

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

Objections of: Patrick Mayerbock)	
)	
)	
To the Nomination)	No.: 14-EB-RES-03
Papers of: Greg Bedell)	
)	
Candidate for the nomination of the)	
Republican Party for the office of)	
Representative in the General Assembly for the)	
15th 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 Patrick Mayerbock ("Objector") to a resolution to fill a vacancy in nomination and the nomination papers ("Nomination Papers") of Greg Bedell, candidate for the nomination of the Republican Party for the office of Representative in the General Assembly for the 15th Representative District of the State of Illinois ("Candidate") at the General Election to be held on November 4, 2014, having convened on June 13, 2014, 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 June 16, 2014 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Linda Crane 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, Patrick Mayerboeck, by and through his attorney, Michael Kasper; the Candidate, Greg Bedell, by and through his attorney, John Fogarty.

7. Paragraph 5 of the Objector's Petition alleges that "(the) Nomination Papers are invalid in their entirety because not all members of the purported Representative District Committee of the Republican Party for the 15th Representative District were notified of the meeting at which the Candidate was selected and designated to fill the vacancy in nomination."

8. Paragraph 6 of the Objector's Petition continues the allegation in Paragraph 5 and states: "In particular, on information and belief, the Republican Ward Committeemen of both the 33rd Ward and 35th Ward of the City of Chicago were not notified of the proceedings at which the Representative District Committee of the Republican Party for the 15th Representative District acted to fill the vacancy in nomination."

9. The Candidate filed a motion to strike and dismiss paragraphs 5 and 6 of the Objector's Petition. The Candidate contended that the Ward Committeeman of neither the 33rd or 35th Wards in the city of Chicago were proper members of the Representative Committee for the 15th Representative District and, thus, they were not entitled to notice of the meeting of Representative Committee called for the purpose of selecting Candidate as the person to fill the vacancy in nomination of Republican Party for the office of Representative in the General Assembly the 15th Representative District.

10. The parties agreed that the only issue to be decided was the legal question of whether the Representative District Committee of the Republican Party for the 15th Representative District consists of ward committeemen who were elected represent Wards as they were drawn following the 2000 census or as they were drawn in 2012 following the 2010 census (hereinafter referred to as "the old ward map" and "the new ward map", respectively).

11. The Candidate argued that if the 33rd and 35th Wards are not within the 15th Representative District under the old ward map, then the Candidate had no obligation to send a meeting notification to the committeemen of those wards. He argued that the ward committeemen who were elected in March 2012 under the old 2001 ward boundaries remained in their offices throughout their four-year term even after the ward boundaries were redrawn following the 2010 census, contending that the last paragraph of Section 8-5 of the Illinois Election Code applies. That provision states, that "*if any change is made to the boundaries of any ... ward, the committeemen previously elected therefrom shall continue to serve, as if no boundary change had occurred, for the purpose of acting as a member of a ... representative committee until his successor is elected or appointed.*" Therefore, only the ward committeemen who had been duly elected in March 2012 under the old map and who were still serving

unexpired four year terms remained entitled to notice to attend the meeting called for the purpose of selecting a nominee as candidate to represent the Party during the General Election of November 4, 2014 notwithstanding the fact that the ward boundaries had been redrawn in the interim.

12. The Objector contends that the ward committeemen who are to serve as members the 15th Representative Committee are those who represent the new 2012 Wards that are within the boundaries of the 15th Representative District.

13. The Hearing Officer has tendered to the Electoral Board her report and recommended decision ("Recommended Decision"). The Hearing Officer recommends that the Candidate's motion to strike and dismiss paragraphs 5 and 6 of the Objector's Petition be granted and that the Objections to the Candidate's Nomination Papers be dismissed and otherwise overruled and that the Nomination Papers be declared valid.

