

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

THOMAS STROOZAS,)
)
Plaintiff,)
v.)
)
CITY OF HOMER and the HOMER)
CITY COUNCIL,)
Defendant.)

Case No. 3AN-19-10977 CI

**ORDER SUPPLEMENTING DECEMBER 9, 2019 ORDER DENYING MOTION
FOR TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY
INJUNCTION**

Introduction

Thomas Stroozas asked this court to issue a temporary restraining order or preliminary injunction ordering the Homer City Council to remove Storm Hansen-Cavasos from the Council pending resolution of this lawsuit, which asserts that Hansen-Cavasos was ineligible to run as candidate for the Council because she did not meet the Homer Code's one-year residence requirement. Following oral argument on December 9, 2019, the court entered an order that denied Stroozas's request, in time for a scheduled meeting of the Homer City Council. This order supplements the December 9, 2019 order and explains the court's reasoning. Because Stroozas has not demonstrated a clear probability of success on the merits, this court has denied his request.

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Re: Order Supplementing December 9, 2019 Order Denying Motion for Temporary Restraining Order and/or Preliminary Injunction

Factual Background

The City of Homer is a first-class city incorporated under AS 29.04 and governed by the Homer City Code (HCC).¹ On October 1, 2019, the City of Homer held a regular election for the Homer City Council.² In this election citizens of Homer voted on four candidates for two seats on the Homer City Council.³ The four candidates were Joey Evensen, Tom Stroozas, Shelly Erickson, and Storm Hansen-Cavasos.⁴ According to City Clerk Melissa Jacobsen, she and her staff reviewed the candidates' filing forms to confirm that they were qualified.⁵ To determine whether candidates are qualified, the Clerk typically relies on the sworn statements of the candidates.⁶ A deputy clerk reviewing Hansen-Cavasos's registration form informed Jacobsen that Hansen-Cavasos was not on the October 2018 voter list.⁷ She contacted Hansen-Cavasos to discuss her residence; she also contacted the State of Alaska Division of Elections and learned that Hansen-Cavasos had updated her voter registration on August 8, 2019. Based on Hansen-Cavasos's filing forms, her conversation with Hansen-Cavasos regarding her residence, and the information provided by the Division of elections, Jacobsen determined that Hansen-Cavasos was eligible to run for City Council.⁸

¹ HCC 1.01.010.

² See Affidavit of Melissa Jacobsen, ¶ 5 (filed 12/6/2019).

³ *Id.*

⁴ *Id.* at ¶ 6.

⁵ *Id.*

⁶ Memorandum in Support of Motion for Temporary Restraining Order and/or Preliminary Injunction at *2 (Plaintiff's Memorandum)(Filed 11/18/2019).

⁷ Affidavit of Melissa Jacobsen ¶ 6.

⁸ *Id.*

The initial results of the election indicated that Evensen and Erickson had won.⁹ On October 4, 2019, three days after the election, in compliance with the HCC, the Homer Canvas Board met to review and count the election night reports, absentee ballots, questioned ballots, and special need ballots.¹⁰ After this review the Canvas Board determined that Evensen and Hansen-Cavasos won the two City Council seats.¹¹

On October 7, 2019, after the Canvas Board determined that Hansen-Cavasos won the election, Stroozas filed an affidavit with the Homer City Clerk contesting Hansen-Cavasos's eligibility as a candidate.¹² Stroozas alleged that Hansen-Cavasos was not eligible to serve on the City Council under HCC sections 4.05.010 and 2.08.020 because she resided outside the City as late as July 2019.¹³ On October 8, 2019, in response to Stroozas's affidavit, the City Clerk sent the City Council a memorandum requesting that it authorize the City Manager, with assistance from the City Clerk and City Attorney, to investigate Stroozas's election contest.¹⁴ At a City Council meeting held on October 14, 2019, the City Council adopted Memorandum 19-134 which directed the City Manager to investigate Stroozas's election contest.¹⁵ The City Council also unanimously adopted Resolution 19-074, which certified the results of the

⁹ *Id.* at ¶ 7.

¹⁰ *Id.* at ¶ 8.

¹¹ *Id.*

¹² Plaintiff's Memorandum at 2; Defendant's Opposition to Plaintiff's Motion for Temporary Restraining Order and/or Preliminary Injunction (Opposition), Ex. 5 p. 4 (filed 12/6/2019).

¹³ Affidavit of Melissa Jacobsen at ¶ 10; Ex. 1 to Jacobsen Affidavit.

