

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

Objections of: RICHARD B. MAYERS)	
)	
)	
)	
To the Nomination)	No. 08-EB-WC-01
Papers of: ANTHONY HOLMES, JR.)	
)	
Candidate for the office of Ward)	
Committeeman for the 9th Ward of the)	
City of Chicago, Green Party)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Chicago Board of Election 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 RICHARD B. MAYERS ("Objector") to the nomination papers ("Nomination Papers") of ANTHONY HOLMES, JR., candidate for election to the office of Ward Committeeman for the 9th Ward of the City of Chicago, Green Party ("Candidate"), having convened on November 20, 2007, at 10:00 a.m., at 69 W. Washington Street, 8th Floor Conference Room, 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 November 20, 2007 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner Christopher Agrella for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board to appear before the Hearing Examiner for a hearing on the date and at the time designated on the Electoral Board's docket. The following persons, among others, were present at such hearing: the Objector, RICHARD B. MAYERS, appearing *pro se*; and the Candidate, ANTHONY HOLMES, JR. appearing through his representative.

7. At the hearing before the Hearing Examiner, the Candidate made an oral motion to strike and dismiss the objection *instanter*, alleging that the objector lacked the appropriate residency required to convey standing under the Election Code, in that the address listed for the objector on the face of the objection, to-wit, 3745 South Wisconsin Avenue, Berwyn, Illinois 60402, which address is outside the 9th Ward of Chicago in which the Candidate is seeking election.

8. It is the Candidate's burden to plead and prove that the Objector lacks standing to bring an objection. *Dunham v. Naperville Township Officers Electoral Board*, 265 Ill.App.3d 719, 640 N.E.2d 314 (Second Dist. 1994).

9. The objection, a one page document, clearly stated that the Objector's address is, in fact, 3745 South Wisconsin Avenue, Berwyn, Illinois 60402, which address is outside the 9th Ward of Chicago.

10. The Objector admitted to living at the address stated on the objection, but argued that political boundaries should be deemed irrelevant, and that Berwyn was so closely aligned with and/or effected by what happened anywhere in Chicago that he had a vested interest sufficient to give him standing to file the aforesaid objection. Objector further argued that these political boundaries were drawn so long ago that they should be deemed to have expired or otherwise be ignored.

11. The Election Code requires that an objector satisfy certain residency requirements to possess standing to bring an objection. Specifically, 10 ILCS 5/10-8 states, in relevant part, that an objector must be a: ". . . . legal voter of the political subdivision or district in which the candidate is to be voted on"

12. Section 1-3(13) of the Election Code (10 ILCS 5/1-3(13)) defines the word "district" to mean, among other geographical areas, municipal wards.

13. In this case, Objector admittedly does not live in the ward in which the Candidate whose nomination papers he is objecting to is to be voted on, i.e., the 9th Ward of the City of Chicago.

14. As regards the Objector's argument that the clear language of the statute as well as established political boundaries should be ignored, an electoral board's scope of inquiry is limited to the sole issue of whether a challenged petition and papers comply with the provisions of the Election Code pertaining thereto. It is a statutorily created entity, endowed with no powers beyond what the Election Code enumerates. An electoral

board is without authority to ignore the plain wording of a statute, much less ignore or overrule geographic and political boundaries. *Kozel v. State Board of Elections*, 126 Ill.2d 58, 533 N.E.2d 796 (1988); *Phelan v. County Officers Electoral Board*, 240 Ill.App.3d 368, 372-373, 608 N.E.2d 215, 217 (1st Dist. 1992); *Wiseman v. Elward*, 5 Ill.App.3d 249, 257, 283 N.E.2d 282 (1st Dist. 1972); *See also Troutman v. Keyes*, 156 Ill.App.3d 247, 509 N.E.2d 453 (1st Dist. 1987) .

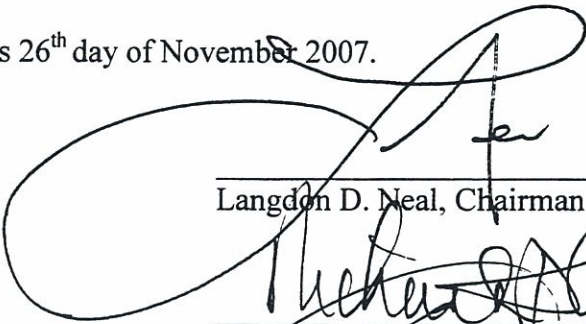
15. The Hearing Examiner recommends that the Electoral Board grant the Candidate's motion to strike and dismiss the Objections, in that the Objector lacked the requisite standing to bring the objection because the Objector lacked the required residency in the 9th Ward of the City of Chicago.

16. The Electoral Board hereby adopts the Hearing Examiner's recommended findings and conclusions of law and finds that the Objector lacked the requisite standing to bring the objection because the Objector was not a resident and legal voter of the 9th Ward of the City of Chicago, the district in which the Candidate is seeking election. Accordingly, the Electoral Board hereby grants the Candidate's motion to strike and dismiss the Objections because the Objector lacked the requisite standing because of a lack of residency. Furthermore, there being no valid objections to the Candidate's Nomination Papers, the Electoral Board finds that such Nomination Papers are deemed valid.

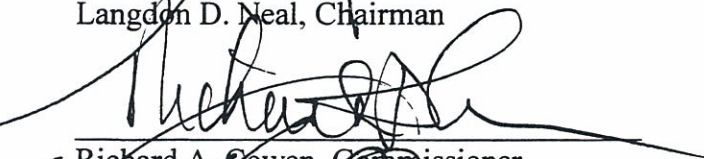
IT IS THEREFORE ORDERED that the Objections of RICHARD B. MAYERS to the Nomination Papers of ANTHONY HOLMES, JR., candidate for election to the office of Ward Committeeman for the 9th Ward of the City of Chicago, Green Party, are hereby STRICKEN AND DISMISSED and said Nomination Papers are hereby declared

VALID and the name of ANTHONY HOLMES, JR., candidate for election to the office of Ward Committeeman for the 9th Ward of the City of Chicago, Green Party, SHALL be printed on the official ballot for the General Primary Election to be held on February 5, 2008.