14. Section 7-61 of the Election Code (10 ILCS 5/7-61) generally deals with the process for filling vacancies in nomination following a general primary election. In describing who is authorized to fill vacancies in nomination, Section 7-61 states, "Vacancies shall be filled by the officers of the local municipal or township political party as specified, in subsection (b) of Section 7-8 [citation], other than a statewide political party, other than a statewide political party, that is established only within a municipality or township and the managing committee (or legislative committee in case of a candidate for State Senator or representative committee in the case of a candidate for State Representative in the General Assembly or State central committee in the case of a candidate for statewide office, including but not limited to the office of United States Senator) of the respective political party for the territorial area in which such vacancy

occurs.” This is the only specific reference in Section 7-61 to vacancies in nomination for the offices of State Representative or State Senator.

15. Section 8-1 of the Election Code (10 ILCS 5/8-1) provides, however, that “[T]he nomination of all candidates for members of the General Assembly by all political parties as defined in Section 8-2 [citation] of this article shall be made in the manner provided in this article 8 [citation] and not otherwise.” Section 8-1 further provides, “The name of no person, nominated by a party required hereunder to make nomination of candidates for members of the General Assembly shall be placed upon the official ballot to be voted at the general election as a candidate unless such person shall have been nominated for such office under the provisions of this article 8.” Clearly, Article 8 of the Code governs the manner of nomination of candidates for members of the General Assembly by established political parties in Illinois.

16. Section 8-17 of the Code (10 ILCS 5/8-17) addresses vacancies in nomination for established political parties for the offices of State Representative and State Senator. This section provides that vacancies in nomination “shall be filled by the appropriate legislative or representative committee.” Section 8-5 of the Code (10 ILCS 5/8-5) creates a “representative committee” in each Representative District in the State of Illinois that elects a Representative in the General Assembly and creates a “legislative committee” in each Legislative District that elects a State Senator. This section further defines the composition of each such committee and provides that in legislative or representative districts within or including a portion of any county containing 2,000,000 or more inhabitants [Cook County], the legislative or representative committee of a political party shall consist of the township and/or ward committeemen of such party whose township or ward is included within such legislative or representative district.

17. In the city of Chicago, primary electors of each party elect a ward committeeman for each of the 50 wards in the city in a general primary election held every four years. 10 ILCS 5/7-8(b). Each elected ward committeeman shall continue as such committeeman until the date of the primary held in the fourth year after their election. *Id.* The last election for ward committeemen in the city of Chicago was on March 20, 2012 and individuals elected at that time will continue as committeemen until the March 2016 general primary.

18. The Chicago City Council is required, "On or before the first day of December, of the year following the year in which the national census is taken, and every ten years thereafter," to redistrict the city on the basis of the national census of the preceding year. 65 ILCS 20/21-38. Indeed, on January 19, 2012 the Chicago City Council adopted a Ward Redistricting Ordinance; additionally, the City Council adopted an ordinance on September 12, 2012 making minor corrections to the January 2012 ward boundaries. However, all of this occurred well after the statutory deadline of December 1, 2011 for the adoption of a new ward map. Due to the close proximity to the March 20, 2012 election, it was impossible to implement the new ward boundaries in time for the March election. Therefore, the March 2012 election of ward committeemen was conducted using the "old" 2001 ward boundaries. Those ward committeemen were, therefore, elected by primary electors living in the territory described by the "old" pre-2012 ordinance ward boundaries.

19. Section 7-9(f) of the Election Code (10 ILCS 5/7-9(f)) provides, "All precinct, township and ward committeemen when elected as provided in this Section shall serve as though elected at large irrespective of any changes that may be made in precinct, township or ward boundaries *and the voting strength of each committeeman shall remain as provided in this Section for the entire time for which he is elected.*"

