

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, COUNTY DIVISION**

IN RE:)
)
PETITION OF THE **BOARD OF**)
ELECTION COMMISSIONERS FOR) Case No. 2020-COEL-0000 13
THE CITY OF CHICAGO FOR AN)
ORDER OF COURT ALLOWING FOR)
EARLY VOTING SITES TO REMAIN)
OPEN ON ELECTION DAY IN THE)
CITY OF CHICAGO, COOK COUNTY,)
ILLINOIS)

TEMPORARY RESTRAINING ORDER

This case coming to be heard on the Emergency Notice of presentment of Verified Complaint for Emergency Declaratory and Injunctive Relief (“Verified Complaint”) filed by the Board of Election Commissioners for the City of Chicago, the Court being fully advised in the premises, *finds as follows*:

1. The organizations, entities, and individuals identified in the Verified Complaint’s Service List have all received notice of a hearing in this matter via email or facsimile.
2. The Plaintiff/Petitioner Board of Election Commissioners for the City of Chicago (the “Board”) and the voters of the affected precincts have a clearly ascertainable right to participate in the electoral process, to preserve their rights to vote, and in the integrity of the electoral process, and they have a likelihood of success on the merits of their claim. The Board and the voters of the affected precincts do not have an adequate legal remedy that would protect their right to cast their ballots for the March 17, 2020, Primary Election, which necessitates the granting of equitable relief. Finally, absent the grant of equitable relief, the voters of the affected facilities will suffer irreparable harm.

3. There is a “public health emergency under Section 4 of the Illinois Emergency Management Agency Act” as proclaimed by the Governor of the State of Illinois as set forth in Exhibit A to the Verified Complaint.
4. This public health emergency and related health and safety concerns are causing numerous polling places to cancel their participation as election precincts on Election Day for the March 17, 2020, presidential primary, and the Board reasonably anticipates under these unique emergency situations that closures will increase between today and Election Day.
5. In order to protect the voters’ fundamental rights to vote, it is necessary to extend voting at all Early Voting facilities through Election Day, Tuesday, March 17, 2020.

Based upon the foregoing findings, IT IS HEREBY ORDERED THAT:

6. The Board is hereby ordered to keep all Early Voting sites open through the end of regular voting hours on Tuesday, March 17, 2020. The Board is thereby permitted to continue using its Early Voting facilities as universal voting sites for all regular voting hours on Election Day, Tuesday, March 17, 2020. No voting at any such Early Voting site shall occur later than the regular voting hours on March 17, 2020, without further court order.
7. The Board shall report, canvass and proclaim all election results from these Early Voting sites in its normal course of business and in compliance with Election Code provisions. Such results may be contested pursuant to Article 23 of the Illinois Election Code (10 ILCS 5/23-1, *et seq.*).

8. A copy of the Verified Complaint and this Order will be posted on the Board's website through March 20, 2020.
9. The TRO remains in effect until the hearing on preliminary injunction set for March 23, 2020, at 11:30 in Room 1704 of the Richard J. Daley Center.
10. Good Cause exists to waive the posting of any bond, therefore the requirement of posting a bond is hereby waived.

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As General Counsel for the
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~~ENTERED~~
Judge LaGuina Clay-Herron
MAR 13 2020
Circuit Court-1943

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, COUNTY DIVISION**

FILED
3/13/2020 3:44 PM
DOROTHY BROWN
CIRCUIT CLERK
COOK COUNTY, IL
2020COEL000013
Calendar, 9

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CITY OF CHICAGO, COOK COUNTY,)
ILLINOIS)

Case No. 2020-COEL-000013

**VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
AND EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER**

Plaintiff/Petitioner BOARD OF ELECTION COMMISSIONERS FOR THE CITY OF CHICAGO and its members, Chair Marisel A. Hernandez and Commissioners William J. Kresse and Jonathan T. Swain (collectively the “Board”), by their general counsel, Adam W. Lasker of Lasker Law LLC, pursuant to the Illinois Code of Civil Procedure 735 ILCS 5/11-101 *et seq.* and 735 ILCS 2-701, and the Illinois Election Code, 10 ILCS 5/1-1 *et seq.*, hereby seek emergency declaratory and injunctive relief in order to extend the use of Early Voting sites for all regular voting hours on Election Day for the 2020 presidential primary, March 17, 2020, in the City of Chicago, Cook County, Illinois. In support of this Complaint they state as follows:

