

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 DOWNERS GROVE TOWNSHIP
COMMITTEEMAN, PRECINCT 36

IN RE: THE MATTER OF THE OBJECTION)
OF KATHI TASKILA, OBJECTOR, TO THE)
NOMINATION PAPERS OF LYNN BILA,)
CANDIDATE FOR THE OFFICE OF) DOCKET No. 2013 P-05
DOWNERS GROVE TOWNSHIP,)
REPUBLICAN PRECINCT COMMITTEEMAN,)
PRECINCT 36, IN THE MARCH 18, 2014,)
GENERAL PRIMARY ELECTION)

COUNTY OFFICERS' ELECTORAL BOARD DECISION

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

PREFATORY REMARKS

Pursuant to the Election Code, 10 ILCS 5/1-1 *et seq.* and in accordance with the County Officers' Electoral Board Rules of Procedure (hereinafter referred to as the "RULES") duly promulgated, approved, implemented and adopted on December 16, 2013, as required by the DuPage County Election Commission (hereinafter referred to as the "COMMISSION"), was duly constituted, convened and sitting in its capacity as the County Officers' Electoral Board (hereinafter referred to as the "ELECTORAL BOARD") for the hearing and passing upon OBJECTIONS to Nominating Papers.

On December 16, 2013, the ELECTORAL BOARD conducted the initial hearing, which was thereafter continued to, and completed on, December 23, 2013, upon the Verified OBJECTOR'S Petition (hereinafter referred to as the "PETITION") filed by Kathi Taskila,

(hereinafter referred to as the "OBJECTOR"), to the Nominating Papers of Lynn Bila (hereinafter referred to as the "CANDIDATE"), Candidate for the Office of Downers Grove Township Republican Precinct Committeeman, Precinct 36, (hereinafter referred to as the "OFFICE"), to be voted upon at the General Primary Election to be held March 18, 2014 (hereinafter referred to as the "ELECTION").

Within the timeframe set forth by statute, the CANDIDATE filed with the COMMISSION, Nominating Papers for the OFFICE to be voted on at the ELECTION. See Exhibit "A", attached hereto and incorporated herein by reference. Said Nominating Papers were filed on December 2, 2013, pursuant to 10 ILCS 5/7-12 of the Election Code. OBJECTIONS to the Nominating Papers were timely filed with the COMMISSION on December 9, 2013. See Exhibit "B", attached hereto and incorporated herein by reference.

A Call Notice for Hearing was issued on December 10, 2013, by Christopher Hage, Chair of the ELECTORAL BOARD. See Exhibit "C", attached hereto and incorporated herein by reference. 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 a return receipt as required. See Exhibit "D", attached hereto and incorporated herein by reference. The CANDIDATE and the OBJECTOR were also served by the DuPage County Sheriff's Office, in accordance with the Election Code. See Exhibit "E", attached hereto and incorporated herein by reference. The Official Signature Requirement for the OFFICE for established Political Parties is a minimum of ten (10). See Exhibit "F", attached hereto and incorporated herein by reference.

Kevin Millon is sitting on the BOARD, as a Public Member, pursuant to an Administrative Order from the Chief Judge of the Eighteenth Judicial Circuit. See Exhibit "G",

attached hereto, and incorporated herein by reference. The CANDIDATE'S Counsel appeared and filed a written Appearance. See Exhibit "H", attached hereto and incorporated herein by reference. The OBJECTOR'S Counsel appeared and filed a written Appearance. See Exhibit "I", attached hereto and incorporated herein by reference. The CANDIDATE filed a Response to OBJECTOR'S Petition on December 18, 2013. See Exhibit "J", attached hereto and incorporated herein by reference.

On December 16, 2013, a public hearing was commenced, and thereafter continued and concluded on December 23, 2013, before the full and legally constituted 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.

The BOARD was provided an opportunity to review the files and official records of the COMMISSION regarding the matters raised in the PETITION.

PROCEEDINGS

The OBJECTOR challenges the CANDIDATE'S Nominating Papers on the following ground:

Whether the designation of the Office in the CANDIDATE'S Nominating Papers and Statement of Candidacy as Precinct Committeeman for "*DuPage* Township Precinct 36" rather than "*Downers Grove* Township Precinct 36" complies with the Illinois Election Code, 10 ILCS 5/7-10.

LEGAL ANALYSIS OF ISSUES PRESENTED

Whether the designation of the Office in the CANDIDATE’S Nominating Papers and Statement of Candidacy as Precinct Committeeman for “DuPage Township Precinct 36” rather than “Downers Grove Township Precinct 36” complies with the Illinois Election Code, 10 ILCS 5/7-10.