20. Our Supreme Court has construed this provision to mean that a committeeman, once elected, shall "act as the representative of his party for the territory in which he is elected, during the term of his incumbency," notwithstanding any subsequent changes in the district boundaries. *People ex rel. Kell v Kramer*, 328 Ill. 512, 523, 160 N.E. 60, 66 (1928) ("it seems apparent, by the provisions *** just referred to, that it is the purpose and intention of the Legislature that the territory in which a committeeman is elected shall not, so far as party representation and government are concerned, be changed prior to the next primary election, although new election districts are formed from parts of his precinct, and that, regardless of the creation of new polling districts by the board of supervisors, the committeeman shall act as the representative of his party for the territory in which he is elected, during the term of his incumbency"). The Court explained that while the creation of new districts may occur, "No reason appears why a committeeman of a political party may not represent the voters of his party in the original territory for which he is elected." 328 Ill. at 523-524. This principle has been followed by other states as well. See *State ex rel. Tomblin v. Bivens*, 150 W.Va. 733, 745-747, 149 S.E.2d 284 (W. Va. 1966), citing *Williamson v. Killough*, 185 Ark. 134, 46 S.W.2d 24; *State ex rel. Connolly v. Haverly*, 62 Neb. 767, 87 N.W. 959; *State ex rel. Norwood v. Holden*, 45 Minn. 313, 47 N.W. 971; *Olsen v. Merrill*, 78 Utah 453, 5 P.2d 226.

21. Section 7-9(f) states clearly, "irrespective of any changes that may be made in precinct, township or ward boundaries, *** the voting strength of each committeeman shall remain as provided in this Section for the entire time for which he is elected." As the Supreme Court explained in *Kramer, supra*, the voting power of committeemen is fixed at the time of their election. The Court noted, "The intent of the Primary Law clearly appears to be that such power should remain the same, regardless of such change [in territory]." 328 Ill. at 523. Even though

boundaries and territories may change. "each voter is represented in the voting strength of the committeeman as elected in such original precincts until the next primary election, when a committeeman is to be selected from the new election district." 328 Ill. at 524.

22. Given the principles articulated in the *Kramer* case and as discussed above, the principle that Chicago ward committeemen should continue to serve the territory from which they are elected is supported by statute and case law. Such principles have also been applied to alderman in the city of Chicago following a redistricting. See, *Political Action Conference of Illinois v. Daley*, 976 F.2d 335 (7th Cir. 1992), and *Bonilla v. City Council of the City of Chicago*, 809 F. Supp. 590 (N.D. Ill. 1992). Therefore, the Electoral Board finds that appropriate Chicago ward committeemen elected in March 2012 would be entitled to vote to fill vacancies in nomination in legislative and representative districts within their respective wards at the time of their election, notwithstanding the fact that new ward boundaries have been implemented since the March 2012 general primary.

23. The Electoral Board further finds that the 15th Representative District contained neither the 33rd nor the 35th Wards when ward committeemen were elected in March 2012 to represent primary electors in their respective wards as they existed pre-2012 ward redistricting ordinance. Therefore, neither the Ward Committeemen of the 33rd Wards nor the 35th Wards, as they now exist post-2012 ward redistricting ordinance, are or were proper members of the 15th Representative Committee of the Republican Party nor were they entitled to be given notice of the proceedings of the 15th Representative District.

24. 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.

25. For the reasons stated above, the Electoral Board grants the Candidate's motion to strike and dismiss paragraphs 5 and 6 of the Objector's Petition and otherwise overrules 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 Patrick Mayerbock to the resolution to fill a vacancy in nomination and to the Nomination Papers of Greg Bedell, candidate for the nomination of the Republican Party for the office of Representative in the General Assembly for the 15th Representative District of the State of Illinois, are hereby DISMISSED AND OVERRULED and said Nomination Papers are hereby declared VALID and the name of Greg Bedell, candidate for the nomination of the Republican Party for the office of Representative in the General Assembly for the 15th Representative District of the State of Illinois, SHALL be printed on the official ballot for the General Election to be held on November 4, 2014.

Dated: Chicago, Illinois, on August 5, 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.

