. The Objector had the burden to put forth a prima facie case. The testimony and documents presented did not show by a preponderance of the evidence that the Candidate was not a resident of the City of Chicago.

### **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 (1<sup>st</sup> 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 evidence presented and the inherent difficulties in proving or disproving someone's intent in these situations, the objection with respect to the residency of the Candidate is overruled.

#### 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, DANIEL FITZGERALD, 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 25<sup>th</sup> Ward of the City of Chicago to be voted upon at the February 27, 2007 Municipal General Election.



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Hearing Examiner

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