

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OBJECTIONS TO THE NOMINATION OBJECTIONS TO NOMINATION PAPERS OF CANDIDATES FOR ELECTION TO THE OFFICE OF LISLE LIBRARY DISTRICT BOARD TRUSTEE.

Colleen Sehy,)
) Case No: 2017 CG 008
Petitioner/Objector,)
)
vs.)
)
Liz Sullivan,)
)
Respondent/Candidate.)

ELECTORAL BOARD DECISION

The DuPage County Electoral Board, consisting of Cathy Terrill, Chairperson, and James Lowe and John Boske, Members; organized and existing pursuant to section 10-9 of the Illinois Election Code (the “Election Code”), hereby issues its Electoral Board Decision in the above referenced matter pursuant to section 10-10 of the Election Code. 10 ILCS 5/10-10.

PREFATORY REMARKS

Within the time frame set forth by statute, the Candidate, Liz Sullivan, (the “Candidate”) filed Nominating Papers for the Office of Lisle Library District Board of Trustees in the County of DuPage, State of Illinois, (the “Office”) to be voted on at the April 4, 2017, Consolidated Election with the (“Election Authority”) identified in the Record as Exhibit A. The Objector timely filed her Verified Objector’s Petition (the “Petition”) with the Election Commission on December 28, 2016 identified in the Record as Exhibit B.

A Call Notice for Hearing and a copy of the proposed Rules was issued on December 29, 2016, by Cathy Terrill, Chairperson of the Electoral Board, identified in the Record as Exhibit C. The Candidate and the Objector were served with the Call Notice and a copy of the proposed Rules by Registered Mail, as evidenced by the Receipt for said service, identified in the Record as Exhibit

D. The Candidate and the Objector were personally served with the Call Notice and copy of the proposed Rules by the DuPage County Sheriff's Office, in accordance with section 10-10 of the Election Code, as identified in the Record as Exhibit E. An Appearance of the Candidate and Candidate's Counsel was filed and is identified in the Record as Exhibit F. The Candidate filed a Motion for Dismissal identified in the Record as Exhibit G. The Election Commission Staff prepared an "Election Commission Staff Findings Report" ("Staff Findings Report") concerning the Objector's individual signature objections, identified for the Record as Exhibit H.

Pursuant to the Election Code, the DuPage County Electoral Board was duly constituted, convened for the hearing and passing upon Objections to Nominating Papers on January 3, 2017. The Electoral Board convened this matter on January 3, 2017 for the purpose of: (1) approving and adopting the Electoral Board Rules; and (2) continuing the matter to a date certain for hearing on the merits of the Petition. On January 3, 2017, The Electoral Board continued this matter for a hearing on the merits of the Objector's Petition to January 11, 2017.

On January 11, 2017, this matter proceeded to a hearing on the merits of the Petition. The Objector and the Candidate and the Candidate's Counsel were present.

PRELIMINARY MATTERS

The Candidate timely filed a Motion to Dismiss the Objector's Petition for (1) the Objector's failure to state her interest in this matter and (2) for the Objector's lack of standing. The Objector did not file a written response to the Objector's Motion to Dismiss. For the reasons that follow, the Candidate's Motion to Dismiss is granted in part and denied in part and the Objector's Petition is dismissed.

A. Failure to State the Objector's Interest.

Section 10-8 of the Election Code Provides:

The objector's petition shall give the objector's name and residence address, and shall state fully the nature of the objections to the certificate of nomination or nomination papers or petitions in question, and *shall state the interest of the objector* and shall state what relief is requested of the electoral board.

10 ILCS 5/10-8 (emphasis added). It is well established that the pleading requirements in section 10-8 are mandatory requirements of the Election Code and that “[a]n objector's petition that fails to strictly comply with section 10–8 of the Code is invalid and is subject to dismissal by an electoral board. *Daniel v. Daly*, 2015 IL App (1st) 150544, ¶ 28, 31 N.E.3d 379, 386 (affirming dismissal of objector’s petition for failure to state fully the nature of the objections in good faith). *See also, Pochie v. Cook Cty. Officers Electoral Bd.*, 289 Ill. App. 3d 585, 586, 682 N.E.2d 258, 259 (1st Dist. 1997) (affirming dismissal of objector’s petition for failure to give the objector’s residence address).