**BEFORE THE BOARD OF ELECTION COMMISSIONERS
SITTING AS THE DULY CONSTITUTED MUNICIPAL OFFICERS ELECTORAL
BOARD FOR THE CITY OF CHICAGO**

PATRICK MAYERBOCK)	
)	
Petitioner-Objector)	
)	
)	
)	No. 14-EB-RES-03
Vs.)	Linda R. Crane
)	Hearing Examiner
)	
GREG BEDELL)	
)	
Respondent-Candidate)	

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HEARING OFFICER'S RECOMMENDED DECISION

This matter having come before the Chicago Board of Election Commissioners ("CBOE") on verified objections of **PATRICK MAYERBOCK** ("Objector") to the nomination papers of **GREG BEDELL**, ("Candidate"), Linda R. Crane, the Hearing Officer, finds and recommends as follows:

1. The candidate, **GREG BEDELL**, has filed nomination papers in support of his nomination to the office of Representative in the General Assembly for the 15th Representative District of the State of Illinois (Office) to place his name on the ballot for the General Election on November 4, 2014 (Election).
2. The objector, **PATRICK MAYERBOCK**, has filed a Verified Objector's Petition objecting to the sufficiency of the Candidate's nomination papers for various reasons stated in Paragraphs 5 and 6 of his Petition.

3. Paragraph 5 of the Objector's Petition alleges that "(the) Nomination Papers are invalid in their entirety because not all members of the purported Representative District Committee of the Republican Party for the 15th Representative District were notified of the meeting at which the Candidate was selected and designated to fill the vacancy in nomination."
4. Paragraph 6 of the Objector's Petition continues the allegation in Paragraph 5 and states: "In particular, on information and belief, the Republican Ward Committeemen of both the 33rd Ward and 35th Ward of the City of Chicago were not notified of the proceedings at which the Representative District Committee of the Republican Party for the 15th Representative District acted to fill the vacancy in nomination. *See the Attached Notice, attached hereto as Exhibit A.*"
5. The initial hearing on this matter was held on June 16, 2014, and both parties were represented by Counsel. Mr. John Fogerty filed his appearance on behalf of the Candidate. Mr. Michael Kasper filed his appearance on behalf of the Objector.
6. There was no Record Examination requested in the case.
7. During the initial hearing a schedule was set for the filing of initial motions as follows: Candidate's Motion to Strike and Dismiss due Wednesday, June 18, 2014 at 5:00 pm; Objector's Response due Friday June 20, 2014 at 5:00 pm; Candidate's Reply, if any, was due Monday, June 23, 2014 at 5:00 pm. The Candidate's Motion to Strike and Dismiss portions of the Objector's Petition was filed on time. Subsequently, both parties requested and received extensions of time to file their respective Responses and Replies.
8. The next hearing was scheduled for June 25, 2014 at 10:00 am.

9. The Candidate filed a Motion to Strike and Dismiss that addressed the allegations contained in Paragraphs 5 and 6 of the Objector's Petition.
10. During the hearing on June 25, 2014, which convened at 10:30 a.m., the parties requested and received a continuance until after the expiration of the June 26, 2014 extension for the Candidate to file his Reply to the Objector's Response to the Candidate's Motion to Strike and Dismiss. The next hearing date was set for July 2, 2014 at 12:00 p.m. The hearing adjourned at 10:38 a.m.
11. On July 2, 2014, the hearing convened at 11:50 a.m. The parties opened by stipulating that the 15th Representative District did not contain any territory of the 33rd Ward under the Ward redistricting plan adopted by Chicago City council in 2001; and that it does contain territory of the 33rd Ward under the redistricting plan adopted by the City Council in January of 2012. The parties agreed that the only issue was the legal question of whether the Representative District Committee of the Republican Party for the 15th Representative District consists of ward committeemen who were elected represent the Ward as it was drawn following the 2000 census or as it was drawn following the 2010 census (hereinafter referred to as "the old ward map" and "the new ward map.") (T at page 3)
12. The Candidate argued for the following conclusions:
 - a. That, if the 33rd and 35th Wards are not within the 15th Representative District under the old ward map, then the Candidate had no obligation to send a meeting notification to the committeemen of those wards;