1. Jurisdiction of this Court is invoked pursuant to Section 11-101, *et seq.*, and Section 2-701 of the Illinois Code of Civil Procedure, as well as the Illinois Election Code. Specifically, this Complaint seeks to extend the use of Early Voting sites to include all regular voting hours on Election Day for the 2020 presidential primary, March 17, 2020, in the City of Chicago.

ACKNOWLEDGEMENT

I hereby agree to serve as an Election Central Attorney on Tuesday, March 17, 2020 General Primary Election in the City of Chicago.

I certify that I have not participated, nor will I participate, in the campaign of any candidate, political party or question of public policy/referendum appearing on the March 17, 2020 official ballot as prepared by the Chicago Board of Election Commissioners nor do I have any conflicts or apparent conflicts of interest with any candidate, political party or proponent/opponent of a question of public policy appearing on that ballot that prevent me serving as an Election Central Attorney with independence, objectivity and integrity.

I further agree to attend the pre-election briefing (including the new equipment training session) scheduled for Sunday, March 15, 2020 beginning at 9:30 A.M. **I understand that failure to attend the briefing will disqualify me from participation on Election Day.** I also acknowledge that I have previously completed a Judge of Election training class with the Chicago Board of Elections.

Aliceber Rivera

Printed Name



Signature

Date

3/13/2020

2. Pursuant to Article 6 of the Illinois Election Code (10 ILCS 5/6-1 *et seq.*), the Board of Election Commissioners for the City of Chicago (the “Board”) is the election authority having charge of conducting all elections in the City of Chicago, Illinois (the “City”).

3. Pursuant to Article 19A of the Illinois Election Code (10 ILCS 5/19A-1, *et seq.*), the Board is authorized to conduct “Early Voting” by personal appearance throughout the City. The period for Early Voting may be as many as 40 days prior to Election Day. 10 ILCS 5/19A-15(a). The Board is then required to conduct early voting from the 15th day before Election Day up to and including the day before Election Day. 10 ILCS 5/19A-15(b). In relation to the March 17, 2020, presidential primary, the Board has been conducting Early Voting in approximately 51 sites throughout the City, including one site in each of Chicago’s 50 wards and a downtown “Super Site” in the Loop at 191 North Clark Street. The Board intends to continue providing Early Voting at all such sites through March 16, which is the statutory cut-off cited above.

4. The locations of the Board’s Early Voting sites are available on its website and have been widely publicized throughout the Early Voting period.

<https://www.chicagoelections.gov/en/early-voting.html>

5. On March 9, 2020, the Hon. J.B. Pritzker, Governor of the State of Illinois, issued a Disaster Proclamation as a result of the rapid spread of the Covid 19 (Corona) virus. The Disaster Proclamation proclaimed that Covid 19 virus constitutes a “public health emergency under Section 4 of the Illinois Emergency Management Agency Act”. It further proclaimed that the virus presents “known health risks for older adults and people who have severe chronic medical conditions.” (**Exhibit A** attached)

6. Due to this disastrous health and safety pandemic, numerous polling place proprietors, including *but not limited to* licensed nursing home facilities, have informed the Board that they are cancelling their participation as election precincts and the Board may not use those locations for public voting purposes.

7. The Board conducts elections in a total of 2,069 precincts in about 1,500 locations throughout the City. As of 3:30 p.m. today (Friday the 13th of March), a total of 120 precincts are affected by polling place closures. Each precinct consists of approximately 500 to 1,000 registered voters. While replacement locations are currently being sought out at this late date, it is extremely unlikely that suitable locations will be available in time for Tuesday. Even if replacement locations are located, they may not be as geographically convenient to the voters of each precinct as their regular polling place, and other Early Voting sites may be more readily available to them.

