

September 10, 2024

Via mail and email (john.arntz@sfgov.org)

John Arntz
Director
Department of Elections
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place
City Hall, Room 48
San Francisco, CA 94102

Re: Michael Lai's Residency and Eligibility to Represent District Eleven

Dear Mr. Arntz:

I write to express concern regarding Michael Lai's residency in District Eleven and whether he meets the eligibility criteria to run for Supervisor under San Francisco Charter § 13.110. A recent review of his voter registration information shows that he changed his voter registration on July 3, 2024 to an address in Precinct 7514, which is in District Five, before registering again in Precinct 1136 in District Eleven. While it is not clear from voter registration records why he changed his registration, it is concerning that he has not maintained his registration in District Eleven and is an indication that he may not be domiciled in District Eleven.

As you know, Charter section 13.110(e) requires that each San Francisco Supervisor candidate "must have resided in the district in which he or she is elected for a period of not less than 30 days immediately preceding the date he or she files a declaration of candidacy for the office of supervisor, and must continue to reside therein during his or her incumbency, and upon ceasing to be such resident shall be removed from office." Where a person "resides" for electoral purposes means the place where a person is domiciled. (See Elections Code, § 349, subd. (a); *Walters v. Weed* (1988) 45 Cal.3d 1, 7; *Smith v. Smith* (1955) 45 Cal.2d 235, 239.) Under longstanding caselaw, an individual must both have a physical presence at the claimed domicile and have the intent to remain there, what the California Supreme Court has described as "the one location with which . . . a person is considered to have the most settled and permanent connection . . . and to which, whenever he is absent, he has the intention of returning." (*Smith, supra*, 45 Cal.2d at p. 239.)

Additionally, a candidate for office who acquires a new domicile to establish eligibility for office "has the burden of demonstrating such a change of domicile." (90 Ops. Cal. Atty. Gen. 82 (2007), citing *DeMiglio v. Mashore* (1992) 4 Cal.App.4th 1260, 1268-69.)

Lai filed his Declaration of Candidacy for the Board of Supervisors representing District Eleven on April 8, 2024 and declared under penalty of perjury that he meets the eligibility requirements to run for District Eleven Supervisor. Accordingly, he was required to have been domiciled in District Eleven since at least March 9, 2024.

Lai's voter registration records show that:

- April 26, 2023: Lai registered to vote in Precinct 7514, at an address with a 94117 zip code. Precinct 7514 is in District Five and is where Lai has been registered to vote in the past.
- February 7, 2024: Lai maintained this registration until February 7, 2024, when he registered in Precinct 1136 in District Eleven under an address with a 94112 zip code.
- July 3, 2024: However, on July 3, 2024, Lai changed his voter registration by re-registering in Precinct 7514, again at an address with a 94117 zip code. The registration records state that this was done via a "DMV Driver License Internet Renewal" form.
- July 9, 2024: Lai changed his registration again, back to Precinct 1136.

These records raise serious questions about whether Lai is domiciled in District Eleven and is eligible to run for Supervisor to represent District Eleven.

First, they show that he may not have been domiciled in District Eleven for at least 30 days before he filed his Declaration of Candidacy on April 8, 2024. Changing his voter registration to an address in a different district is an indication that he never intended to remain in District Eleven, since there would be no reason to register elsewhere if he were domiciled in District Eleven. If the registration change was due to his renewal of his driver's license at an address outside District Eleven, that would be further indication that he did not and does not truly reside in District Eleven.

Second, Lai's change in voter registration would also seem to make him ineligible to represent District Eleven, because he has not been continuously domiciled there. While Section 13.110(e) is not explicit that a candidate must remain a resident during the time between filing the Declaration of Candidacy and being elected, the requirement is implicit in the statements that the individual "must continue to reside therein" and "upon ceasing to be such resident shall be removed from office." But under Elections Code section 349, an individual can register to vote only where the person is domiciled, so Lai's July registration change to outside District Eleven would break the required continuous residency, rendering him ineligible.

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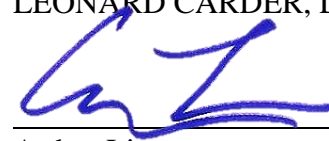
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Lai's voter registration records raise serious questions about whether he meets the eligibility criteria to run for Supervisor for District Eleven. While the registration records alone do not tell the whole story, to ensure the integrity of the District Eleven election, the Department of Elections should immediately investigate Lai's residency and whether he satisfies the criteria in Section 13.110.

Very truly yours,

LEONARD CARDER, LLP

By:



Arthur Liou

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