¹⁴ *Id.*; see also Affidavit of Melissa Jacobsen, ¶ 12.

¹⁵ *Id.* at ¶ 13.

October, 1 2019 municipal election.¹⁶ The City Manager subsequently directed the City Clerk and City Attorney to investigate Stroozas's election contest pursuant to AS 29.26.070 and HCC section 4.50.¹⁷

On October 16, 2019, the City Clerk notified Stroozas and Hansen-Cavasos of the investigation schedule; set a deadline of October 21, 2019 to provide affidavits, sworn testimony, or other information; and indicated that she and the City Attorney would conduct oral interviews with the Plaintiff and Hansen-Cavasos, those who provided written testimony or others with relevant information.¹⁸ Following the October 16, 2019 notification, the City Clerk's Office received the following materials: (1) a notice from Hansen-Cavasos's attorney, Elizabeth Bakalar, stating that Hansen-Cavasos wanted to participate in an interview with the investigative team; (2) eight affidavits from individuals whom Stroozas had contacted, and (3) affidavits submitted on behalf of Hansen-Cavasos.¹⁹ After interviewing Stroozas and Hansen-Cavasos and conducting its investigation, the City posted a report of its findings online to the City of Homer website for public review.²⁰

On October 28, 2019, the City Council held a special meeting to take action regarding the investigative report. Before the special City Council meeting the Clerk distributed the information gathered during the investigation.²¹ Two councilmembers moved to sustain the City Council's certification of Hansen-

¹⁶

Id.

¹⁷

Id. at ¶ 14.

¹⁸

Id. at ¶ 15.

¹⁹

Id. at ¶ 16.

²⁰

Id. at ¶ 15.

²¹

Id. at ¶ 22.

Cavasos's election.²² The City Council discussed Hansen-Cavasos's residency from September 30, 2018 to September 30, 2019 and voted 4 to 1²³ to sustain the certification of Hansen-Cavasos.²⁴

Stroozas filed this suit on November 7, 2019. In his Complaint for Declaratory and Injunctive Relief Stroozas alleges the following: (1) Hansen-Cavasos did not provide notification to the director of a change in her residence until August 2019; therefore according to state law Hansen-Cavasos resided at an address outside the City of Homer until August, 2019, less than two months before the election,²⁵ (2) in the October 28, 2019 City Council meeting, the Council voted to affirm the election certification and to seat Hansen-Cavasos as a newly elected member of the Council,²⁶ (3) plaintiff has been irreparably harmed by the City Council's decision to seat a candidate for the Council who was not qualified and ineligible to run for or serve on the Council and by the Council's failure to perform an adequate investigation.²⁷

In his complaint, Stroozas requested the following relief: (1) a judgment declaring that Hansen-Cavasos was not qualified to run for or serve on the City Council, that she has been improperly seated on the Council, and that the votes cast for her in the October 2019 election must be disregarded,²⁸ (2) for an order enjoining the City and the City Council from allowing Hansen-Cavasos to sit, vote

²² *Id.* at ¶ 24.

²³ Hansen-Cavasos was recused from the vote.

²⁴ Affidavit of Melissa Jacobsen, ¶ 24.

²⁵ Plaintiff's Complaint for Declaratory and Injunctive Relief at *3 (filed 11/7/2019).

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at *5.

or participate in any manner whatsoever as a member of the Council,²⁹ and (3) for an order directing the City and the City Council to certify Shelley Erickson as having been elected to the Council.³⁰

Stroozas moved for a temporary restraining order and/or preliminary injunction on November 19, 2019, seeking expedited consideration. The trial court denied expedited consideration because the Defendant had not been served. Defendant filed an opposition to the request for a temporary restraining order or preliminary injunction on December 6, 2019,³¹ and this court held oral argument on the motion on December 9, 2019.

In his Memorandum in Support of Motion for Temporary Restraining Order and/or Preliminary Injunction, Stroozas argued (1) that the City of Homer knew or should have known, based on the evidence attached to Stroozas's election contest, that Hansen-Cavazos resided outside the City of Homer until August, 8 2019,³² (2) that the duration of Hansen-Cavazos's residence, as it pertains to her eligibility for candidacy on the Homer City Council is conclusively established by the date of her voter registration pursuant to AS 15.05.020(8), and that therefore Hansen-Cavazos did not reside in the City of Homer for the required one year prior to the City Council election,³³ (3) that the City of Homer erred because it should have delayed its certification before the investigation and seating of

²⁹

Id.

