

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

Objections of: Scott Davis)
)
)
To the Nomination) No.: 14-EB-RGA-15
Papers of: Sara Feigenholtz)
)
Candidate for the nomination of the)
Democratic Party for the office of)
Representative in the General Assembly for the)
12th 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 Scott Davis (“Objector”) to the nomination papers (“Nomination Papers”) of Sara Feigenholtz, candidate for the nomination of the Democratic Party for the office of Representative in the General Assembly for the 12th Representative District of the State of Illinois (“Candidate”) at the General Primary Election to be held on March 18, 2014, having convened on December 16, 2013, at 9:00 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 December 16, 2013 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Mary C. Meehan 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, Scott Davis, by his attorney, Thomas G. Cosgrove; the Candidate, Sara Feigenholtz, by her attorney, Michael J. Kasper.

7. The Candidate filed a motion to strike and dismiss the Objector's Petition on the grounds that the Objector lacks standing to file objections inasmuch as he is not a legal voter of the 12th Representative District of the State of Illinois, the district in which the Candidate is seeking election. In support of her motion, the Candidate attached a certified copy of the Objector's voter registration record, which shows that the Objector registered to vote at an address that is in the 11th Representative District. While not denying that he lives in the 11th Representative District, Objector argues that he is a duly elected Republican Ward Committeeman of the 44th Ward in the City of Chicago, that the 12th Representative District includes approximately 90% of the 44th Ward, and he is, therefore, a "legal voter" who has standing to file an objection in the 12th Representative District, even though he is not a resident of the 12th Representative District.

8. The Hearing Officer has tendered to the Electoral Board her report and recommended decision. The Hearing Officer recommends that the Objector's Petition be dismissed due to the fact that the Objector is not a legal voter of the 12th Representative District and has, therefore, no standing to file objections to the Candidate's Nomination Papers.

9. 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's report and recommendations 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 finds that the Objections to the Candidate's Nomination Papers should be, and the same are, dismissed and further finds that the Candidate's Nomination Papers are valid.

- c. The Objector is the elected Republican Committeeman for the 44th Ward and as part of his duties as Committeeman for the 44th Ward, the Objector represents voters within the 12th Representative District.
2. In her motion the Candidate correctly points out Section 10-8 of the Election Code which provides, “[a]ny legal voter of the political subdivision or district which the candidate...is to be voted on...” may file an objector’s petition challenging the sufficiency of a candidate’s nominating papers. 10ILCS 5/10-8.
 3. The Candidate emphasized that the Objector admittedly is not a legal voter of the 12th Representative District because the Objector resides outside of the district and as a result the Petition must be dismissed, properly relying on *Cobb v. Colvin*, 08-EB-RGA-32, CBEC, December 7, 2007; *Mayers v. Holmes*, 08-EB-WC-01, CBEC, November 25, 2007; *Wunder & Miranda v. Hernandez*, 12-EB-RGA-14, CBEC, January 4, 2012.
 4. In summary, the Objector responded that although he does not reside within the boundaries of the district in question, he is a legal voter “of” that district because approximately 90% of this constituency as committeeman for 44th ward is within the 12th District. The Objector’s logic followed that although he is not eligible to cast a vote in the 12th District, he is in fact a legal voter within the 11th district and is “of” the 12th district because he is authorized to speak for voters of the 12th district as committeeman. The Objector pointed out that the Election Code uses the word “of”, not “from” or “within” the district and there is no specific residency requirement for an Objector.
 5. The Objector’s argument implied that an elected official from a district has an interest or is an aggrieved party for the purposes of standing to file an objection even if they themselves cannot vote within that district. The Objector presented nothing from the Election Code or from previous Board rulings or from any Illinois case law to rebut the plain language of the statute and past findings of the Board. The Objector presented nothing to persuade that Section 10/5-8 of the Election code, which reads, “[a]ny legal voter of a...district which the candidate...is to be voted on...” means anything other than an objector must be a voter within the district where the candidate is to be voted upon.

The Objector offered little reasoning and no support for his conclusion that an elected official with constituents within a district has the same protected statutory interest as a voter within that district.

WHEREFORE, it is recommended that:

1. The Candidates' Motion to Strike or Dismiss is GRANTED, and
2. The matter is dismissed.

ENTERED THIS 23rd day of December 2013.




