

State of Wisconsin
Wisconsin Elections Commission

The Complaint of DOUGLAS HYANT, Political Director,
Assembly Democratic Campaign Committee,
Complainant,

Against

MEC 07JUN2018 AM 11:23

LOREN OLDENBURG,
Respondent.

Verified Response and Request for Sanctions

I, Jennifer Toftness, on behalf of Loren Oldenburg, based on information and belief, hereby state as follows:

1. I am a resident of the State of Wisconsin, a qualified elector, and the Executive Director of the Republican Assembly Campaign Committee with a mailing address of 148 East Johnson Street, Madison, Wisconsin 53703.
2. Loren Oldenburg is a Republican candidate for the 96th Assembly District.
3. On June 4, 2018, Doug Hyant, Political Director of the Assembly Democratic Campaign Committee, submitted a verified complaint to the Wisconsin Elections Commission (Hereinafter referred to as "The Commission") challenging the validity of twenty (20) of the signatures on Loren Oldenburg's nomination papers for on the basis of six alleged insufficiencies.
4. Respondent objects to 9 of to the challenges for insufficiency.

I. Complainant's Challenge to Electors Residency

5. The burden is on the challenger to establish the insufficiency of the signatures. The challenger has failed to establish improper residency as to the electors who signed on Page 4, Line 4 and Page 13, Line 6, as alleged in Complainant's Verified Complaint Paragraph 9.

6. As challenged by the Complainant, the elector on Page 4, Line 4 signed their name as “Rich Mickelotti” and the address listed as “W619 Moe Ln., Stoddard, WI” and the Municipality as the Town of “Bergen.”
7. Complainant erroneously input the address of “W619 Moe Ln., Bergen, WI” into the “Who Represents Me?” search engine. (See Complainants’ “Exhibit B”).
8. When the address of “W619 Moe Ln., Stoddard, WI” (i.e. the address that appears on the nomination papers) is input into the “Who Represents Me?” search engine you do not get a result. (See Respondent’s “Exhibit 1”) Given that the presumption that an information on a nomination paper is presumed valid (See GAB 2.05(4)), Complainant does not meet the burden to disqualify the elector on Page, 4 Line 4.
9. Additionally, if one types “W619 Moe Ln., Stoddard, WI” into Google Maps, a popular and free map software (See www.google.com/maps), you get an address that falls within the 96th Assembly District. (See Respondent’s “Exhibit 2”). The same location shows up on the “Who Represents Me?” search site as within the 96th Assembly District, although it is listed with the slightly altered address name of “W619 Tilman C Moe Ln., Stoddard, WI.” (See Respondent’s “Exhibit 3”).
10. Request for Sanctions: Nomination Paper Challenges, January 2018, published by the Wisconsin Elections Commission provides that if the Board “finds, by a preponderance of the evidence, that a **challenge** or complaint is frivolous, order the complainant to forfeit up to the greater of \$500 or the expenses incurred by the WEC.” (pg. 1) (emphasis added). Here, the Complainant intentionally or recklessly used the wrong address in the “Who Represents Me?” search site. (See Complainants’ “Exhibit B”) Given that the use of the correct address would not have provided a result disqualifying the elector on Page 4, Line 4 (See Respondent’s “Exhibit 1”), and given that using a different site would have shown that the elector on Page 4, Line 4 would have shown that the elector lives in the 96th Assembly District (See Respondent’s “Exhibit 2”), we ask The Commission to find this challenge frivolous resulting in waste of time and effort by the Board, Staff, and Respondent and sanction the Complainant the greater of \$500 or the expenses incurred investigating this challenge.
11. As challenged by the Complainant, the elector on Page 13, Line 6 signed their name as “Stef Schroeder” and the address listed as “S873 Sunset Ln., Westby, WI.”
12. This address is clearly in the 96th Assembly District as evidenced by Complainants’ *own Exhibit B* which shows the results from Complainant’s own “Who Represents Me?”

search. Not only does the Complainant's search show the address in the 96th Assembly District, a duplicate search done by the Respondent shows the same. (See Respondent's "Exhibit 4").