³⁰

Id.

³¹

Opposition to Plaintiff's Motion for Temporary Restraining Order and/or Preliminary Injunction (filed 12/6/2019).

³²

Plaintiff's Memorandum at *4.

³³

Id. at *12, 14.

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Hansen-Cavasos until a sufficient investigation could be conducted.³⁴ Stroozas requested the court grant a temporary restraining order or preliminary injunctive relief directing the City to remove Hansen-Cavasos and directing the City Clerk to swear in eligible candidate Erickson.³⁵

At oral argument on December 9, 2019, Stroozas abandoned his request that the court direct the City Clerk to swear in Erickson. Stroozas also argued that he was not challenging the Clerk's post-election investigation or its result (or the Council vote sustaining the certification on the basis of the investigation) but was instead challenging the Clerk's action in placing Hansen-Cavasos's name on the ballot after determining that she had changed her voter registration on August 8, 2019.

This court denied Stroozas's request for a temporary restraining order/preliminary injunction on December 9, 2019 in a brief order that provided no reasoning for its decision. This order supplements the court's December 9, 2019 order denying the request for a temporary restraining order/preliminary injunction.

Discussion

When determining whether a party is entitled to injunctive relief Alaska courts apply a "balance of hardships" inquiry. This inquiry consists of three factors:

1. the harm to the plaintiff;
2. the protection of or harm to the defendant; and

³⁴ *Id.* at *5.

³⁵ *Id.* at *21.

3. the strength of the plaintiff's case.³⁶

This inquiry has two different standards. If the injury which will result from issuing the preliminary injunction is relatively slight in comparison to the injury in which the person seeking the injunction will suffer if the injunction is not granted, the party seeking relief need only raise "serious and substantial questions going to the merits of the case."³⁷ To satisfy this standard and obtain preliminary injunctive relief a party need only raise issues that are not "frivolous or obviously without merit."³⁸ A court applies the "serious and substantial" question standard when the party seeking relief would suffer significant harm if the preliminary injunction is not entered and the opposition would suffer little or no harm if the preliminary injunction is entered.

In assessing the harm to the plaintiff, the court must assume that the plaintiff will prevail.³⁹ In assessing the harm to the defendant, the court must assume that the defendant will prevail.⁴⁰ If the party seeking relief "does not stand to suffer irreparable harm, or where the party against whom the injunction is sought will suffer injury if the injunction is issued" the court must determine whether the plaintiff has established clear probable success on the merits.⁴¹

³⁶ *North Kenai Peninsula Road Maintenance Service Area v. Kenai Peninsula Borough*, 850 P.2d 636, 639 (Alaska 1993).

³⁷ *Id.*

³⁸ *State v. Kluti Kaah Native Village of Copper Center*, 831 P.2d 1270, 1273 (Alaska 1992).

³⁹ *Alsworth v. Seybert*, 323 P.3d 47, 54 (Alaska 2014) (citing *A.J. Industries, Inc. v. Alaska Public Service Commission*, 470 P.2d 537, 540 (Alaska 1970)).

⁴⁰ *Id.*

⁴¹ *A.J. Industries, Inc.*, 470 P.2d at 541.

Plaintiff Must Show a Clear Probability of Success on the Merits

In *State v. Kluti Kaah Native Village of Copper Center*,⁴² the Alaska Supreme Court held that the trial court erred when it applied the less strict test in entering a preliminary injunction because the trial court failed to adequately consider the harm to the interests of third-parties whose interests aligned with the defendants. In *Kluti Kaah*, the State Board of Game challenged the Superior Court's issuance of a preliminary injunction which effectively replaced the State's seven-day general moose hunt for with a twenty-six day subsistence hunt for residents of the Kluti Kaah Native Village of Cooper Center. The Court assumed irreparable injury would occur to the Kluti Kaah Native Village if the Board of Game's short moose hunting season was sustained. But the Court concluded that the trial court erred by failing to consider the harm to third parties, including other subsistence users when it considered the harm to the defendant. The State Board of Game, as a manager of the wildlife resource, had a duty to represent the interests of other subsistence hunters, guard against the depletion of the moose population, and maintain a uniform system of game allocation. The Court reasoned that these interests, including those third party interests of other subsistence hunting groups, were not adequately protected by the Superior Court's granting of the preliminary injunction to Kluti Kaah.

