



LEAGUE OF WOMEN VOTERS OF LOS ANGELES

**HISTORIC CULTURAL NEIGHBORHOOD COUNCIL
Challenges to Election February 10, 2004**

The League of Women Voters of Los Angeles was appointed Arbiter to resolve challenges to the February 10, 2004, election for the Historic Cultural Neighborhood Council.

NALEO was appointed as the Election Administrator. Gabriella Quitana was the NALEO representative and acted as Election Administrator.

Challenges Received:

File #HCNC04-01

Submitted by Kim Benjamin

Issue #1

“...this is my formal challenge to the candidacy of Mr. Gordon Yu who was a write in candidate (as I understand it) for the ‘Victor Heights Non-profit Representative’....The seat being contested is for a ‘Non-profit Representative’ not a community organization seat...The organization that Mr. Yu is affiliated with (‘Urban Roots’) is not a duly organized non-profit corporation recognized by the State of California...”

Response

A letter was received, dated February 5, 2004, from Kelly M. Soohoo, Founder/President, of Urban Roots stating that “Gordon Yu is a member of our organization, Urban Roots.” (address: 1019 White Knoll Drive, Los Angeles, CA 90012). This letter was requested to verify Mr. Yu’s candidacy. Although the letterhead states “non profit organization”, subsequent checks indicate that this organization is not registered with the Secretary of State as a nonprofit corporation.

Mr. Soohoo was contacted to confirm this information. He stated that Urban Roots is not incorporated and, further, that Teen Post acts as the fiscal agent for Urban Roots: “since calendar year 2000 Teen Post, Inc. has been the fiscal sponsor/receiver for Urban Roots, a grass roots organization....Teen Post, Inc. is a non-profit 501 (c) (3) charitable organization” (from Don Toy, Executive Director, Teen Post). Urban Roots is based in the Victor Heights district, although its fiscal agent is based in Chinatown.

The Stakeholder/Candidate definitions in both the bylaws and election procedures state:

“The Historic & Cultural Neighborhood Council shall be diverse, inclusive and open to all community stakeholders. A community stakeholder is defined as any individual who lives, works, or owns property or a business within the Council's boundaries. In addition, community stakeholder status may be identified by participation in non-profit groups, schools, associations and organizations located within the boundaries of the Council.”

And in the Election Procedures:

“Stakeholders who are members, operate, manage, maintain or who are employed at a community group non-profit within the HCNC boundary area are eligible to apply for a position as a non-profit representative. Candidates chosen to represent this entity shall be required to submit written documentation on letterhead from the appropriate entity that states they do indeed have the authority to represent this entity on the NC Governing Board.”

Re: Candidates

“Stakeholders who are members, operate, manage, maintain or who are employed at a community group non-profit within the HCNC boundary area are eligible to apply for a position as a non-profit representative. Candidates chosen to represent this entity shall be required to submit written documentation on letterhead from the appropriate entity that states they do indeed have the authority to represent this entity on the NC Governing Board.”

Although the term “non-profit” is often defined as a corporation form under IRS regulation 501 and other designations, and registered with the California Secretary of State, this term can include community based organizations (CBO), associations, and other organizations which are not incorporated. Per Jonathan Jerald, last year, in filling the vacant “non-profit representative” seats on the HCNC Board of Directors, a non-profit was defined as a corporation registered with the Secretary of State. HCNC has, therefore, set a limited definition for this category. However, the bylaws and election procedures do not clarify this requirement and the general public, unaware of this legal definition, may not understand this undocumented requirement. Some of these unincorporated organizations provide needed services within a community and work in collaboration with a registered non-profit which in turn serves as its fiscal agent. Government and foundation grants are often awarded to unincorporated organizations through such an approved fiscal agent.

Mr. Benjamin, HCNC board member, and Jonathan Jerald, HCNC Historian and Bylaws Committee Chair, stated that last year in filling “non-profit representatives” seats, the HCNC Board verified nominated candidates by checking the rolls of the Secretary of State for the non-profit affiliation. However, the HCNC Board minutes, which were provided to the Arbiter, do not state this action clearly, if at all.

In the formal response to challenges to the HCNC Election 2003, Greg Nelson, General Manager, DONE, stated that “In the future, the newly elected HCNC Board may wish to further clarify the Neighborhood Council’s intent on how the election of the non-profit representatives should take place.”

In addition, when the Asian Pacific American Legal Center (APLAC) was charged with verifying all candidates in the 2003 election, APLAC, in its report, used letterhead, business cards, letters, public records, and/or paycheck stubs to verify the candidates for the non-profit representative positions.

HCNC was previously asked to clarify this category for its definition and requirements. To date, the HCNC Bylaws have not been amended to clarify the definition and requirements for the “non-profit representative” board seat, NOR do the minutes reflect any policy or rules defined to address this problem. Only statements from Kim Benjamin and Jonathan Jerald, as stated above, note the procedure used during the filling of vacant non-profit representative seats. No written documents noting a Board action requiring that non-profits be duly registered with the state as a requirement for participation as a stakeholder or candidate in HCNC business have been produced to verify this procedure.