8. The voters in the precincts now known to be affected by polling place closures, and those residing in precincts that will be closed due to CONVID-19 in the days and hours prior to Election Day – and even on Election Day itself – have a clearly ascertainable legal right to cast a ballot in the 2020 presidential primary. The voters will suffer irreputable harm if not provided with a convenient voting location on Election Day. There is no adequate remedy at law for the voters because money damages do not replace the important Constitutional right to vote. There also is no adequate remedy at law for the Board, because no provision of the Election Code – nor any other state or federal law – allows the Board to extend the period for voting beyond the regularly scheduled Election Day. The voters and Board have a high likelihood of success on the merits of this claim and, as such, an injunctive remedy is the only relief that could help protect all of these important rights to participate in the electoral franchise.

9. As a result of the Public Health Emergency, and for all the reasons stated above, the Board requests that this Honorable Court enter an order allowing the Board to be temporarily restrained from compliance with its duty to close all Early Voting sites at the end of Monday, March 16, 2020, thereby allowing it to keep all such sites open for all regular voting hours on Tuesday, March 17, 2020.

WHEREFORE, Plaintiff/Petitioner prays that the Court enter an order declaring that due to the Public Health Emergency and the numerous polling place closures related thereto, and those additional closures anticipated to occur in the short time before Election Day, it is in the public interest for the Board to keep open its Early Voting sites during all regular voting hours on Tuesday, March 17, 2020, and enter a temporary restraining order and any other applicable injunctive relief allowing the Board to be restrained from compliance with the statutory closure on the day before Election Day set forth in 10 ILCS 5/19A-5(b), along with any such other relief as this Court deems appropriate, for the March, 17, 2020 Presidential Primary Election.

Respectfully Submitted,

BOARD OF ELECTION COMMISSIONERS
FOR THE CITY OF CHICAGO

By: /s/ Adam W. Lasker
Its General Counsel

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VERIFICATION BY CERTIFICATION

Under penalties provided by Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in the attached instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.



Lance Gough, Executive Director
Board of Election Commissioners
for the City of Chicago

Exhibit A

GUBERNATORIAL DISASTER PROCLAMATION

WHEREAS, in late 2019, a new and significant outbreak of Coronavirus Disease 2019 (COVID-19) emerged in China; and,

WHEREAS, COVID-19 is a novel severe acute respiratory illness that can spread among people through respiratory transmissions and present with symptoms similar to those of influenza; and,

WHEREAS, certain populations are at higher risk of experiencing more severe illness as a result of COVID-19, including older adults and people who have serious chronic medical conditions such as heart disease, diabetes, or lung disease; and,

WHEREAS, we are continuing our efforts to prepare for any eventuality given that this is a novel illness and given the known health risks it poses for the elderly and those with serious chronic medical conditions; and,

WHEREAS, the World Health Organization declared COVID-19 a Public Health Emergency of International Concern on January 30, 2020, and the United States Secretary of Health and Human Services declared that COVID-19 presents a public health emergency on January 27, 2020; and,

WHEREAS, the World Health Organization has reported 109,578 confirmed cases of COVID-19 and 3,809 deaths attributable to COVID-19 globally as of March 9, 2020; and,

WHEREAS, in response to the recent COVID-19 outbreaks in China, Iran, Italy and South Korea, the Centers for Disease Control and Prevention ("CDC") has deemed it necessary to prohibit or restrict non-essential travel to or from those countries; and,

WHEREAS, the CDC has advised older travelers and those with chronic medical conditions to avoid nonessential travel, and has advised all travelers to exercise enhanced precautions; and,

WHEREAS, the CDC currently recommends community preparedness and everyday prevention measures be taken by all individuals and families in the United States, including voluntary home isolation when individuals are sick with respiratory symptoms, covering coughs and sneezes with a tissue, washing hands often with soap and water for at least 20 seconds, use of alcohol-based hand sanitizers with at least 60% alcohol if soap and water are not readily available, and routinely cleaning frequently touched surfaces and objects to increase community resilience and readiness for responding to an outbreak; and,

WHEREAS, a vaccine or drug is currently not available for COVID-19; and,

WHEREAS, in communities with confirmed COVID-19 cases, the CDC currently recommends mitigation measures, including staying at home when sick, when a household

member is sick with respiratory disease symptoms or when instructed to do so by public health officials or a health care provider and keeping away from others who are sick; and,

