

----- Forwarded Message -----

From: "Jenny Durkan" <jdurkan@durkan.us>

To: "Nick Handy" <nhandy@secstate.wa.gov>, "Anne Noris" <Anne.Noris@kingcounty.gov>, "Kevin Wright" <Kevin.Wright@kingcounty.gov>

Cc: "Sherril Huff" <Sherril.Huff@kingcounty.gov>, chrisclifford@comcast.net, "Diana Sutherland" <Diana.Sutherland@kingcounty.gov>, "Janine Joly" <Janine.Joly@kingcounty.gov>, "Jenny Durkan" <jdurkan@durkan.us>

Sent: Thursday, January 15, 2009 12:08:51 PM GMT -08:00 US/Canada Pacific

Subject: Re: Emergency submission to canvassing board

Dear Members of the Canvassing Board:

I apologize for not responding immediately. I needed to discuss this with my client, and I was out of the office all day yesterday.

It is worth noting that the voter being challenged (Ms. Huff) has the due process rights at stake here, not the person asserting a challenge. As such, timelines for submitting evidence and having a clear process for the voter to confront such evidence is important. Your decision in this matter is likely to be cited in future challenges, and might carry more precedential weight (or at least persuasive weight) than other similar decisions. Having a process where the record essentially remains open until a decision is made raises real due process concerns for the voter.

With regard to the late submitted evidence, we urge that the Board's final opinion should clearly state two things: 1) that the evidence was submitted after the hearing provided under the statute, and that given the due process rights of the voter should not be considered by the Board; and 2) That being said, even if the evidence is considered the result is the same: Ms. Huff's registration was proper, Mr. Clifford has not met his burden of proof and the challenge must fail.

Assuming the evidence will be considered in some fashion, Ms. Huff then asks that the Board also consider the following, which she has authorized me to inform you on her behalf:

1. The lease on the Kitsap County home where she lived did expire, as previously indicated, on December 31, 2008.

2. Unfortunatley, the property in Kitsap has a driveway that was for all intents and purposes often inaccessible during the snow. Because of inclement weather, Ms. Huff's family had difficulty in accessing the house to retrieve the remaining items and got stuck in the snow/ice.

3. In order to return the property in appropriate condition, Ms. Huff arranged to have a deep clean, including professional carpet cleaners. The cleaners could not get access when planned because of the weather. Between the weather and holidays, she was not able to get final cleaners in until January 7 for carpet cleaning.

4. The house was fully cleaned and keys returned this past weekend. Ms. Huff was required to pay for the additional days.

5. Ms. Huff has been living at the registered address in King County home since December.

6. The correct amount that Ms. Huff paid movers to move the bulk of her property from the rented home in Bremerton to her home in Seattle was over \$2000. As noted above, some items remained that her family intended to pick up and move for her but they were frustrated by the weather and the holidays.

I have attached a letter from her landlord in Bremerton that confirms that on December 11, she notified him of her move, and gave legal notice to terminate her lease. He also confirms the difficulty in reaching the home during inclement weather.

All of these facts support Ms. Huff's previous written statements: her voter registration was proper and appropriate. She had clearly made the decision and had taken concrete steps to abandon her residency in Bremerton and take up residency in Seattle. It is of little moment that weather and holidays prevented her from getting the home fully cleaned and from retrieving every single item from the home by year end. That she kept keys and continued to pay lease payments until she could accomplish these tasks only shows the additional burden the move placed upon her -- a burden that would not be undertaken unless the intent to remain in Seattle was resolute and bone fide.

I fully appreciate that Mr. Clifford has a different view. I have no doubt he might continue to gather additional information, or provide additional argument. However, it seems appropriate that at some point the Board cut off the time for gathering evidence in this matter and in this forum. I respectfully suggest that the time is now. I would note that Mr. Clifford has filed a related Superior Court action, where he can pursue "new" evidence or theories.

Unless the Board informs us otherwise, we will assume that we do not need to respond (and therefore will not respond) to any additional filings in this matter.

Respectfully Submitted,

Jenny A. Durkan

Jenny A. Durkan

Law Office of Jenny A. Durkan
411 University Street, Suite 1200
Seattle, Washington 98101

206 - 447-5345 (d)
206 - 447-1992 (f)

The information contained in or attached to this email message may be privileged, confidential and protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is prohibited. If you think that you have received this email message in error, please delete it and contact the sender at jdurkan@durkan.us, or 206-447-5345.

On Jan 13, 2009, at 8:57 AM, Joly, Janine wrote:

From: Sutherland, Diana
Sent: Tuesday, January 13, 2009 8:38 AM
To: Joly, Janine; Wright, Kevin; Noris, Anne; 'nhandy@secstate.wa.gov'; Timmons, Jacqueline
Cc: 'chrisclifford@comcast.net'
Subject: FW: Emergency submission to canvassing board

Please find attached information provided by Chris Clifford pertaining to the challenge hearing, dated January 9th, 2009.

Thank you!

Diana Sutherland
Confidential Secretary to the Director
Elections Division

From: chrisclifford@comcast.net [<mailto:chrisclifford@comcast.net>]
Sent: Tuesday, January 13, 2009 7:55 AM
To: Sutherland, Diana; Durkan, Jenny
Subject: Emergency submission to canvassing board

Please find the attached motion for submission to the canvassing board
<KING COUNTY CANVASSING BOARD.doc>



Note confirming end of tenancy.pdf

115K