

June 24, 2009

Mrs. Karen Brooks
Board of Elections and Ethics
Government of the District of Columbia
441 4th Street NW, Suite 250 North
Washington, D.C. 20001

Dear Mrs. Brooks:

On April 22, 2009, Reverend Harry R. Jackson Jr. registered as a voter in the District of Columbia. Based upon an investigation of public records, it does not appear that Reverend Jackson meets the qualifications provided by District law, specifically, that he resides in the District of Columbia. We therefore request that the D.C. Board of Elections and Ethics (“DCBOEE” or “the Board”) initiate an investigation of this matter and, if the evidence demonstrates that Reverend Jackson is not a District resident, that he be stricken from the voter registry. Should this be the case, we also request that the DCBOEE invalidate the referendum petition filed by Reverend Jackson on May 27, 2009 on the basis that he is not a qualified elector.

BACKGROUND AND SUMMARY OF EVIDENCE

On April 7, 2009, the D.C. Council passed on first reading “The Jury and Marriage Amendment Act of 2009,” B18-10, which fully recognized in the District of Columbia same-sex marriages performed in other jurisdictions. As the legislation moved toward second reading, Reverend Jackson, who owns two homes in Maryland, is pastor of a 3,000 member Maryland church, founder of a nonprofit organization incorporated and located in Maryland, and is a registered Maryland voter, registered to vote for the District of Columbia on April 22, 2009, claiming as his residence a condominium near the Washington Convention Center. After “residing” in the District just six days over the minimum thirty days mandated by law, Reverend Jackson filed a petition with the Board as the primary “proposer” of a referendum on the recognition of same-sex marriage in the District on May 27, 2009. The available evidence suggests that Reverend Jackson does not fulfill the residence requirements of D.C. voter registration law. Rather, it appears that Reverend Jackson, who has led a Maryland-based church for the past 21 years, has claimed to live in the District of Columbia solely for the purpose of overturning the District’s same-sex marriage law. Residents have not seen Reverend Jackson at his registered District address and even an immediate neighbor attests to not seeing him on the property. For these reasons, and based on the attached evidence, the DCBOEE should reject his voter registration and petition for referendum.

APPLICABLE LAW

Sections of the D.C. Code applicable to this matter are provided in relevant part below:

- D.C. Code § 1-1001.07(a)(1): No person shall be registered to vote in the District of Columbia unless he or she meets the qualifications as a qualified elector as defined in § 1-1001.02(2).
- D.C. Code § 1-1001.02(2): “Except as provided in paragraph (7) of this section, the term ‘qualified elector’ means a citizen of the United States: (A) Who resides or is domiciled in the District, has maintained his or her residence in the District for at least 30 days preceding the next election, and who does not claim voting residence or right to vote in any state or territory; (B) Who is, or will be on the day of the next election, 18 years old; and (C) Who is not mentally incompetent as adjudged by a court of competent jurisdiction.”
- D.C. Code § 1-1001.02(16)(A): “The term ‘residence’, for purposes of voting, means the principal or primary home or place of abode of a person. Principal or primary home or place of abode is that home or place in which the person's habitation is fixed and to which a person, whenever he or she is absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of the absence.”
- D.C. Code § 1-1001.02(16)(B): “In determining what is a principal or primary place of abode of a person the following circumstances relating to the person may be taken into account: (i) Business pursuits; (ii) Employment; (iii) Income sources; (iv) Residence for income or other tax purposes; (v) Residence of parents, spouse, and children; (vi) Leaseholds; (vii) Situs of personal and real property; and (viii) Motor vehicle registration.”
- D.C. Code § 1-1001.02(20): “The term ‘registered qualified elector’ means a registered voter who resides at the address listed on the Board's records.”
- D.C. Code § 1-1001.07 (b)(3)(E)(iii): “The application shall be designed so that the applicant can sign, under penalty of perjury, an attestation, which sets forth the requirements for voter registration, and states that he or she meets each of those requirements.”
- D.C. Code § 1-1001.14(a): “Any person who shall register, or attempt to register under the provisions of this subchapter and make any false representations as to his or her qualifications for registering . . . shall, upon conviction, be fined not more than \$10,000 or be imprisoned not more than 5 years, or both.”

