

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI

MARY BETH CONLON,

Plaintiff,

v.

MICHAEL T. SCHNEIDER,

Defendant.

Serve: Michael T. Schneider
2650 Chaucer
Overland, MO 63114

Serve also:

~~Board of Election Commissioners of St.
Louis County: John J. Diehl, Jr., Chaim
H. Zimbalist, Anita T. Yeckel, William
Miller, Jr., and
Judge Joseph A. Goeke, III;~~

Serve at:

~~Steven W. Garrett, Esq.
Curtis, Heinz, Garrett, & O'Keefe, P.C.
130 South Bemiston, Ste. 200
Clayton, MO 63105~~

Serve also:

~~Linda Downs, City Clerk
City of Overland, Missouri~~

Serve at:

~~City of Overland
9119 Lackland Rd.
Overland, MO 63114~~

Cause No.

VERIFIED PETITION TO DISQUALIFY CANDIDATE FOR ELECTION

Pursuant to RSMo. § 77.230, § 115.526, and § 115.346, Plaintiff Mary Beth Conlon brings this action to disqualify Defendant Michael T. Schneider as a candidate for the August 7, 2007, Mayoral election in the City of Overland, St. Louis County, Missouri.

Parties, Jurisdiction and Venue

1. Plaintiff Mary Beth Conlon ("Plaintiff") is an individual and resident of the City of Overland in St. Louis County. Plaintiff is a candidate for Mayor of Overland in the special election scheduled for August 7, 2007.

2. Defendant Michael T. Schneider ("Defendant") is an individual and resident of the City of Overland in St. Louis County.

3. This Court has jurisdiction and venue pursuant to RSMo. § 115.526 because the candidacy that Plaintiff seeks to contest is Defendant's candidacy for Mayor of the City of Overland in St. Louis County.

4. Defendant Michael Schneider has filed to be a candidate for Mayor of Overland in the special election scheduled for August 7, 2007. Defendant is disqualified from serving as Mayor and therefore should be removed from the ballot. Defendant is disqualified for one of two reasons. First, RSMo. § 77.230 and an Overland City Ordinance require that any candidate for Mayor have been a resident of the city for at least two years as of the date of election. Plaintiff has been advised that Defendant obtained an exemption from his personal property taxes for 2005 and 2006 because he told the St. Louis County Collector of Revenue that he did not become a Missouri resident until February 2006. If that declaration was accurate, Defendant has not been a resident of Overland for at least two years prior to the August 7, 2007 election.

5. Alternatively, if what Defendant told the Department of Revenue was not accurate and he has been a resident of Overland since 2005, then Defendant is in arrears in

payment of his personal property taxes because he has not paid those taxes. Defendant therefore is disqualified from being a candidate for Mayor pursuant to RSMo. § 115.346 and must be removed from the ballot pursuant to that provision.

**Request For Disqualification of Candidacy Pursuant to
RSMo. § 77.230 and Overland City Ordinance § 110.010**

6. Plaintiff reincorporates by reference paragraphs 1-5 as if fully set forth herein.

7. A special election for Mayor of Overland is scheduled for August 7, 2007.

Pursuant to Overland City Ordinance § 100.010, Overland exists as a City of the Third Class, Mayor-Council form, as set forth in Chapter 77 of the Missouri Revised Statutes.

8. Defendant has filed a declaration of candidacy for the upcoming Overland Mayoral election.

9. RSMo. § 77.230 provides in pertinent part:

No person shall be mayor unless he be at least thirty years of age, a citizen of the United States and a resident of such city at the time of and for two years next preceding his election.

10. Overland City Ordinance § 110.010 also provides in pertinent part:

No person shall be Mayor unless he/she be at least thirty (30) years of age, a citizen of the United States and a resident of such City at the time of and for two (2) years next preceding his/her election.

11. On information and belief, Defendant received a personal property tax waiver from the St. Louis County Collector of Revenue in 2006 by stating that he did not become a Missouri resident until February 2006. A copy of a report from the Collector of Revenue indicating that Defendant obtained such a waiver is attached hereto as Exhibit A and incorporated herein by reference. On information and belief, in obtaining the personal property tax waiver, Defendant declared to the Collector of Revenue that he became a Missouri resident in February 2006.

12. Because RSMo. § 77.230 and Overland City Ordinance § 110.010 require that Defendant be a resident of Overland beginning from at least August 2005 in order to be eligible to be elected Mayor in August 2007, Defendant is disqualified as a candidate for the upcoming Overland Mayoral election based on his declaration to the St. Louis County Collector of Revenue that he became a Missouri resident in or about February 2006.