Therefore, Gordon Yu is deemed qualified as a candidate for the non-profit representative position on the HCNC Board.

Issue #2

“If Urban Roots groups is not found to be a legitimate non-profit organization then any stakeholder voting in the election who relied on this group to qualify to vote should have their votes disqualified.”

Response

The registration forms used in the HCNC election did not clarify the requirements for a registered non-profit. Since Urban Roots is a grass roots organization, many stakeholders may have assumed that this service organization was a legal non-profit corporation according to the IRS and the Secretary of State or, simply, did not know the difference. This is a common mistake. No written evidence was produced noting Board action defining requirements for non-profit status. See above Issue 1.

Because the stakeholders were not informed of the strict definition of non-profit, many stakeholders would be disenfranchised from the voting process. The ballot results stand are reported.

Recommendations:

1. The League of Women Votes of Los Angeles strongly urges the HCNC Board to document policies, approved actions, and procedures, and, if necessary,

- amend the bylaws to reflect candidate and stakeholder requirements regarding non-profit status, requirements, and definitions.
2. For future elections, candidates and stakeholders need to understand the HCNC requirements for valid non-profit status. Candidate filing forms and stakeholder registration forms should be redesigned to specify the requirements for non-profit status verification. Type of identification presented and verification should be noted on the forms,

File #HCNC04-02:

Submitted by John Tor and Gordon Yu

Issue #1

“observed a breach of the established ‘no-campaigning zone’...contracted buses carried posters and signs on the right side, facing the pedestrians...drove into the 100 feet radius zone on a timely and consistent basis...I recommend that this issue be further investigated and determine if any actions are warranted to the candidates whose name appeared on the poster which are the following but not limited to: Kim Benjamin, Rene Jovel, Tom Chung, and Nancy Yee...”

Response

The Election Administrator did observe the buses standing and on several occasions asked them to move. She also informed Mr. Benjamin to keep the buses moving, stopping only to discharge or pick-up passengers. No penalty is mandated by election procedures and no disciplinary action is necessary in this case, since the Election Administrator was aware and took action to resolve the problem.

Recommendation:

For future elections, candidates’ workshops should provide guidelines and discuss the various ways of campaigning, via election procedures or “best practices”.

Issue #2

“Tom Chung was sitting in the election room....sitting there for quite some time but was not asked to leave...I ask that this matter be looked into and whether any disciplinary actions are warranted...”

Response

Candidates, stakeholders, and the general public are allowed to observe voting and the counting of ballots. At the election site, a signed cordoned off area was provided for observers. The Election Administrator did allow observers. This is a normal procedure. Mr. Chung was given a badge “Poll Watcher” by the Election Administrator.

Other concerns expressed in this challenge, but not considered challenges:

1. The age limit for voting stakeholders was set at 16 years old and above. (see challenge HCNC04-06). Mr. Toy and Mr. Yu recommend that the voting age be lowered to 14 years old, noting that work permits can be obtained at that age and subsequent taxes paid.
2. Confusion of how many stakeholder forms a person can have. Election procedures allowed the stakeholder to vote in all areas in which s/he qualified. Since this is a complicated process, the procedures should be evaluated to make it clearer to the stakeholder.
3. ID requirements are unclear. “propose that I.D. checking be either across the board or none at all for the sake of consistency.” The stakeholder registration form did list type of I.D. which could be used, but also stated “but not limited to”.
4. Lighting was not sufficient for visually impaired stakeholders.

Recommendation:

It is recommended that the Election Committee review and address these concerns as part of their evaluation and report to the HCNC Board.

File #HCNC04-03:

Submitted by John Schutz

Issue #1

“All of my friends in the Heights never heard of Phi Luu, nor have I... There is a Phi Luu on 23rd Street. Is she a resident of the Heights? Further, I would question the vote because no one I have met in the Heights knows her/him...I am a resident of the Heights for 64 years and know many of my neighbors. The election raises questions in my mind as I think it should in the mind of the League.”

Response:

Phi Luu’s residency was established through a driver’s license and was duly qualified as a candidate. In addition, Phi Luu’s candidate statement states: “that she has lived there “most of her life, over 20 years”. She also states: “I have been an active participant in this past year’s Historic Cultural Neighborhood Council, attending and speaking at meetings as a member of the community.....”

It is resolved that Phi Luu is a resident of Victor Heights and was qualified to run as the Resident Representative of that district.

Issue #2

“I would like Luu’s address and I would like to see the voting list for Victor Heights in the election.”

Response

The arbiter does not oppose any stakeholder viewing the “voting list”. Mr. Schutz should request this information from the HCNC Board.

File #HCNC04-04

Submitted by Tommy Chung

Issue #1

“challenge and contest the validity of Don Toy’s claim that his primary resident is in China Town....I do not believe that the third party can not vouch for his place of resident seat...he should produce the same types of documentation that the rest of the candidates must produce.”