13. Request for Sanctions: *Nomination Paper Challenges, January 2018*, published by the Wisconsin Elections Commission provides that if the Board "finds, by a preponderance of the evidence, that a **challenge** or complaint is frivolous, order the complainant to forfeit up to the greater of \$500 or the expenses incurred by the WEC." (pg. 1) (emphasis added). Here, the Complainant's *own search* and *own Exhibit* show that the address on Page 13, Line 6 is in the 96th Assembly District. The Complainant's "challenge" and accompanying evidence is not a challenge so much as it is a confirmation of the validity of that elector and address. This "challenge" is either a blatant attempt by the Complainant to "slip one by" the Commission and Respondent, or so absurd in its ineptness as to clearly rise to the level of being frivolous, resulting in waste of time and effort by the Board, Staff, and Respondent. We ask The Commission to sanction the Complainant the greater of \$500 or the expenses incurred investigating this challenge.
14. Respondent does not contest that the addresses found on Page 6, Line 10 and Page 7, Line 4 may be outside the 96th Assembly District.

II. Complainant's Challenge to Electors who Previously Signed Another Candidate's Papers

15. Respondent does not contest that the signatures found on Page 4, Line 10; Page 17, Line 8; Page 21, Line 2; Page 21, Line 3 may have previously signed another candidate's papers.

III. Complainant's Challenge to Electors who Signed Nomination Papers Multiple Times

16. Respondent does not contest that the signatures found on Page 19, Line 9; Page 20, Line 7; Page 20, Line 4; Page 20, Line 8; Page 20, Line 2; Page 20, Line 3 may be duplicate signatures.

IV. Complainant's Challenge to Electors who are not Qualified Electors Due to Felony Convictions

17. The burden is on the challenger to establish the insufficiency of the signatures. The challenger has failed to establish, as to the electors who signed on Page 21, Line 1, that

said elector is disqualified due to currently serving a felony sentence, pursuant to Wis. Stat. § 6.03(1)(b).

18. Wis. Stat. § 304.078(3) a voter can have “his or her right to vote is restored when he or she completes the term of imprisonment or probation for the crime that led to the disqualification.” The Complainant has provided no information as to the type of sentence, length of sentence, or date of sentence as to any elector accused by the Complainant as being a felon. As such, there is simply no way to determine if an accused elector is disqualified under Wis. Stat. § 6.03(1)(b), reinstated under Wis. Stat. § 304.078(3), or if said elector is even a felon at all.
19. As alleged proof, the Complainant has attached three printouts from Wisconsin Circuit Court Access, titled “Exhibit F.” “Exhibit F” contains a printout on an “Edward P Peterson” convicted in Taylor County, an “Edward J Peterson” convicted in Vilas County, and an “Edward E Peterson” convicted in Brown County. Note that neither Vilas, Taylor, or Brown County are in the 96th Assembly District. Complainant provides no proof as to whether this is one individual or three different individuals (and given the existence of three different middle initials one might assume the latter). Complainant provides absolutely no proof that the “Ed Peterson” whose name appears on Page 21, Line 1 is a felon, has ever been a felon, or is anything other than an upstanding Wisconsin citizen.
20. “Any information that appears on a nomination paper is entitled to a presumption of validity” by law (See GAB 2.05(4)). As such, the name, address, existence, and eligibility of the elector appearing on Page 21, Line 1 is entitled to the presumption of validity. Here the Complainant has provided nothing to alter that presumption other than few searches of the Wisconsin Circuit Court Access which resulted in a couple of “hits” on individuals who share a similar name as this elector.
21. Request for Sanctions: Nomination Paper Challenges, January 2018, published by the Wisconsin Elections Commission provides that if the Board “finds, by a preponderance of the evidence, that a **challenge** or complaint is frivolous, order the complainant to forfeit up to the greater of \$500 or the expenses incurred by the WEC.” (pg. 1) (emphasis added). Here, in a desperate attempt to disqualify an otherwise eligible elector, the Complainant made a reckless and insufficient search of court records that quite possibly resulted in smearing the name of an innocent person and eligible voter. Such reckless accusations of innocent 3rd parties should be disfavored by The Commission unless a Complainant can provide more evidence than the scant documentation provided by this Complainant. As such, we ask The Commission to find that this challenge clearly rises to the level of being frivolous, resulting in waste of time and effort by the Board, Staff, and

Respondent. We ask The Commission to sanction the Complainant the greater of \$500 or the expenses incurred investigating this challenge.