Concerning the requirement that an objector state her interest, it is enough to state an interest “to see that election laws are upheld and that only qualified candidates appear on the ballot.” *Wollan v. Jacoby*, 274 Ill. App. 3d 388, 392, 653 N.E.2d 1303, 1306 (1st Dist. 1995) (finding that objector’s stated interest complied with the interest requirement of section 10-8 of the Election Code).

As the Candidate argues in her Motion to Dismiss, the Objector has not stated her interest in this matter in the Objection Petition. Based on the Objector’s failure to state any interest in this matter, the Objection Petition is hereby **DISMISSED** for failure to strictly comply with the pleading requirements in section 10-8 of the Election Code. *Daniel*, 2015 IL App (1st) 150544, ¶ 28, 31 N.E.3d at 386; *Pochie*, 289 Ill. App. 3d at 586, 682 N.E.2d at 259.

B. The Objector’s Standing.

Section 10-8 of the Election Code provides that “[a]ny legal voter of the political subdivision or district in which the candidate ... is to be voted on ... having objections to any certificate of nomination or nomination papers or petitions filed [to] file an objector's petition.” 10 ILCS 5/10-8. However, there is no requirement that an objection petition state that an objector is a legal voter in the political subdivision or district in which the candidate is to be voted on. *Id.* It is well established that whether an objector has standing as a legal voter of the political subdivision or district in which the candidate is to be voted on to file an objection petition is in the nature of an affirmative defense which must be raised and proven by a candidate. *Dunham v. Naperville Twp. Officers Electoral Bd.*, 265 Ill. App. 3d 719, 724, 640 N.E.2d 314, 317 (2d Dist. 1994) (“Therefore, we conclude that the question of an objector's standing under the Code is an affirmative defense that must be raised by the petitioner in a timely fashion.”).

In her Motion to Dismiss, the Candidate argues that the Objector lacks standing because the Objector failed to allege that the Objector is a legal voter in the Lisle Library District. However, the Objector is not required to make such an allegation in her Objection Petition. 10 ILCS 5/10-8. Lack of the Objector’s standing is an affirmative defense which must be raised and proven by the Candidate. *Dunham*, 265 Ill. App. 3d at 724, 640 N.E.2d at 317. Consequently, Electoral Board deny the Candidate’s Motion to Dismiss on this basis.

CONCLUSION AND ORDER

Based upon the rulings made herein, it is the decision of the Electoral Board to dismiss the Objector’s Petition and that the Candidate’s name, Liz Sullivan, shall be printed on the Official Ballot for the Office of Lisle Library District Board of Trustees, County of DuPage, State of Illinois, to be voted on at the April 4, 2017, Consolidated Election.

REVIEW OF ELECTORAL BOARD DECISION

Any Party seeking to review this decision and determination of the Electoral Board shall do so in accordance with the provisions and time frame set forth in Section 10-10.1 of Illinois the Election Code. 10 ILCS 5/10-10.1.

DU PAGE COUNTY ELECTORAL BOARD

/s/ Cathy Terrill
CATHY TERRILL, CHAIRPERSON

/s/ James Lowe
JAMES LOWE, MEMBER

/s/ John Boske
JOHN BOSKE, MEMBER

Dated: January 13, 2017

CERTIFICATE OF SERVICE

I, Annette Ramos, Executive Assistant to the Electoral Board, certify that a copy of the DUPAGE COUNTY'S ELECTORAL BOARD DECISION IN CASE No. 2017 CG 008 was served upon the Parties pursuant to section 10-10 of the Election Code on January 13, 2017.

/s/ Annette Ramos
Annette Ramos, Executive Assistant to the
DuPage County Electoral Board