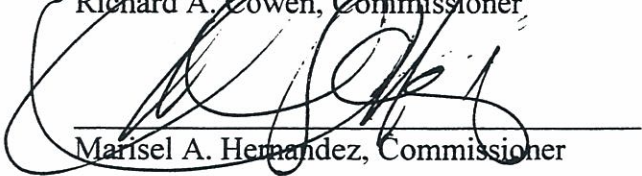
Dated: Chicago, Illinois, this 26th day of November 2007.



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 10 days after the decision of the Electoral Board.

**BEFORE THE BOARD OF ELECTION COMMISSIONERS
FOR THE CITY OF CHICAGO**

RICHARD B. MAYERS,)	
)	
Petitioner - Objector,)	
)	
v.)	No. 08 EB WC 01
)	
ANTHONY HOLMES, JR.,)	Ward Committeeman
)	
Respondent - Candidate.)	9 th Ward

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HEARING EXAMINER'S REPORT AND RECOMMENDED DECISION

This matter first came before the hearing examiner on November 20, 2007, on the objection of Richard B. Mayer to the nomination papers of Anthony Holmes, Jr., for Green Party Ward Committeeman of the 9th Ward of the City of Chicago. The matter was set on the call for 11:30 a.m., and at 11:30 a.m. the matter was first called for hearing.

Objector appeared personally, and the candidate not appearing at the initial call, status of service was reviewed, which evidenced that the candidate was personally served at his home by the sheriff's office. That being the case, the matter was briefly passed, to be recalled in 15 minutes. Prior to the expiration of the 15 minutes, the candidate appeared through his representative, Mr. Wayland Johnson, Jr., and the matter was immediately re-convened.

Each side duly filed their written appearances.

At this point the hearing examiner inquired of the parties whether there were any preliminary motions, at which point Mr. Johnson, on behalf of the candidate, made an oral motion to strike and dismiss the objection *instanter*, alleging that the objector lacked

the appropriate residency required to convey standing under the Election Code, in that the address listed for the objector on the face of the objection, to-wit, 3745 South Wisconsin Avenue, Berwyn, Illinois 60402, was outside the 9th Ward of Chicago, and in fact, not within the boundaries of the city at all.

This hearing officer then reviewed the objection, a one page document wherein objector clearly stated that his address was, in fact, 3745 South Wisconsin Avenue, Berwyn, Illinois 60402, a geographical location outside the 9th Ward of Chicago, and in fact, outside the boundaries of the entire city of Chicago.

The objector, representing himself, admitted to living at the address stated on the objection, but made an argument along the lines that these political boundaries should be deemed irrelevant, in that Berwyn was so closely aligned with and/or effected by what happened anywhere in Chicago that he had a vested interest sufficient to give him standing to file the aforesaid objection; furthermore, that these political boundaries were drawn so long ago that they should be deemed to have expired or otherwise be ignored.

The Election Code requires that an objector satisfy certain residency requirements to possess standing to bring an objection. Specifically, 10 ILCS 5/10-8 states, in relevant part, that an objector must be a: “. . . **legal voter of the political subdivision or district in which the candidate . . . is to be voted on . . .**.” See 10 ILCS 5/10-8.

In addition, an electoral board’s scope of inquiry is limited to the sole issue of whether a challenged petition and papers comply with the provisions of the Election Code pertaining thereto. It is a statutorily created entity, endowed with no powers beyond what the Election Code enumerates. The hearing examiner, of course, only

authorized to act within the scope of authority granted to the Electoral Board, is strictly limited in his function to reporting his findings of fact and recommending a decision to the electoral board as to whether or not a nominating petition (or the objection challenging it) complies with the provisions of the Election Code, and is without authority to ignore the plain wording of a statute, much less ignore or overrule geographic and political boundaries. *Kozel v. State Board of Elections*, 126 Ill.2d 58, 533 N.E.2d 796 (1988); *Phelan v. County Officers Electoral Board*, 240 Ill.App.3d 368, 372-373, 608 N.E.2d 215, 217 (1st Dist. 1992); *Wiseman v. Elward*, 5 Ill.App.3d 249, 257, 283 N.E.2d 282 (1st Dist. 1972); *See also Troutman v. Keyes*, 156 Ill.App.3d 247, 509 N.E.2d 453 (1st Dist. 1987) .

After hearing argument from the parties and making the aforesaid review of the official record the hearing examiner stated on the record that it would be his recommendation to the Electoral Board to grant the candidate's motion to strike the objection, in that the objector lacked the requisite standing to bring the objection because the objector lacked the required residency. There being no other matters at issue, the hearing examiner concluded the case.

This hearing examiner recommends to the Board that it adopt the above findings, decisions and recommendations of the hearing examiner, specifically, that the Board grant the candidate's motion to strike the objection because the objector lacked the requisite standing because of a lack of residency, and further hold that the name of the candidate, Anthony Holmes, Jr. appear and be printed on the ballot for election to the office of Green Party Ward Committeeman of the 9th Ward of the City of Chicago, to be voted upon at the

February 5, 2008, General Primary Election.

Christopher J. Agrella
Hearing Examiner
330 East Main Street
Suite 205
Barrington, Illinois 60010
Office: (847) 381-6800
Fax: (847) 381-6866

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'C. Agrella', written over a horizontal line.

Christopher J. Agrella - Hearing Examiner