- D.C. Code § 1-1001.14(b)(1): “Any person who signs an initiative, referendum or recall petition with any other than his or her own name, or who signs a petition for an initiative, referendum or recall measure, knowing that he or she is not a registered qualified elector in the District of Columbia, or who makes a false statement as to his or her residency on any such petition, shall upon conviction be fined not more than \$10,000 or be imprisoned not more than 1 year, or both.”
- D.C. Code § 1-1001.16(a)(1): “Any registered qualified elector, or electors of the District of Columbia, who desire to submit a proposed initiative measure to the electors of the District of Columbia, or who desire to order that a referendum be held on any act, or on some part or parts of an act, that has completed the course of the legislative process within the District of Columbia government in accordance with § 1-204.04(e), shall file with the Board 5 printed or typewritten copies of the full text of the measure, a summary statement of not more than 100 words, and a short title of the measure to be proposed in an initiative, or of the act or part thereof on which a referendum is desired.”

FACTS

1. On April 7, 2009, the D.C. Council passed, on first reading, the "Jury and Marriage Amendment Act of 2009," B-18-10, which, as amended, provides that “marriages legally entered into in another jurisdiction by 2 persons of the same sex shall be recognized in the District of Columbia” (Legislative Information Management System status report, Tab 1).
2. On April 22, 2009, Harry R. Jackson Jr., registered as a District of Columbia voter using 910 M Street NW, Apt. 630, Washington, D.C. 20001 as his residence (D.C. Board of Elections & Ethics, Voter Registration Records, Tab 2).
3. On May 5, 2009, the D.C. Council passed the "Jury and Marriage Amendment Act of 2009," B-18-10, on its second and final reading. The bill was signed by Mayor Adrian Fenty and enacted into law (subject to Congressional review) on May 6, 2009. (Legislative Information Management System status report, Tab 1).
4. On May 27, 2009, Reverend Harry R. Jackson Jr., submitted a referendum measure to the DCBOEE as the “Proposer” entitled “A Referendum Concerning the Jury and Marriage Amendment Act of 2009.” The receipt contains a signed statement: “I, Harry R. Jackson, Jr., swear or affirm that I am a registered qualified elector in the District of Columbia and that the information below is true: Address: 910 M Street NW, Washington, DC 20001, Phone: 202-885-9692, Date: May 27,

2009.” The referendum measure is accompanied by a signed “Affidavit of Proposer” that includes this same information. (See Receipt of Initiative (Referendum) Measure and accompanying documents, Tab 3).

5. Reverend Jackson and his wife, Vivian Michele Jackson, own two homes in Silver Spring, Maryland located at 15713 Holly Grove Road, and 1900 Merrifields Drive (See Maryland Department of Assessments and Taxation Records, Tab 4).

6. Reverend Jackson and his wife are listed in the White Pages at 15713 Holly Grove Road and 1900 Merrifields Drive. In addition, the White Pages lists Reverend Jackson’s family as living at 15713 Holly Grove Road. (See White Pages, Tab 5). The White Pages contains no listing for “Harry R. Jackson, Jr.” at 910 M Street NW or at any location in the District of Columbia.

7. Reverend Jackson is employed as Senior Pastor of the Hope Christian Church located at 6251 Ammendale Road, Beltsville, Maryland 20705-1267. His wife, Vivian Michele Jackson, is employed as Executive Pastor of the Hope Christian Church. Reverend Jackson has led the Maryland-based church, which has approximately 3,000 attendees, for over twenty years. Prior to his taking leadership of the Maryland church in 1988, Reverend Jackson served as a pastor in Corning, New York (See Hope Christian Church Website, Tab 6).

8. Reverend Jackson is also founder of the High Impact Leadership Coalition (“HILC”). HILC is incorporated in the State of Maryland. HILC lists as its address 6251 Ammendale Road, Beltsville, Maryland 20705, the same Maryland location as the Hope Christian Church. (See Maryland Department of Assessments and Taxation, Taxpayer Services Division, High Impact Leadership Coalition Inc., Dept. ID # T00251470, Tab 7). HILC’s website lists the organization’s contact information as P.O. Box 505, College Park, Maryland 20741, Telephone (240) 845-0388, Fax: (240) 845-0309. Members of HILC’s Advisory Board are primarily residents of Maryland. Advisory Board members also include residents of California, New York, and Virginia. No member of the Advisory Board is listed as a resident of the District of Columbia. As a core part of its mission, HILC advocates against same-sex marriage. (See HILC website, Tab 8).