- b. That the ward committeemen who were elected in March 2012 under the old 2001 ward boundaries remained in their offices throughout their four-year term even after the ward boundaries were redrawn following the 2010 census;
- c. That the language of the last paragraph of Section 8-5 of the Illinois Election Code applies. It states that "*(i)if any change is made to the boundaries of any ... ward (as done after the March 2012 primary but before the November 2012 general election), the committeemen previously elected therefrom (e.g. referring to the old ward with the 2001 boundaries) shall continue to serve, as if no boundary change had occurred, for the purpose of acting as a member of a ... representative committee until his successor is elected or appointed.*"
- d. That the Ward committeemen who had been duly elected to and who were still serving unexpired four year terms, remained entitled to notice to attend the meeting called for the purpose of selecting a nominee as candidate to represent the Party during the General Election of November 4, 2014 notwithstanding the fact that the Ward boundaries had been redrawn in the interim.
- e. That until new Ward committeemen are elected by the people who live within the new Ward boundaries, the incumbent committeemen are entitled to complete their four year terms pursuant to Section 7-8B of the Illinois Election Code. That their terms do not expire early when the boundaries of the district change prior to the next election.
- f. That it is impossible to give notice of the meeting to the new committeemen who have yet to be identified and elected from within the newly drawn Ward boundaries.

13. The Objector argued for the following conclusions:

- a. That the committeemen who were elected using the old Ward boundaries would not be entitled to notice of the selection committee meeting if neither the 33rd nor the 35th Wards were within the 15th Representative District.
- b. That the Ward committeemen who are selected to serve as committeemen on the representative committee must represent Wards that fall within the boundaries of the newly drawn Ward.
- c. That the Representative Committee for the 15th Representative District was constituted differently than the Candidate describes it. That the proper way to identify the members of the Republican Ward committeemen is by noting the use of present tense in the language of Section 8-5, leading to an interpretation of it as anticipating that new committeemen will be selected within 180 days after the primary of each other even numbered year, including 2014, regardless of the continued tenure of the previously elected committeemen.
- d. That the language of the last paragraph of Section 8-5 "*applies only in the window of the period after the redistricting period and that election cycle because it says, 'if any change is made in the boundaries of any precinct, township or ward, the committeemen previously elected therefrom shall continue to serve as if no boundary change had occurred.' Continue to serve references to serve on the representative committee. But how can someone continue to serve on a committee before it exists? This committee, the 2014 committee didn't exist until after the 2014 primary because they are required to organize within 180 days after the primary.*" (T at page 6 citing Section 8-5)

- e. That this interpretation of the statute is appropriate despite the fact there has been no election of new committeemen (under the old ward map) since 2012.


14. In addition to language of the last paragraph of Section 8-5, Section 7-9 (f) of the Illinois Election Code states that, "(a)ll precinct, township and ward committeemen when elected as provided in this Section shall serve as though elected at large irrespective of any changes that may be made in the precinct, township, or ward *boundaries and the voting strength of each committeemen shall remain as provided in this Section for the entire time for which he is elected.*" (10 ILCS 5/7-9(f)) (italics added) Moreover, the Illinois Supreme Court has long construed this provision to mean that committeemen, once elected, shall "act as the representative of his party for the territory in which he is elected during the time of this incumbency," *People ex. rel. Kell v. Kramer*, 328 Ill. 512 at 523, 160 N. E. 60 at 66 (1928) notwithstanding any subsequent changes in the district boundaries. The Court explained that while the creation of new districts may occur, "No reason appears why a committeeman of a political party may not represent the voters of his party in the original territory for which he is elected."
15. In conclusion, based on all of the foregoing, I am persuaded by the Candidate's arguments and my own review of the relevant law that the membership of the Representative Committee for the 15th Representative District was properly constituted of the Ward Committeemen that were duly elected in March 2012 under the old 2001 ward maps in those wards within the 15th Representative District at the time of such election. I further conclude that the notices to attend the meeting to nominate the Candidate to represent the Party in the upcoming General Election were sent to the proper persons. It is my recommendation to the Board that it should grant the Candidate's Motion to Dismiss

and Strike the objections contained in Paragraphs 5 and 6 of the Objector's Petition and otherwise overrule said objections.

Respectfully submitted,

Date: July 23, 2014

By: _____


LINDA R. CRANE, Hearing Officer