Mary C. Mechan,

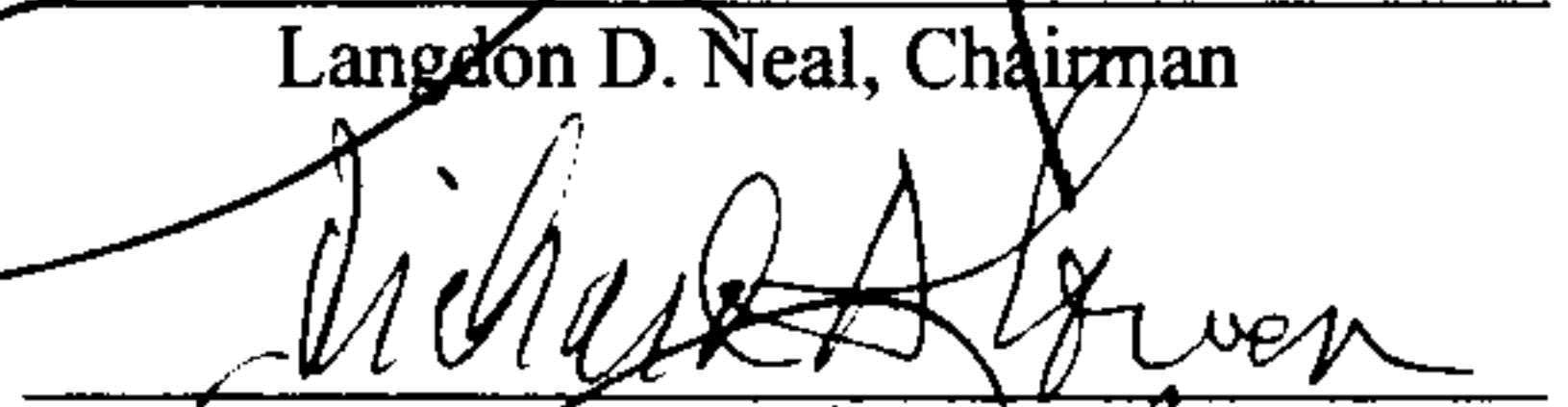
Hearing Officer

IT IS THEREFORE ORDERED that the Objections of Scott Davis to the Nomination Papers of Sara Feigenholtz, candidate for the nomination of the Democratic Party for the office of Representative in the General Assembly for the 12th Representative District of the State of Illinois, are hereby STRICKEN AND DISMISSED and said Nomination Papers are hereby declared VALID and the name of Sara Feigenholtz, candidate for the nomination of the Democratic Party for the office of Representative in the General Assembly for the 12th Representative District of the State of Illinois, SHALL be printed on the official ballot for the General Primary Election to be held on March 18, 2014.

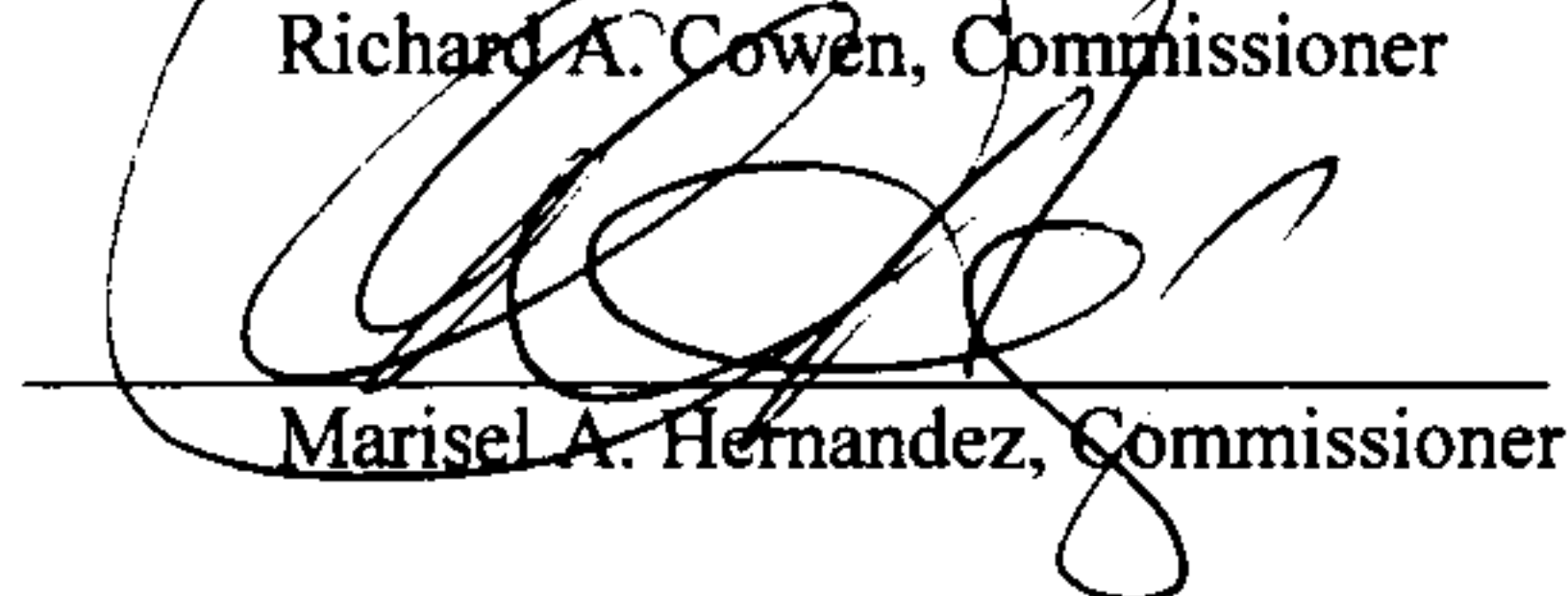
Dated: Chicago, Illinois, on January 3, 2014.



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.