Response

On February 4, 2004, The Election Administrator received a recent rent receipt. The address noted on the receipt was a qualified address within the Chinatown district of the HCNC. The Election Procedures note: “Examples of documents that could be used to satisfactorily prove stakeholder status include (but are not limited to) the following: Any picture ID, Business ID, School ID, Paycheck or Social Security check stub, Utility Bill, Membership card or membership roster on organization letterhead, Letter from business/organization on letterhead, Mortgage or trust deed or related documentation, Insurance documents.”

Neither the bylaws nor the Election Procedures require a “primary” resident status. Mr. Toy’s residency qualifies him as a candidate.

File HCNC04-05

Submitted by Yan Fei Yang

Received February 5, 2004, and Resolved February 9, 2004

Issue #1

“The purpose of my email is to file a formal protest against your decision on prohibiting anyone who is under 16 from voting in this election. I am 15 years old. I am in high school. I am eligible to hold a real job with an authorized work permit and I am eligible to participate in all Student Government Election. If the law permits me to exercise my

civil rights in these two areas, why does the Neighborhood Council prohibit me from exercising my civil rights?

Since the Council stresses on the inclusion of the community, I believe that all high school students are eligible to participate in this election. Please respond.”

Response

Via email February 9, 2004

Dear Yan Fei Yang,

Your challenge to the Historic Cultural Neighborhood Council election, February 10, 2004, has been received and has been reviewed.

Under the current bylaws and election procedures an age limit is not specified. However, the Election Administrator has ruled that youth, ages 16, 17, and above will be allowed to vote in this election. There is one seat on the board for a youth representative, 16 or 17 years old, and youth of that age and above will vote for that seat among others. Youth under the age of 16 years may not vote in this election.

At this time, your challenge does not warrant obstructing the election on February 10th.

Your challenge and this resolution are being submitted to the Election Administrator and the Department of Neighborhood Empowerment, who will submit it to the HCNC Election Committee and Board of Directors for review for subsequent elections.

As you know, the Neighborhood Council movement is new and is finding its way to including as many stakeholders as possible. Please be assured that your concerns and your questions will be under serious consideration for future elections of the HCNC.

I urge you to continue your participation in your neighborhood council.

Sincerely,

Jerry Kvasnicka
League of Women Voters of Los Angeles
Arbiter for HCNC Election 2004

Recommendation

It is recommended that the Board and the Election Committee review the age limit for voting stakeholders. Several stakeholders have questioned the age limit decision for HCNC Election 2004. The age limit policy should be addressed in the Election Procedures and the bylaws.

CHALLENGE RECEIVED AFTER THE DEADLINE:

An additional challenge was submitted and it was determined that the challenge was not received within the specified deadline.

RECOMMENDATION

The Arbiter strongly recommends to the HCNC Board that the eligibility of all winning candidates be confirmed by a neutral third party to alleviate any discrepancies not addressed which could surface in the near future. Throughout this report some candidates' eligibility has been challenged. The responses to these challenges have noted the need for clarification of definitions, documentation, and procedures.

Conclusion

It is the League's opinion and recommendation that the election results (Appendix I) be accepted as presented, and that this election be certified.

Respectfully submitted,

Jerry Kvasnicka
Arbiter
League of Women Voters of Los Angeles
March 4, 2004

Appendix I: HCNC Election Results



**NATIONAL ASSOCIATION OF LATINO ELECTED AND APPOINTED
OFFICIALS AND EDUCATIONAL FUND**

HISTORIC CULTURAL NEIGHBORHOOD COUNCIL

Tuesday, February 10, 2004

HCNC 2004 Election Results

BALLOTS COUNTED = 1728
PROVISIONAL BALLOTS = 134
TOTAL BALLOTS = 1899

Provisional ballots in each area

SOLANO CANYON = 16
ARTS DISTRICT = 13
VICTOR HEIGHTS = 2
EL PUEBLO = 1
LITTLE TOKYO = 12
CHINATOWN = 64
AT LARGE = 84

Categories followed by winner, indicated by bold lettering and underline.

Little Tokyo Business Owner Representative

Kito, Brian = 219 votes

Solano Canyon Business Owner Representative

Bizzoto, Giovanni = 131 votes

Gee, Wilson = 14 votes

El Pueblo Non-Profit Representative

Fink, Howard = 41 votes

Chinatown Resident Representative

Chase, Brian = 39 votes

Chung, Tom = 459 votes

Toy, Don = 646 votes

Chinatown Business Representative

Peter Lau = 646

Nancy Yee = 441

At-Large Representative

Benjamin, Kim = 917 votes

Kwong, Peter = 728

At-Large Youth Representative

John Chea Tor = 674

Rene Fabricio Jovel = 813

Victor Heights Resident Representative

Luu, Phi = 106 votes

Schutz, John = 48 votes

Victor Heights Non-profit Representative

Bang, David = 54 votes

Yu, Gordon = 90 votes (write-in candidate)

Arts District Resident Representative

Jerald, Jonathan = 107 votes

Minkler, Tom = 28 votes

Arts District Business Representative

Bloom, Joel = 24 votes

Woo, Charlie = 137 votes

Sincerely,

Gabriela Quintana

Third Party Administrator

NALEO Educational Fund