Kluti Kaah governs this court's determination of which test to apply. In his request for a temporary restraining order or preliminary injunction, Plaintiff argues that his constitutionally protected right as a qualified voter to vote and to have his

⁴² *Kluti Kaah*, 831 P.2d 1270.

vote counted is injured by the Council seating Hansen-Cavasos. The Plaintiff argues that he and the 24% of voters who voted for Erickson will suffer irreparable harm without an injunction because Hansen-Cavasos will continue to serve on the Homer City Council when she was not eligible to be placed on the ballot and should not have been allowed to run for City Council in the first place. According to Stroozas, each additional Homer City Council meeting that Hansen-Cavasos participates in as a voting member of the Council will result in additional harm. Stroozas also argues that all City of Homer voters are harmed by the City's failure to follow AS 15.05.020(8) and by seating an ineligible candidate. This court agrees that Stroozas has established irreparable harm.⁴³

Stroozas argues that the harm to the City is slight if a preliminary injunction is issued, because the Council will have a quorum and be able to conduct its business without Hansen-Cavasos while this case is pending. This court agrees with Stroozas with respect to conducting city business. But the problem of voter disenfranchisement presented in considering irreparable harm to the Plaintiff weighs equally in considering whether Defendants are adequately protected, as Defendants point out in their opposition to motion for temporary restraining order and/or preliminary injunction.⁴⁴ As Stroozas asserts in his motion, slightly more than 24% of the voters voted for Hansen-Cavasos. If Defendants prevail, this portion of the voting public's rights are harmed in

⁴³ Because Stroozas would not be seated on the Council if Hansen-Cavasos is declared ineligible, he asserts citizen-taxpayer standing rather than interest-injury standing. The court assumes that it may consider the harm to third parties of similarly-situated voters in determining whether Stroozas will suffer irreparable harm but, as explained, does the same in considering the harm to the Defendant.

⁴⁴ Defendant's Opposition at *23-25.

precisely the same manner and to the same degree as the portion who voted for Erickson. And the City of Homer voters will be harmed if Hansen-Cavasos is prevented from sitting when she was the winning candidate. That harm cannot be adequately protected if Stroozas does not prevail. Accordingly, Stroozas may obtain a preliminary injunction if he can show "clear probable success on the merits."⁴⁵

Plaintiff Has Not Established a Clear Probability of Success on the Merits.

In his complaint Stroozas asserts that the Council violated its own laws when it seated a Council candidate who was ineligible to serve. According to Stroozas, as a matter of state law, Hansen-Cavasos only became a resident of the City of Homer on August 8, 2019, the day she changed her voter registration. In his motion for a temporary restraining order/preliminary injunction, Stroozas argues that the duration of Hansen-Cavasos's residence is conclusively governed by the date of her voter registration at an address within City limits. In his request for a temporary restraining order/preliminary injunction Stroozas argues that the Council failed to follow the Homer City Code when it seated Hansen-Cavasos notwithstanding doubts regarding her residence and when it voted to sustain its certification following investigation of Stroozas's complaint, and that the Clerk failed to follow the Code when the Clerk deemed Hansen-Cavasos eligible and caused her name to be printed on the ballot.

At oral argument, Stroozas argued that he was not challenging the investigation, the Council's decision to certify the election or its subsequent vote

⁴⁵ *Kluti Kaah*, 831 P.2d at 1275.

to sustain the certification following investigation, and was instead challenging the Clerk's initial determination. Stroozas argued that because that determination of the duration of Hansen-Cavazos's residence was in error as a matter of law pursuant to AS 15.05.020(8), Hansen-Cavazos's election and the Council's subsequent actions were void *ab initio*.

According to Chapter 2 of the Homer City Code, "[a] person is eligible for the office of City council or the office of Mayor if the person is a voter of the City as prescribed by HCC 4.05.010 and has been a resident within the City for a period of one year immediately preceding the election day on which the person is a candidate."⁴⁶ Homer City Code 4.05.010 provides that to be qualified to vote in a City of Homer election, a person must be a citizen, over eighteen, a resident of the municipality for 30 days immediately preceding the election, and be registered at a residence address within the municipality at least 30 days before the municipal election in which the person seeks to vote.⁴⁷

Chapter 2 does not define "resident," but Chapter 4 of the Code establishes rules governing the determination of residence for voting. HCC 4.05.020(a) provides, in pertinent part, that "[t]he residence of a person is that place in which habitation is fixed, and to which, whenever he is absent, he has intention to return." According to HCC 4.05.020(b), "[a] change of residence is made only by the act of removal joined with the intent to remain in another place." In addition, AS 15.05.020(8), adopted as part of the Homer City Code,⁴⁸

⁴⁶ HCC 2.08.010(a).

