

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

Objections of: Jose Luis Garcia Jr.)	
)	
)	
To the Nomination)	No.: 12-EB-RGA-12
Papers of: Rudy Lozano)	
)	
Candidate for the nomination of the)	
Democratic Party for the office of)	
Representative in the General Assembly for the)	
21st Representative District, State of Illinois)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Board of Election Commissioners for 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 Jose Luis Garcia Jr. (“Objector”) to the nomination papers (“Nomination Papers”) of Rudy Lozano, candidate for the nomination of the Democratic Party for the office of Representative in the General Assembly for the 21st Representative District of the State of Illinois (“Candidate”) at the General Primary Election to be held on March 20, 2012, having convened on December 19, 2011, at 8:30 AM, 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 19, 2011 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Barbara Goodman 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 Candidate, Rudy Lozano, by attorney Richard Means.

7. 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 dismissed and that the Nomination Papers be declared valid.

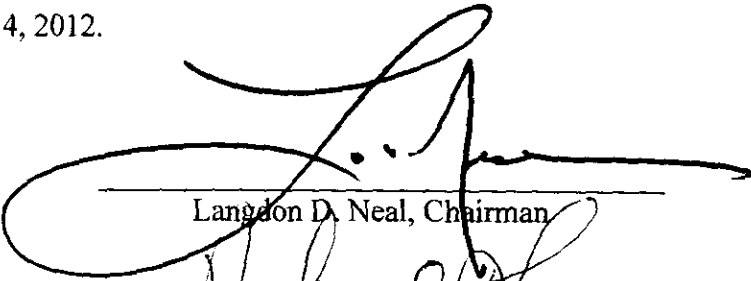
8. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Officer, hereby adopts the Hearing Officer's recommended findings and conclusions of law. A copy of the Hearing Officer's report and recommendations is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

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

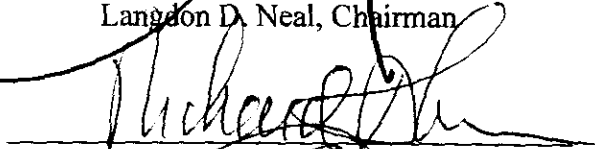
IT IS THEREFORE ORDERED that the Objections of Jose Luis Garcia Jr. to the Nomination Papers of Rudy Lozano, candidate for the nomination of the Democratic Party for

the office of Representative in the General Assembly for the 21st Representative District of the State of Illinois, are hereby DISMISSED and said Nomination Papers are hereby declared VALID and the name of Rudy Lozano, candidate for the nomination of the Democratic Party for the office of Representative in the General Assembly for the 21st Representative District of the State of Illinois, SHALL be printed on the official ballot for the General Primary Election to be held on March 20, 2012.

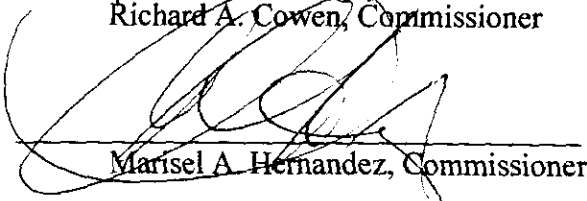
Dated: Chicago, Illinois, on January 4, 2012.



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 FOR THE
HEARING AND PASSING UPON OF OBJECTIONS
TO NOMINATION PAPERS OF CANDIDATES
FOR THE MARCH 20, 2012 GENERAL PRIMARY ELECTION**

JOSE LUIS GARCIA, JR.)
)
 Objector)
)
-v-)
)
RUDY LOZANO)
)
 Candidate)

12 EB RGA 12

2011 DEC 26 A 8:16
BOARD OF ELECTIONS
COMMISSIONER

HEARING EXAMINER'S REPORT AND RECOMMENDED DECISION

This matter was first heard on December 19, 2011. The candidate appeared through counsel Richard Means and the Objector did not appear. At the time of the first hearing, the records of the Board indicated that the Sheriff's office had tried unsuccessfully to serve the Objector on December 14, 2011. The matter was continued to December 23, 2011 so that an additional attempt to serve the Objector could be made.

On December 23, 2011, the matter was called and the Candidate appeared through counsel Richard Means and the Objector did not appear. On said date, the records of the Board of Election Commissioners relative to service of the Objector (Group Exhibit C) were as follows:

- A) A USPS report indicated that a certified mail envelope also was sent to

the Objector with notice of the first day's hearing.

- B) ***Sheriff's Office of Cook County, Illinois - Affidavit of Service*** indicated that on December 14, 2011 at 5:51 p.m. the Sheriff's office attempted to serve the Objector but was unsuccessful. The Affidavit contained the handwritten explanation, "Gate locked, no access to Residence".
- C) ***Sheriff's Office of Cook County, Illinois - Affidavit of Service*** indicated that on December 21, 2011 at 4:19 p.m. an additional unsuccessful attempt was made by the Sheriff's office to serve the Objector. The Affidavit contained the handwritten explanation "(indecipherable) gate locked at sidewalk no access to door." Included with this attempted service was the Board's Notice of Continued Hearing.

At the December 23, 2011, counsel for the Candidate moved for a default judgment against the Objector. Unlike a Candidate who may not be aware that an objection has been filed against he or she until the Candidate is served, an Objector is the party responsible for initiating the hearing process and is, therefore, obligated to participate in the process by staying apprised of the status of the hearing dates.

The Board has made the schedule of hearings accessible through its website so that parties and non-parties alike are able to ascertain the schedule for each case. Here, as in any other case, the Objector could have accessed the information from the website or simply called the Board to learn of the hearing dates even if he did not receive formal service. The Objector chose to do neither.

The efforts made by the Board to serve the Objector as well as the hearing

dates being available on the Board's website contrasted against the Objector's lack of diligence in participating fully in the process by staying apprised of the hearing dates, support the granting of a Motion for a Default Judgment.

CONCLUSION

Accordingly, it is my recommendation that the objections of Jose Luis Garcia, Jr. to the nominating papers of Rudy Lozano **be dismissed** and that the candidate's nominating papers be deemed **valid** and that the name of the candidate **RUDY LOZANO** as a candidate of the Democratic Party for the office of Representative in the General Assembly for the 21st Representative District be printed on the ballot at the March 20, 2012 General Primary Election.

Respectfully submitted,

Barbara Goodman

Barbara Goodman, Hearing Examiner
12/24/11

/s/