The OBJECTOR alleges that the CANDIDATE’S Nominating Papers and Statement of Candidacy state that she is a, “Candidate for Precinct Committee for *DuPage Township* Precinct 36,” and that nowhere in her Nominating Papers or Statement of Candidacy is it indicated that she is in fact a Candidate for Precinct Committeeman in Downers Grove Township. (OBJECTION, par. 5.) “DuPage Township,” the OBJECTOR notes, is the name of a Township in Will County. (*Id.*) For these reasons, the OBJECTOR urges that the Nominating Papers and Statement of Candidacy are insufficient to qualify the CANDIDATE as a Candidate for the Office. (OBJECTION, par. 6.)

The Election Code, 10 ILCS 5/7-10, containing the requirements for Nominating Papers and Statement of Candidacy, has elements that are both mandatory and directory. *Akin v. Smith*, 2013 IL App. 130441, 989 N.E.2d 715, 720 (1st Dist, 2013). Only substantial compliance is expressly mandated for the forms for Nominating Papers and Statements of Candidacy. However, substantial compliance can even satisfy 10 ILCS 5/7-10’s mandatory requirements. *Id.* Where there are omissions or errors in nominating papers and Statements of Candidacy, the requirements of 10 ILCS 5/7-10 are nevertheless substantially complied with, if the documents as a whole do not create confusion for signatories and thereby frustrate the purpose of the Nomination Papers to demonstrate minimal candidate appeal. *Salgado v. Marquez*, 356 Ill. App.2d 1072, 828 N.E.2d 805, 811 (2d. Dist 2005). Moreover, access to a position on the ballot is a substantial right, and a minor error should not result in a candidate being removed from the

ballot. *Sullivan v. County Officers Electoral Board of DuPage County*, 225 Ill. App.3d, 691, 588 N.E.2d 475, 477 (2d Dist. 1992).

In *Sullivan*, nomination papers for a candidate for Precinct Committeeman in York Township inadvertently stated he was a candidate for Precinct Committeeman in “Oak Brook Township.” 588 N.E.2d at 477. The Court sustained this ELECTORAL BOARD’S decision thereby denying the objection based on a determination that it would have been obvious to voters that the Candidate was seeking office in York Township, as there was no “Oak Brook Township” in DuPage County. *Id.*

Similarly here, the CANDIDATE’S Nominating Papers and Statement of Candidacy indicate a Township which, the OBJECTOR admits, does not exist in DuPage County. As the error is consistent throughout the CANDIDATE’S documents, there can be no inference of voter confusion as there might be, say, if the Nominating Papers and Statement of Candidacy had stated different townships. Also, the CANDIDATE’S residence, “4638 Middaugh Avenue *Downers Grove*” [emphasis added] was listed in the heading on the Nominating Papers.

Moreover, and virtually preclusive here of any claim of voter confusion or frustration of the purpose of the Nomination Papers, is the substantial evidence of lack of voter confusion over the Township misdesignation in the CANDIDATE’S Response to OBJECTOR’S Petition. In a declaration attached thereto, the CANDIDATE states that she personally circulated all of her Nomination Papers and spoke to each of the signatories, all of whom were longstanding friends and neighbors, and none of whom questioned her about the erroneous designation of the Township. (Response to OBJECTOR’S Petition, Ex. 1.) Also attached to the Response to OBJECTOR’S Petition are declarations of each of the Signatories that they believed they were

signing the Nomination Papers for the CANDIDATE as Precinct Committeeman for “Downers Grove,” and not “DuPage,” Township. (Response, Group Ex. 2.)

Therefore, consistent with its decision in *Sullivan*, and supported by the evidence of lack of voter confusion over the misdesignation of the township, the ELECTORAL BOARD determines there is substantial compliance of the CANDIDATE’S Nominating Papers and Statement of Candidacy with the Election Code, 10 ILCS 5/7-10.

CONCLUSION

Based upon the rulings made herein, it is the decision of the BOARD, in regard to the OBJECTION filed against the Candidacy of Lynn Bila for the Office of Downers Grove Township, Republican Precinct Committeeman, Precinct 36, that the OBJECTION is hereby overruled.

Accordingly, the name of LYNN BILA shall be printed on the Official Ballot as a CANDIDATE for the OFFICE of Downers Grove Township Republican Precinct Committeeman, Precinct 36, for the General Primary Election to be held on March 18, 2014.

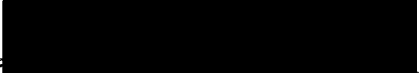
REVIEW OF ELECTORAL BOARD DECISION

Any Party seeking to review the decision and determination of the ELECTORAL BOARD shall do so in accordance with the provisions and timeframe set forth in the Illinois Administrative Review Act, 735 ILCS 5/3-101 *et seq.* and 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


CHRISTOPHER HAGE, CHAIR


ART LUDWIG, MEMBER


KEVIN MILLON, PUBLIC MEMBER

Dated: December 30, 2013

Prepared by:

PATRICK K. BOND

Counsel for County Officers' Electoral Board

BOND, DICKSON & ASSOCIATES, P.C.

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