⁴⁷ HCC 4.05.010.

⁴⁸ HCC 4.01.010.

provides that “[t]he address of a voter as it appears on the official voter registration record is presumptive evidence of the person’s voting residence. This presumption is negated only if the voter notifies the director in writing of a change of voting residence.”

Stroozas argues that, pursuant to AS 15.05.020(8), because Hansen-Cavazos changed her voter registration on August 8, 2019, she only became a resident of the City of Homer for purposes of the durational residence requirement of HCC 2.08.020(a) on that date. Stroozas argues that, as a matter of law, Hansen-Cavazos’s registration to vote is the only evidence the Clerk could or should have considered in determining whether she met the durational residence requirement.

This court disagrees with Stroozas’s construction of the Homer City Code and AS 15.05.020. Both statutes provide that “[a] change of residence is made only by the act of removal joined with the intent to remain in another place.”⁴⁹ In other words, to effect a change of residence, a person need only do two things: move and intend to remain in another place. Stroozas argues that, according to AS 15.05.020(8), the date of a person’s removal is conclusively determined by the date the person re-registers to vote. But this proposed construction of the statute sweeps more broadly than the language AS 15.05.020(8) and appears to render superfluous AS 15.05.020(3) and HCC 4.05.020(b), which provide that a person has changed residence when the person has moved and intends to remain in another place.

⁴⁹ AS 15.05.020(3); HCC 4.05.020(b).

According to AS 15.050.020(8), “[t]he address of a voter as it appears on the official voter registration record is presumptive evidence of the person’s voting residence. This presumption is negated only if the voter notifies the director in writing of a change of voting residence.” In other words, if a person is registered to vote at a particular address, that is the person’s presumptive residence for voting. That person cannot claim another address for purposes of voting unless the person files a new voter registration, and a court may not consider other evidence of the person’s residence, such as an affidavit, in determining where the person is or was eligible to cast a vote.⁵⁰

But notifying the director “of a change of voting residence” does not mean, as a matter of law, that the change of residence does not occur until the notice is filed (since to change residence a person need only move and possess the requisite intent). It just means the voter cannot claim the other address for the purpose of voting *until* the voter has filed the notice. When a person moves *and* intends to stay, that person has changed residence within the meaning of AS 15.05.020(3) and HCC 4.05.020(b), regardless of whether that person has changed their voter registration. Even if the person has changed residence within the meaning of AS 15.05.020(3) and HCC 4.05.020(b), the person’s voting residence remains the address on the voter registration until the person notifies the director in writing. But notifying the director simply means the person can now claim their new residence for voting purposes, it does not mean the person did not change residence earlier.

⁵⁰ See *Dodge v. Meyer*, 444 P.3d 159, 162-63 (Alaska 2019).

Stroozas's proposed interpretation also renders superfluous the two requirements of HCC 2.08.020 that the candidate be "a voter of the City as prescribed by HCC 4.05.010" and have been a resident within the City for a period of one year immediately preceding the election. To be a "voter of the City" a person must be a citizen, over eighteen, a resident of the municipality for 30 days immediately preceding the election, and be registered at a residence address within the municipality at least 30 days before the municipal election in which the person seeks to vote.⁵¹ Thus, the Homer Code distinguishes between being a resident of the municipality for 30 days and being registered at a residence address for voting purposes for 30 days. If this court interprets HCC 2.08.020 as argued by the Plaintiff, the two-part test of being a voter of the City and a resident for one year would be collapsed into one altered requirement—a requirement that the candidate be a voter of the City registered to vote at a residence in the City for one year. This proposed interpretation ignores the establishment of a two-part qualification, and the language of HCC 4.05.010(c) and (d), which differentiate between length of residence and length of time a person has been registered to vote within the municipality.

Because Hansen-Cavazos was registered outside the municipality until August 8, 2019, she could not have voted in the Homer election prior to that date because her registration was presumptive evidence of her residence. Once she changed her registration, she was a "voter of the City" (provided she met the other requirements of voter eligibility contained in HCC 4.05.010, such as being

⁵¹ HCC 4.05.010.

over the age of eighteen and having registered 30 days before the election). But the day she became a resident of the City depends on when she moved and had the requisite intent. That date is not conclusively established by the date of her voter registration.

