

BEFORE THE DULY CONSTITUTED
DU PAGE COUNTY OFFICERS ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS TO PETITIONS
FOR CANDIDATES FOR THE OFFICE OF TRUSTEE,
CAROL STREAM FIRE PROTECTION DISTRICT, DU PAGE COUNTY, ILLINOIS

IN RE: THE MATTER OF THE OBJECTION)
OF RICK FISHER, OBJECTOR, TO THE)
NOMINATION PAPERS OF MARK CARLIN)
OF 916 FARM GLEN LANE, CAROL)
STREAM, ILLINOIS, AS CANDIDATE FOR) DOCKET No. 2013 C-3
THE OFFICE OF TRUSTEE OF THE CAROL)
STREAM FIRE PROTECTION DISTRICT TO)
BE VOTED ON AT THE APRIL 9, 2013,)
CONSOLIDATED GENERAL ELECTION)

COUNTY OFFICERS' ELECTORAL BOARD DECISION

NOW COMES the County Officers' Electoral Board, consisting of Cathy Terrill, Chair; Art Ludwig, Member; and Christopher Hage, Member, organized and existing pursuant to law, and states as follows:

PREFATORY REMARKS

The County Officers' Electoral Board (hereinafter referred to as the "ELECTORAL BOARD"), pursuant to the Election Code, 10 ILCS 5/10-9, *et seq.*, and in accordance with the County Officers' Electoral Board Rules of Procedure (hereinafter referred to as the "RULES"), which were duly promulgated, approved, implemented and adopted on January 4, 2013, convened for the hearing and passing upon objections to Nomination Papers filed with the Carol Stream Fire Protection District.

The ELECTORAL BOARD convened for the purposes of hearing and passing upon the Verified Objector's Petition (hereinafter referred to as the "PETITION") filed by Rick Fisher, (hereinafter referred to as the "OBJECTOR"), to the Nominating Papers of Mark Carlin, (hereinafter referred to as the "CANDIDATE"), Candidate for the Office of Trustee of the Carol Stream Fire Protection District (hereinafter referred to as the "OFFICE"), to be voted upon at the Consolidated Election to be held April 9, 2013, (hereinafter referred to as the "ELECTION").

Within the time frame set forth by statute, the CANDIDATE filed with the Local Election Official for the Carol Stream Fire Protection District, Nominating Papers for the OFFICE to be voted on at the

ELECTION. A copy of the Nominating Papers is attached hereto and incorporated herein by reference as Exhibit "A." Objection to the Nominating Papers were timely filed with the Local Election Official for the Carol Stream Fire Protection District on December 27, 2012, who in turn filed the with the DuPage County Election Commission on December 28, 2012, as required by law. A copy of the filing of the Objection with the DuPage County Election Commission is attached hereto and incorporated herein by reference as Exhibit "B."

A Call Notice for Hearing was issued on December 31, 2012, by Cathy Terrill, Chair of the ELECTORAL BOARD. A copy of the Call Notice is attached hereto and incorporated herein by reference as Exhibit "C." The Call Notice was issued and served upon the OBJECTOR and the CANDIDATE, by certified mail, in accordance with the Election Code, 10 ILCS 5/10-10, as evidenced by the Certified Mail Receipts to both CANDIDATE and OBJECTOR attached hereto and incorporated herein by reference as Exhibit "D." The CANDIDATE and the OBJECTOR were also served by the DuPage County Sheriff's Office, in accordance with the Election Code. A copy of the proof of service to both CANDIDATE and OBJECTOR is attached hereto and incorporated herein by reference as Exhibit "E." The CANDIDATE appeared and filed a written Appearance. A copy of the Appearance is attached hereto and incorporated herein by reference as Exhibit "F." The OBJECTOR appeared and filed a written Appearance. A copy of the Appearance is attached hereto and incorporated herein by reference as Exhibit "G."

On January 4, 2013, the ELECTORAL BOARD convened the Hearing on the Objection, which Hearing was held before the full and legally constituted ELECTORAL BOARD, in accordance with the Election Code, 10 ILCS 5/10-9(2), and the laws of the State of Illinois for hearing and passing on the objections to the CANDIDATE for said OFFICE. Notice of such Hearing was given in conformance with provisions of the Election Code and the Illinois Open Meetings Act.

PROCEEDINGS

The OBJECTOR challenges the Nominating Papers on the following grounds:

Issue No. 1. Insertion of the total number of signatures in the Nominating Petitions in the heading of each Sheet.

OBJECTOR asserts that each Nomination Petition Sheet filed by the CANDIDATE sets forth in the heading the number “47” in the phrase “being 47 (number of signatories or 5% or more) of the qualified voters . . . do hereby petition,” where each Sheet contains ten (10) or fewer signatures. Thus, the OBJECTOR contends that the inclusion of the number “47” does not set forth the accurate count of the signatures appearing on each Sheet.