**Alternative Request for Disqualification of Candidacy Pursuant to
RSMo. § 115.346**

13. Plaintiff reincorporates by reference paragraphs 1-12 as if fully set forth herein.

14. In or about April 2006, Defendant was elected to the Overland City Council.

15. RSMo. § 77.060 provides in pertinent part:

No person shall be councilman unless he is at least twenty-one years of age prior to taking office, a citizen of the United States, and an inhabitant of the city for one year next preceding his election, and a resident of the ward from which he is elected six months preceding his election.

16. Overland City Ordinance § 110.130 also provides in pertinent part:

No person shall be a Councilman unless he/she is at least twenty-one (21) years of age prior to taking office, a citizen of the United States, and an inhabitant of the City for one (1) year next preceding his/her election, and a resident of the ward from which he/she is elected six (6) months next preceding his/her election.

17. Accordingly, pursuant to RSMo. § 77.060 and Overland City Ordinance § 110.130, Defendant was required to be an inhabitant of Overland beginning from at least April 2005, prior to being elected to the Overland City Council in April 2006.

18. On information and belief, Defendant filed a declaration of candidacy prior to his election to the Overland City Council in April 2006 verifying that he had been an Overland resident since at least April 2005.

19. On information and belief, Defendant, in 2006, declared to the St. Louis County Collector of Revenue that he became a Missouri resident in or about February 2006. As a result of Defendant's declaration, the Collector of Revenue gave Defendant a waiver from

paying personal property taxes for the years 2006 and 2005. A copy of a report from the Collector of Revenue indicating that Defendant obtained such a waiver is attached hereto as Exhibit A and incorporated herein by reference.

20. RSMo. § 115.346 provides:

Notwithstanding any other provisions of law to the contrary, no person shall be certified as a candidate for a municipal office, nor shall such person's name appear on the ballot as a candidate for such office, who shall be in arrears for any unpaid city taxes or municipal user fees on the last day to file a declaration of candidacy for the office.

21. If Defendant's declaration in connection with his candidacy for the Overland City Council that he had been a resident of Overland for at least one year is accurate, then, contrary to his declaration to the St. Louis County Collector of Revenue, Defendant has been a Missouri resident since at least as early as 2005.

22. If Defendant was a Missouri resident in 2005, as he would have represented when he declared his candidacy for the Overland City Council, then Defendant did not qualify for a waiver of his personal property taxes in 2006 by the St. Louis County Collector of Revenue. Accordingly, Defendant is in "arrears" of such personal property taxes as that term is used in RSMo. § 115.346.

23. Such personal property taxes are "unpaid city taxes" as that phrase is used in RSMo. § 115.346 because a portion of Defendant's personal property taxes are assessed by the City of Overland and collected by the St. Louis County Collector of Revenue for distribution to the City of Overland.

24. Upon information and belief, the last day to file a declaration of candidacy for the August 7, 2007, Overland Mayoral election was May 22, 2007. As of the date of the filing of this Verified Petition, if Defendant was a resident of Overland beginning in 2005, then Defendant continues to be in "arrears" for his 2006 personal


property taxes owed to the St. Louis County Collector of Revenue and must be disqualified as a candidate for Mayor pursuant to RSMo § 115.346.

ACCORDINGLY, for the reasons set forth above, Plaintiff respectfully requests that the Court:

- (a) enter its Order and Judgment Disqualifying Defendant as a candidate for Mayor and ordering that Defendant's name be removed from the ballot for the special election scheduled for August 7, 2007, in the City of Overland, Missouri;
- (b) Grant Plaintiff leave to produce her proof; and
- (c) Grant such other relief as the Court deems just and proper.

Respectfully Submitted,

THOMPSON COBURN LLP

By 

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STATE OF MISSOURI)
) ss
COUNTY OF ST. LOUIS)

VERIFICATION

COMES NOW Mary Beth Conlon, being first duly sworn upon her oath, and states that the allegations in the foregoing Verified Petition are true and correct to the best of her knowledge, information, and belief.

Further affiant sayeth not.



MARY BETH CONLON

Subscribed to and sworn before me this 4 day of June, 2007.



NOTARY

**DEBORAH THOMPSON
Notary Public - Notary Seal
STATE OF MISSOURI
St. Louis County
My Commission Expires: April 7, 2008**