WHEREAS, despite efforts to contain COVID-19, the World Health Organization and the CDC indicate that it is expected to spread; and,

WHEREAS, there are currently 11 confirmed cases of COVID-19 and an additional 260 persons under investigation in Illinois; and,

WHEREAS, one of the confirmed cases of COVID-19 in Illinois has not been linked to any travel activity or to an already-confirmed COVID-19 case, which indicates community transmission in Illinois; and,

WHEREAS, based on the foregoing, the circumstances surrounding COVID-19 constitute a public health emergency under Section 4 of the Illinois Emergency Management Agency Act; and,

WHEREAS, it is the policy of the State of Illinois that the State will be prepared to address any disasters and, therefore, it is necessary and appropriate to make additional State resources available to ensure that the effects of COVID-19 are mitigated and minimized and that residents and visitors in the State remain safe and secure; and,

WHEREAS, this proclamation will assist Illinois agencies in coordinating State and Federal resources, including the Strategic National Stockpile of medicines and protective equipment, to support local governments in preparation for any action that may be necessary related to the potential impact of COVID-19 in the State of Illinois; and,

WHEREAS, these conditions provide legal justification under Section 7 of the Illinois Emergency Management Agency Act for the issuance of a proclamation of disaster;

NOW, THEREFORE, in the interest of aiding the people of Illinois and the local governments responsible for ensuring public health and safety, I, JB Pritzker, Governor of the State of Illinois, hereby proclaim as follows:

Section 1. Pursuant to the provisions of Section 7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7, I find that a disaster exists within the State of Illinois and specifically declare all counties in the State of Illinois as a disaster area.

Section 2. The Illinois Department of Public Health and the Illinois Emergency Management Agency are directed to coordinate with each other with respect to planning for and responding to the present public health emergency.

Section 3. The Illinois Department of Public Health is further directed to cooperate with the Governor, other State agencies and local authorities, including local public health authorities, in the development of strategies and plans to protect the public health in connection with the present public health emergency.

Section 4. The Illinois Emergency Management Agency is directed to implement the State Emergency Operations Plan to coordinate State resources to support local governments in disaster response and recovery operations.

Section 5. To aid with emergency purchases necessary for response and other emergency powers as authorized by the Illinois Emergency Management Agency Act, the provisions of the Illinois Procurement Code that would in any way prevent, hinder or delay necessary action in coping with the disaster are suspended to the extent they are not required by federal law. If necessary, and in accordance with Section 7(1) of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7(1), the Governor may take appropriate executive action to suspend additional statutes, orders, rules, and regulations.

Section 6. Pursuant to Section 7(3) of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7(3), this proclamation activates the Governor's authority, as necessary, to transfer the direction, personnel or functions of State departments and agencies or units thereof for the purpose of performing or facilitating emergency response programs.

Section 7. The Illinois Department of Public Health, Illinois Department of Insurance and the Illinois Department of Healthcare and Family Services are directed to recommend, and, as appropriate, take necessary actions to ensure consumers do not face financial barriers in accessing diagnostic testing and treatment services for COVID-19.

Section 8. The Illinois State Board of Education is directed to recommend, and, as appropriate, take necessary actions to address chronic absenteeism due to transmission of COVID-19 and to alleviate any barriers to the use of e-learning during the effect of this proclamation that exist in the Illinois School Code, 105 ILCS 5/1-1 et. seq.

Section 9. Pursuant to Section 7(14) of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7(14), increases in the selling price of goods or services, including medical supplies, protective equipment, medications and other commodities intended to assist in the prevention of or treatment and recovery of COVID-19, shall be prohibited in the State of Illinois while this proclamation is in effect:

Section 10. This proclamation can facilitate a request for Federal emergency and/or disaster assistance if a complete and comprehensive assessment of damage indicates that effective recovery is beyond the capabilities of the State and affected local governments.

Section 11. This proclamation shall be effective immediately and remain in effect for 30 days.

Issued by the Governor March 9, 2020

Filed by the Secretary of State March 9, 2020