Stroozas argued in his motion and at oral argument that the court must adopt his proposed construction of HCC 2.08.020 because courts apply strict scrutiny to candidate requirements and that failing to adopt his construction would result in candidates being treated more leniently than voters.⁵² Stroozas is correct that courts require strict compliance with the statutory requirements a candidate must meet to file for public office.⁵³ Thus, if Hansen-Cavasos changed her residence to Homer less than one year before the election, even if she missed the deadline by one day, she was ineligible to run for City Council. But the requirement of strict compliance is distinct from, and has no application to this issue—whether, as a matter of law, a candidate’s residence only changes on the date they change their voter registration.

And Stroozas’s argument that applying HCC 4.05.020(b) and AS 15.05.010(3) (“[a] change of residence is made only by the act of removal joined with the intent to remain in another place”) to determine when a change of residence occurs rather than the date a candidate changes her voter registration treats candidates more leniently than voters is not well taken. Under Homer Code, to be a voter of the City, a person must meet several requirements,

⁵² Plaintiff’s Memorandum at *9.

⁵³ See, *eg.*, *Falke v. State*, 717 P.2d 369, 373 (Alaska 1995) (courts may not apply substantial compliance doctrine to candidates’ compliance with election requirements).

including a 30-day residence requirement and a 30-day voter registration requirement.⁵⁴ Under the Code, to be a candidate for City Council, a person must be a “voter of the City” and must be a resident of the City for more than one year preceding the election.⁵⁵ Homer City Code 4.05.020(b) and AS 15.05.010(3) (as well as the other subsections of those statutes) govern when a person has met the 30-day durational residence requirement for voting or the one-year durational residence requirement for running as a candidate. The person has changed their residence when they have “made the act of removal joined with the intent to remain in another place.” Candidates are not treated more leniently by this construction.

It is undisputed that Hansen-Cavazos signed a voter registration in April 2019 that claimed an address outside the City.⁵⁶ This evidence supports Stroozas’s contention that Hansen-Cavazos was not a resident of Homer as late as April 2019. But Stroozas has not argued that the Clerk or the Council erred in failing to adequately weigh Hansen-Cavazos’s April 2019 voter registration or that the Clerk should have given less weight to the other evidence of Hansen’s residence in the City, or more weight to the evidence that Hansen-Cavazos resided outside the City during the one year preceding her election.⁵⁷ Instead,

⁵⁴ HCC 4.05.010.

⁵⁵ HCC 2.08.020(a).

⁵⁶ Plaintiff’s Memorandum at *4; Defendant’s Opposition at *27-28.

⁵⁷ In its investigation, based on which the Council sustained the certification of Hansen-Cavazos’s election, the City reviewed evidence in support of Stroozas’s contest, suggesting that Hansen-Cavazos continued to reside at an address outside the City limits during the one-year period preceding the election, and evidence supporting Hansen-Cavazos’s position that she changed her residence during the summer of 2018. Defendant’s Opposition Exh.6 pp.1-6. Both parties asserted that *Oberlatz v. Lake & Peninsula Borough*, 329 P.3d 214 (Alaska 2014) govern this court’s review. In *Oberlatz*, the superior court acted as an appellate court, reviewing the decision of the Borough’s Canvassing Committee to sustain the Clerk’s challenge the voter 3AN-19-10977CI

Stroozas has argued that the Clerk was bound, as a matter of law, by the date of Hansen-Cavazos's voter registration in determining the duration of her residence in Homer and could not consider any other evidence of her residence. As a matter of statutory interpretation, this is not correct, and Stroozas has therefore failed to demonstrate a clear probability of success of the merits.

Accordingly, Stroozas's request for a temporary restraining order or preliminary injunction is denied.

DONE this 10th day of December 2019, at Anchorage, Alaska.

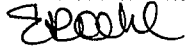


JOSIE GARTON
Superior Court Judge

I certify that on 12/10/2019
a copy of the above was mailed to
each of the following at their
addresses of record:

Thomas Amodio; Keri-Ann Baker;
Mary Pinkel; Michael Gatti

Elsie Roehl
Judicial Assistant



qualifications of several voters. *Id.* at 218. At oral argument, Stroozas asserted that he was not seeking this court's review of the investigation and vote sustaining the certification, but independently challenging Hansen-Cavazos's eligibility based on his statutory argument. *Stroozas v. City of Homer and the Homer City Council*, Oral Argument (12/9/2019 2:32:00-2:36:20). This court has not reviewed and expresses no opinion regarding the post-election investigation in denying Stroozas's motion.

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