Section 5/10-4 sets forth the requirements of the Nomination Petition as follows:

10-4. Form of petition for nomination. All petitions for nomination under this Article 10 for candidates for public office in this State, shall in addition to other requirements provided by law, be as follows: Such petitions shall consist of sheets of uniform size and each sheet shall contain, above the space for signature, an appropriate heading, giving the information as to name of candidate or candidates in whose behalf such petition is signed; the office; the party; place of residence; and such other information or wording as required to make same valid, and the heading of each sheet shall be the same.

Provisions of the Election Code are intended to protect the integrity of the electoral process. *Welch v. Johnson*, 147 Ill.2d 56, 588 N.E.2d 1119 (1992). Access to the ballot is a substantial right and not one to be lightly denied a candidate. *Id.* A minor error in nominating petitions should not result in the removal of the candidate’s name from the ballot. *Sullivan v. County Officers Electoral Board*, 225 Ill. App. 3d 691, 588 N.E.2d 475 (2d Dist. 1992). Substantial compliance with provisions of the Code, in most cases, is acceptable when the objection made is of a technical violation not affecting the legislative intent to guarantee a fair and honest election. *Siegel v. Lake County Officers Electoral Board*, 385 Ill. App. 3d 452, 895 N.E.2d 69 (2ed Dist. 2008).

The ELECTORAL BOARD finds that the Petitions for Nomination filed by the CANDIDATE meet the requirements of the Election Code as set forth in Section 5/10-4. The Nominating Petitions consist of sheets of uniform size, and each sheet contains, above the space for signature, an appropriate heading, providing the name of the candidate in whose behalf such petition is signed; the office; the party; place of residence; and the heading of each sheet is the same.

OBJECTOR contends these Petitions are flawed for the insertion of the number “47” in the heading of each Sheet, when each sheet actually contains ten (10) or fewer signatures. In this regard, review of each Sheet of the Petitions for Nomination establishes that each Sheet contains lines for ten (10) signers each, and reviewing the five (5) Sheets of Nominating Petitions establishes that the total number of signatures submitted is 47. Thus, the heading, which includes the number 47, is correct for the Nominating Papers as a whole, even while perhaps misleading as to the number of signatures contained on each Sheet.

In consideration of the Nominating Petitions, the ELECTORAL BOARD finds that the inclusion of the number “47” in the heading of the Petition Sheets is not required, and is a technical defect on the Sheets themselves, which does not lead to voter confusion, nor undermine the integrity of the electoral process in any way.

Accordingly, the ELECTORAL BOARD overrules this Objection.

Issue No. 2: Pre-Populating a Portion of the Address

The OBJECTOR asserts that in pages 3 through 8 of the Nominating Petitions, the designation of the Village and County in the address portion of the Petitions was pre-populated, rather than this being inserted by each individual signer of the Petitions at issue.

In this regard, Section 5/10-4 of the Illinois Election Code provides as follows:

. . . The residence address required to be written or printed opposite each qualified primary elector’s name shall include the street address or rural route number of the signer, as the case may be, as well as the signer’s county, and city, village or town, and state. However, the

county or city, village or town, and state of residence of such electors may be printed on the petition forms where all of the such electors signing the petition reside in the same county or city, village or town, and state.

Accordingly, the Electoral Board finds that the allowance for the printing of such information on the Petition in Section 5/10-4 would similarly allow the pre-population of this information on behalf of all signers of a Petition, as is the case on the Petition Sheets. For this reason, the Objection as to this issue is overruled.

REVIEW OF ELECTORAL BOARD DECISION

Any party seeking to review the decision and determination of the ELECTORAL BOARD shall do so in accordance with the provisions and time frame set forth in the Election Code, 10 ILCS 5/1-1 *et seq.*, and other pertinent statutory provisions, by filing a petition for judicial review within five (5) days from the date of this order with the Clerk of the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois.

DU PAGE COUNTY OFFICERS' ELECTORAL BOARD,
SITTING IN ITS CAPACITY TO HEAR AND PASS ON
OBJECTIONS IN THE CAROL STREAM FIRE
PROTECTION DISTRICT

/s/ Cathy Terrill
CATHY TERRILL, CHAIR

/s/ Art Ludwig
ART LUDWIG, MEMBER

/s/ Christopher Hage
CHRISTOPHER HAGE, MEMBER

Dated: January 9, 2013

Prepared by:

PATRICK K. BOND
Counsel for County Officers' Electoral Board
BOND, DICKSON & ASSOCIATES, P.C.
400 S. Knoll Street, Unit C
Wheaton, IL 60187
(630) 681-1000