

5-1-2007 13:57

05/01/2007 13:57 6303858986

4-30-2007 11:24

JEFF MCELROY

#0071 P.001 /004

26 Hours, 33 minutes

ELAPSED TIME FROM ERIC WEIS
Request to McElroy FAX to City
of Yorkville - could NOT
Do FOI, Arden would HAVE
BEEN SWORN IN.

JEFFERY L. MCELROY
ATTORNEY AT LAW

P.O. BOX 774 • YORKVILLE, ILLINOIS 60560
630/385-8547 PHONE • 630/385-8986 FAX
JEFF@MCELROYLAW.NET

CITY CLERK THEN BROUGHT SUIT AS AN ~~INDIVIDUAL~~ INDIVIDUAL

Fax

To:	Jackie Milschewski	From:	Jeff McElroy
Fax:	630/553-7575	Date:	May 1, 2007
Phone:	n/a	Pages:	4
Re:	Letter of Objection	CC:	N/A

Urgent For Review Please Comment Please Reply Please Recycle

•Comments:


Jackie - Attached please find my letter of objection to be distributed to the Council ASAP. Please contact me if you have any questions.

Thank you for your help in this matter.

This is AN ORIGINAL COPY OBTAINED
FROM ALDERMAN AT MAY 1, 2007 COW.
ALL BUT 2 COPIES WERE COLLECTED BY
ALDERMAN JOE BESCO WHO WAS ANOXIOUS
TO GET HIS HANDS ON ALL COPIES OF THIS FAX.
SEE 5-1-07 COW MINUTES. NOTE THERE
IS NO PHONE # ON PAGE 2 AND NO ~~THE~~ VERTICAL FAX
LINE AS IS ON EXHIBIT "D" DOCUMENT.

Via Facsimile

To: Jackie Milschewski
Yorkville City Clerk

From: Jeff L. McElroy 

Date: May 1, 2007

RE: Election Letter of Objection

It has come to my attention that Arden "Joe" Plocher was not a resident of Ward 2 at the time he filed his nominating petitions and during his recent campaign for Alderman. See attached supporting documentation. I would ask that the swearing in of Mr. Plocher be delayed until an adequate investigation can be made.

The county has indicated to me that the time to challenge his candidacy under the election code has passed. However, the Election Code also provides that, "[a] person is not eligible for the office of alderman of a ward unless that person has resided in the ward that the person seeks to represent . . . at least one year next preceding the election or appointment." 65 ILCS 5/3.1-10-5.

Our Supreme Court has supported the county's assertion that a post-election challenge to a candidates' petition is unwarranted. However, the Court shares my distain for actions similar to those of Mr. Plocher as evidenced by its conclusion in *Geer v. Kadera* stating, "[an] incorrect representation of his residency has so far remained insulated from judicial redress. That the law abhors a fraud is a truism which requires no citation to authority. That the law will not tolerate an intruder's usurpation of office by means of a misrepresentation is an equally venerable." *Geer v. Kadera*, 671 NE2d 692, 700 (Ill. 1996).

Although I do not have grounds to challenge these results at this time, Mr. Plocher certainly does not meet the fundamental residency requirement to serve as a city officer. I ask that he not be installed as Ward 2 Alderman on May 8th. Furthermore, as I did receive 36% of the vote in that last election, I would ask to be considered to fill this vacancy on the Council.

