

DE 87-03 - May 29, 1987

**Indian Rocks Special Fire Control District Elections; Withdrawal of Candidate
Section 101.253(1), Florida Statutes**

*To: Honorable Charles J. Kaniss, Supervisor of Elections, Pinellas County, 315 Court Street,
Clearwater, Florida 33516*

Prepared by: Division of Elections

This is in response to your request for an opinion on the status of candidates when an election has been halted by a court injunction. You specifically asked:

- 1) What is the status of candidates when an election has been halted by court injunction?
- 2) When must candidates file campaign treasurer reports when an election has been halted by a court injunction?
- 3) Could an appeal by the special district nullify all candidate qualifications from July 1986, and require that all candidates qualify during a court-named period?
- 4) May a candidate withdraw his candidacy by letter which is not notarized?

An injunction is an equitable remedy designed to protect someone from irreparable injury. A temporary injunction is granted by a court to preserve the status quo until the final hearing, when full relief may be granted. Liberty Equities Corp. v. Joe's Creek Industrial Park, Inc., 214 So.2d 888 (2nd DCA 1968). It is the division's opinion that when a temporary injunction has been issued by a court enjoining an election, that all activity pertaining to that election is stopped until a final order is issued by the court.

In reference to your question on the status of candidates, the temporary injunction does not change their status, although a final order by the court could do that.

You asked if candidates need to file campaign reports during the time a temporary injunction is in effect. It is the division's opinion that since all activity pertaining to the election is stopped while the injunction is in effect pending a final order, candidates do not need to file campaign reports during this time, and that the time periods for such filings are tolled.

You also asked if an appeal by the Indian Rocks Special Fire Control District could nullify all candidate qualifications from July 1986 and require that all candidates qualify during a court-named period. Yes, it could, as the court may fashion any remedy it deems equitable in such a situation.

Your last inquiry is whether a candidate may withdraw as a candidate by letter when the letter is not

notarized. Section 101.253(1), Florida Statutes, specifically requires that a supervisor of elections must print a candidate's name on the ballot, unless that candidate has notified the supervisor in writing and under oath that he will not accept the nomination or office. Therefore, if a letter of withdrawal is received from a candidate and the letter is not notarized as required, you have no statutory authority to remove the candidate's name from the ballot.

SUMMARY

A temporary injunction holding an election pending a final order does not change the status of candidates and candidates do not have to file reports during this time. A final order by the court could nullify all candidate qualifications as the court may fashion any remedy it deems equitable. Finally, a candidate may not withdraw his candidacy by letter which is not notarized.