

April 6, 2023

To the members of the Election Board:

I write to you today for a number of reasons. First, I wish to let you know that I welcome the opportunity to meet with the Election Board to answer any questions and to explain this situation further. I would be more than willing to do that in advance of the hearing this board has currently set for May 18, 2023, if the Board would like to set an earlier date to meet with me; I would also be happy meet with the Board on May 18, 2023, if the Board wishes to keep the hearing set for that date. I will do my best to fully answer any questions or concerns that the Board may have.

Second, as I will explain below, I believe that I have taken the steps necessary to fix the issues with my prior voter registration and candidate filings and to establish legal residence in Bloomington's Sixth District. Thus, I write this letter to clearly communicate that I no longer intend to withdraw my candidacy from this election. If the voters see fit to elect me as the next Councilmember for Bloomington's Sixth District, then I believe I am fully able, willing, and indeed eager to serve.

Third, and I think most importantly, I write this because it is finally a forum where I can apologize to a variety of stakeholders for a myriad of reasons. As I will explain, I believe that I have complied with the law every step of the way and in all of my actions, but I sincerely regret that I did not take greater care and demonstrate more professionalism; I also apologize for the chaos and misunderstandings that have resulted from my not taking greater care.

I wish to start with an apology to this Board, its members, and its staff. I recently dismissed my attorney and terminated his firm's representation of me. One of the many reasons I took that step was because of the inappropriate, disingenuous, and disrespectful manner in which he corresponded with the members of this Board. In one email to the Board, my former attorney suggested this investigation was a politically motivated attack. I don't believe that to be the case. As a Monroe County resident, I appreciate the dedication of this Board and its members, and I understand the significance of the issue.

I also want to apologize to the residents of Monroe County, the City of Bloomington, and in particular, the residents of Bloomington's Sixth District. They didn't deserve this chaos. And though I will maintain that I didn't mean for any of this chaos to happen, and I believe that the record will demonstrate that I have fully complied with the law at every step, I still wish to apologize for my evasiveness over the past month and express regret that I did not take greater care in regard to this process. For that, I'm truly sorry.

Since this issue was first brought to this Board, my posture — directed by my former attorney — was one of silence, avoidance, and evasiveness. With this statement today, I hope to put an end to that. My goal is to be as transparent as possible about this situation.

I want to tell this story from the beginning.

Toward the end of 2022, I entered into a sublease agreement with a friend of mine for the Summer of 2023. The address of that sublease was 304 E 16th St. The sublease was scheduled to begin on May 1, 2023, and end on August 1, 2023.

Then, on January 20, 2023, I changed my voter registration address. I did that under the standard set in IC 3-5-5-7, which clearly states that a student may vote at “The address where the student lives when the student is not attending the postsecondary educational institution where the student pursues the student's education.”

To me, I understood that to mean an address where a student lives when school is not in session. Because my sublease was set for the summer, it was my belief that the change in voter registration was valid. I did not plan to take courses during the summer. Therefore it would be my residence when I wasn't attending a postsecondary educational institution.

I also contacted Matthew Kochevar, one of the Democratic representatives for the Indiana Election Division. I asked him specific questions about Indiana's residency laws as it relates to this case, and it reaffirmed my understanding of this law.

After the voter registration became active at the new address, I filed the necessary paperwork to run for the Bloomington City Council's Sixth District. I listed my voter registration address on those forms.

Weeks later, the *Indiana Daily Student* published its article about my voter registration address. In the story, certain residents of the 16th Street residence said I do not live at the address and asserted that no sublease agreement existed.

I'll be honest: that puzzled me. I was in a state of confusion. While I had not met all of the individuals living in the house, I had signed a sublease agreement and had retained a copy of this signed agreement in my files.

When the story was published, I was out of town on business. So when I returned, I started looking into the situation. It soon became clear that there was an issue with the sublease agreement.

My initial guess was that the person with whom I signed the sublease did not obtain the necessary permissions of the property manager. After further investigation, it became clear that the person with whom I signed the sublease was not actually listed on the primary lease at the property, despite the fact that he almost surely lives there. Clearly, however, this makes it impossible for him to sublease the property.

I was unaware of that when I signed the sublease agreement, when I changed my voter registration, and when I signed all documents related to declaring my candidacy.

It is worth mentioning that this is not all that uncommon in a university town. Students move frequently, and it is not uncommon for a student to live in a property without a lease. It is also not uncommon for a

student to sign or offer a sublease that is not legally valid. Still, I understood then and continue to understand the significance of this issue.

At the advice of a member of this Board who has since recused himself from these discussions (David Henry), I retained a lawyer, who I've since fired. Even after I discovered the issue with my sublease agreement, my now-prior lawyer advised me to not change my voter registration.

I still do not fully understand why my prior lawyer gave that counsel. At the same time, my prior lawyer told me the best thing to do would be to withdraw from the race. In an email dated March 1, 2023, my lawyer emailed me to ask whether I would like him or his firm to try to negotiate a withdrawal from the race as part of resolving this issue. That same day, I responded and affirmed that I would be willing to withdraw.

My lawyer then apparently farmed out to a different attorney at the firm the task of writing to the Board. That attorney then did not complete the task, as he — according to my prior attorney — cited a conflict of interest in working with an Indiana University student. He failed to properly pass on the task to another attorney, resulting in this Board receiving the email from the law firm on March 3, 2023, after the board's decision to start its investigation.

I say that because the idea that I wished to exit the race strictly because of the investigation is not entirely true. At this point, I knew there was an issue with the registration, and I knew that if my voter registration address was not in the district, I should not be its representative. I told my prior attorney I was willing to withdraw because I saw it as an opportunity to resolve the residency issue.

My former attorney recommended that I withdraw from this race. He told me it was the best path forward and painted it as if it were my only option. I now believe that this was bad advice. Today, I am telling this Board that I no longer have any intention of withdrawing my candidacy from this election.

Rather, I have taken steps in the last month to rectify the issue with the invalid sublease. Please see the attached legal memorandum from my new attorney.

At the beginning of April, I signed a new lease agreement with a property manager inside of the Sixth District. That lease starts May 1, 2023. It is an entirely new property in the downtown area of Bloomington.

I plan to work with my new attorney to revise my voter registration address and candidate filings accordingly in the coming weeks.

I sincerely hope my comments today alleviate concerns about my residency and the legal understandings of this case.

I got into this race because I wanted to prove that a 21-year-old student who loves this city could have the opportunity to voice their opinions and stand up for other students in our city government. I still want to

have that opportunity. I still want to prove that. And I would like to stay in this race to execute on that vision.

Once again, I offer my sincerest apologies to this Board for my posture of the last month. I would be more than willing to answer any further questions or concerns.

Thank you.

Sincerely,

*David Wolfe Bender*

David Wolfe Bender