9. Reverend Jackson is currently registered to vote in Maryland, listing 15713 Holly Grove Road, Silver Spring, Maryland as his primary address. Maryland voter registration records show Reverend Jackson last voted in a Maryland election on November 4, 2008, just five months before registering to vote in the District of Columbia.¹ According to voter registration records, Reverend Jackson first registered to vote in the State of Maryland on October 28, 1999. After previously

¹ The Maryland voter registration record for Reverend Jackson indicates that it was last updated on February 13, 2009, less than ten weeks prior to Reverend Jackson registering to vote in the District of Columbia. It is unclear from the record what information was updated.

voting in Prince George's County (listing 4009 Enterprise Road, Bowie, Maryland, as his primary address), Reverend Jackson registered in Montgomery County on October 17, 2006. Reverend Jackson voted as a Maryland resident on March 7, 2000, November 7, 2000, November 2, 2004, September 12, 2006, November 7, 2006, in addition to November 4, 2008. Likewise, Reverend Jackson's wife first registered to vote in Maryland in 1999 and last voted in Maryland on November 4, 2008. Maryland voter registration record also state that Reverend Jackson registered to vote in Maryland through the Maryland Motor Vehicle Administration (MVA), indicating that his vehicle may be registered in Maryland. (See Maryland Board of Elections Record, Tab 9).

10. The District of Columbia address at which Reverend Jackson claims as his residence, 910 M Street NW ("The Whitman"), Apt. 630, is owned by Joseph Honaker. (See D.C. Real Property Assessment Database, Property Detail, Tab 10). Mr. Honaker purchased the property on May 15, 2007. Mr. Honaker claims the Homestead Deduction on the unit, meaning that he claims it is his primary residence for tax purposes. The White Pages lists Mr. Honaker as the sole resident of this address (See White Pages, Tab 11).

11. The Whitman's Condominium Bylaws provide: "No more than twenty percent (20%) of the total number of Units shall be leased by Unit Owners at any point in time." (See Whitman Condominium Bylaws, Article 6.8(B)(3), p.20, Tab 12). Upon knowledge or belief, this limited was reached prior to 2009. Therefore, Mr. Honaker could not have rented Unit 630 to Rev. Jackson without violating the condominium's Bylaws and subjecting himself to potential fines and his tenant to eviction.

12. Apt. 630 in 910 M Street NW is a one-bedroom apartment with a total of three rooms. (See D.C. Real Property Assessment Database, Property Features, SSL: 0369 2287, Tab 13). This makes it unlikely that both Reverend Jackson and Mr. Honaker live in the unit.

13. Residents of The Whitman have reportedly not seen Reverend Jackson in or around the property. (See Lou Chibbaro, "Where Does Rev. Harry Jackson Live?" *Washington Blade*, June 12, 2009, Tab 14). Even a resident of the floor on which Reverend Jackson claims to live attests to not seeing Mr. Jackson in The Whitman. (See Declaration of Timothy Clarke Carson, Tab. 15).

14. Reverend Jackson is a national, outspoken opponent of same-sex marriage. (See People for the Am. Way Found., "Point Man for the Wedge Strategy" (2009) (discussing Reverend Jackson's involvement in opposing same sex marriage in California, Florida, and nationally), Tab 16).

CONCLUSION

As the evidence demonstrates, Reverend Jackson and his family appear to live in Maryland, where he owns two homes. He has led a Maryland-based church for the past twenty-one years, arriving there in 1988 after a transfer from New York. He also founded a nonprofit organization that is incorporated and located in Maryland.

Reverend Jackson does not appear to live in The Whitman in Washington, D.C. The unit referenced on his voter registration form could not have been rented except in violation of the bylaws of the condominium. It is a one-bedroom unit making it unlikely that Reverend Jackson is a co-resident with the actual property owner. Residents of The Whitman, including a resident of the floor on which Reverend Jackson claims to live, report that they have not seen him on the property.

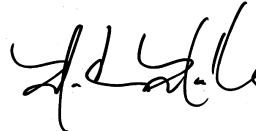
Rather, Reverend Jackson, an outspoken opponent of same-sex marriage, registered to vote in the District only days after the D.C. Council passed the "The Jury and Marriage Amendment Act of 2009," B18-10, on first reading, and filed a referendum on the issue within days of its final passage by the D.C. Council and signing by Mayor Fenty. Reverend Jackson filed the referendum measure on the 36th day of his registering to vote in the District. Such facts raise a significant question as to whether Reverend Jackson, who appears to be a Maryland resident, claimed to be a District resident solely for the purpose of attempting to reverse the District's same-sex marriage law.

For the foregoing reasons, and in consideration of the attached documentation, the Board should initiate an investigation of the validity of Reverend Jackson's voter registration and, if it is found that Reverend Jackson does not reside in the District of Columbia, invalidate his voter registration. Should the Board make such a finding, it should also deem the referendum measure proposed by Reverend Jackson invalid on the additional basis that the Proposer does not meet the requirements for a registered qualified elector in the District of Columbia.

Sincerely,



Cary Silverman
1243 Fifth Street NW
Washington, D.C. 20001



Martin Moulton
1510 Fifth Street NW
Washington, D.C. 20001

Enclosures