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Date : 12/01/2016 21:48:46
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From: James P. Kelly [mailto:jpkelly@mkm-law.com]
Sent: Tuesday, November 29, 2016 7:04 PM
To: 'Bob Miller'; 'Anna'
Subject: Election
Importance: High

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Bob,

I looked at the law concerning whether the Statement of Candidacy provided by the McHenry County Clerk, which is found on the Clerk's web site is sufficient to sustain an objection. I believe that it is sufficient although it can be subject to challenge. I believe that the Statement of Candidacy (County Clerk's form) meets the mandatory requirements for a statement of candidacy as found in the Election Code. 10 ILCS 5/7-10. Although the Clerk's form is slightly confusing. The only defect is not the title of the form but also the body of the form in that it states in line 5, which states that "I have been selected to fill a vacancy in nomination for the office".

The mandatory provisions of the Election Code must be followed when filing nominating papers for an elected office. The mandatory requirements of a statement of candidacy are:

- 1) the address of such candidate,
- 2) the office for which he is a candidate,
- 3) shall state that the candidate is a qualified primary voter of the party to which the petition relates,
- 4) is qualified for the office specified
- 5) shall state that he has filed (or will file before the close of the petition filing period) a statement of economic interests as required by the Illinois Governmental Ethics Act,¹
- 6) shall request that the candidate's name be placed upon the official ballot,
- 7) shall be subscribed and sworn to by such candidate before some officer authorized to take acknowledgment of deeds in the State

The Clerk's form meets these requirements.

Further, the statement of candidacy does not create any confusion with the voters.

Below are two cases in which the courts have supported nominating petitions which in my opinion serious defects.

County officers electoral board properly accepted nominating petition for office of precinct committeeman for Precinct 129 of York Township, as indicated on the petitions, even though statement of candidacy erroneously listed the office as precinct committeeman for Precinct 129 of Oak Brook Township where there was no such precinct and York Township was located in the Village of Oak Brook. Sullivan v. County Officers Electoral Bd. of Du Page County, App. 2 Dist.1992, 167 Ill.Dec. 834,

Candidates' statements of candidacy for city offices substantially complied with statutory requirements, even though the notarial jurats did not contain the language that the candidate was "personally known" to the

certifying officer, where the notarial jurats were otherwise in conformance with the nomination petition statute and there was no indication that the individuals who executed the statements of candidacy were in fact not candidates. Akin v. Smith, 2013 IL App (1st) 130441, 989 N.E.2d 715

Two candidates for the office of village mayor demonstrated at least a minimal appeal to the voters by obtaining 105 and 110 signatures respectively for their nominating papers, and thus, neither the candidates nor the voters should have been penalized by keeping the candidates' names off of ballot, even though 123 signatures were required by each pursuant to the Election Code.

It is a fundamental principle that access to a place on the ballot is a substantial right and not lightly to be denied. Atkinson v. Schelling, 2013 IL App (2d) 130140, 988 N.E.2d 700

This is only a cursory review of the law. I will spend some more time on this issue to see if there are any issues I am missing.

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