Thank you for your time and consideration of this request. I hope to resolve this issue without the need for litigation. Should you have any additional questions, please contact me at 630/651-2216.

cc: ~~Mayor Pleschaseka~~
Alderman Golinski
Alderman-Elect Sutcliff
Mayor-Elect Burd

Alderman Leslie
Alderman-Elect Werderich
Alderman Besco

Alderman Spears
Alderman Munns
City Attorney Wyeth

Via Facsimile

To: Jackie Milschewski
Yorkville City Clerk

From: Jeff L. McElroy (P)

Date: May 1, 2007

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513 9868 ←

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cc: Mayor Prochnowicz
Alderman Gioiardi
Alderman-Elect Satchiff
Mayor-Elect Bard

Alderman Leslie
Alderman-Elect Warderich
Alderman Beson

Alderman Sporn
Alderman Mraz
City Attorney Wyeth

EXHIBIT
D

Form **LLC-45.5**

January 1999

Jesse White
Secretary of State
Department of Business Services
Limited Liability Company Division
Room 359, Howlett Building
Springfield, IL 62756
<http://www.sos.state.il.us>

Payment must be made by certified check, cashier's check, Illinois attorney's C.P.A.'s check or money order, payable to "Secretary of State."

**Illinois
Limited Liability Company Act**

Application for Admission to Transact Business

Submit in Duplicate
Must be typewritten

This space for use by Secretary of State

Date 3-27-01
Assigned File # 0053530-3
Filing Fee \$400
Priority \$1500
Approved: JW \$ 1900

This space for use by
Secretary of State

FILED

MAR 27 2001

JESSE WHITE
SECRETARY OF STATE

1. Limited Liability Company name: Midwest Compost, LLC OK

(Must comply with Section 1-10 of ILICA or article 2 below applies.)

2. The assumed name, other than the true company name, under which the LLC proposes to transact business in Illinois is: _____
(If applicable, a form LLC-1.20, Application to Adopt an Assumed Name, is required to be completed and attached to this application.)

3. Federal Employer Identification Number (F.E.I.N.): 39-1988800

4. Jurisdiction of Organization: Wisconsin PAID

5. Date of Organization: March 6, 2000 MAR 27 2001

6. Period of Duration: perpetual
(See #14 on back)

7. The address, including county, of the office required to be maintained in the jurisdiction of its organization, or if not required, of the principal place of business (Post office box alone and c/o are unacceptable):

c/o Davis & Kuelthau, S.C., 111 East Kilbourn Avenue, Suite 1400
(Number) (Street) (Suite)

Milwaukee, Wisconsin 53202 Attn: Scott E. Fiducci Milwaukee
(City/State) (ZIP Code) (County)

8. Registered agent: Corporation Service Company
(First Name) (Middle Name) (Last Name)

Registered Office: 700 South Second Street
(Number) (Street) (Suite #)

(P.O. Box or c/o are unacceptable) Springfield Sangamon Illinois 62704-2516
(City) (County) (ZIP Code)

9. The date on which this foreign LLC first did business in Illinois: April 1, 2000

0053-530-3

LLC-45.5

10. The purpose or purposes for which the company is organized and proposes to conduct in this State: Include the business code # (IRS Form 1065).

The company is organized for any lawful purpose, but proposes to conduct business in Illinois under IRS business code 56200 Waste Management & Remediation Services.

11. The limited liability company is managed by:

- manager(s)
- vested in member(s)

12. The Illinois Secretary of State is hereby appointed the agent of the limited liability company for service of process under the circumstances set forth in a subsection (b) of Section 1-50 of the ILLCA.

13. This application is accompanied by a certificate of good standing or existence, as well as a copy of the articles of organization, as amended, duly authenticated within the last thirty (30) days, by the officer of the state or country wherein the LLC is formed.

14. If the period of duration is a date certain and is not stated in the Articles of Organization from the domestic state, a copy of that page from the Operating Agreement stating the date must also be submitted.

15. The undersigned affirms, under penalties of perjury, having authority to sign hereto, that this application for admission to transact business is to the best of my knowledge and belief, true, correct and complete.

Dated March 19th, 2001
(Month/Day) (Year)

Charles J. Murphy
(Signature)

(Signature must comply with Section 5-45 of ILLCA)

Charles J. Murphy, Manager

(Type or print name and title)

(If applicant is a company or other entity, state name of company and indicate whether it is a member or manager of the LLC.)

*Please refer to Sections 178.20(d) and (e) of the Administrative Rules