V. Complainant's Challenge to Electors who did not Provide Required Address and Municipality of Residence

22. The burden is on the challenger to establish the insufficiency of the signatures. The challenger has failed to establish improper residency as to the 4 electors challenged who signed on Pages 13, 15, and 16. Those electors are in substantial compliance with the law and should be counted.
23. The Commission's guidance most closely addresses this alleged defect on page 7 of their *Nomination Paper Challenges, January 2018*, which states:

The Commission and its staff have advised candidates and challengers that a signatory's failure to check the correct box to indicate "Town, Village or City" is not a basis for disqualifying a signature unless a challenger can show that the given address is outside the subject jurisdiction or district. For instance, the challenger needs to show that a given address has to be in the Village of X, not in the Town of X and, therefore is outside District Y.

In the case of the electors on Page 13--Line 6, Page 15--Line 6, Page 15--Line 9, and Page 16--Line 5, they each listed their correct mailing address. By omission or error they have a defect in their "Municipality of Residence" box. According to the Commission's guidance, a disqualifying challenge can only be substantiated if the Complainant can show that the address "is outside the subject jurisdiction or district." (*Id.*) These four electors gave addresses that are in fact within the 96th Assembly District.

24. The elector on Page 13, Line 6 gave an address of "S873 Sunset Ln, Westby." This is a mailing address for a residence that is within the 96th Assembly District. (See Complainant's "Exhibit G"). Since this is an actual residence in the district this meets substantial compliance despite the alleged error with the listed municipality.
25. The elector on Page 13, Line 6 gave an address of "S764 Jore Rd, Westby." This is a mailing address for a residence that is within the 96th Assembly District. (See Complainant's "Exhibit G"). Since this is an actual residence in the district this meets substantial compliance despite the alleged error with the listed municipality.

26. The elector on Page 13, Line 6 gave an address of "S1526 Cty Rd B, Coon Valley." This is a mailing address for a residence that is within the 96th Assembly District. (See Complainant's "Exhibit G"). Since this is an actual residence in the district this meets substantial compliance despite the alleged error with the listed municipality.
27. The elector on Page 13, Line 6 gave an address of "S832 Hohlfeld Rd, Chaseburg." This is a mailing address for a residence that is within the 96th Assembly District. (See Complainant's "Exhibit G"). Since this is an actual residence in the district this meets substantial compliance despite the alleged error with the listed municipality.

VI. Complainant's Challenge to Signatures that were Invalid Because the Dates Listed were not Original and Added After the Fact

28. The burden is on the challenger to establish the insufficiency of the signatures. The challenger has failed to establish improper residency as to the 2 electors challenged who signed on Page 11, Line 9 and Page 11, Line 10. Those electors are in full, or substantial, compliance with the law and should be counted.
29. It is quite clear from the Complainant's own "Exhibit H" that those signatures do in fact contain valid dates. The date of "5-3-18" is clearly listed on the nomination paper.
30. Furthermore, Complainant's reasoning is faulty with regards to the existence of a question mark ("?") implying anything towards the Respondent for the simple fact that on the originals turned in by the Respondent neither a question mark ("?") nor the word "ok" was present on the nomination sheets. Those markings were added sometime after the Respondent filed the nomination papers.
31. Even in the event that The Commission were to accept Complainant's fantastical theory that no date exists, or existed, on the nomination papers, the The Commission can still infer the proper date by "determining missing date information by reference to other information on the page, even if the incomplete date appeared on the first or last signature line." (See *Nomination Paper Challenges, January 2018*, pg. 8)

VII. Relief & Sanctions

- 32. Respondent asks that The Commission not substantiate the Complainant's challenges to the 9 signatures and electors for with the Respondent has shown in Sections I through VI to be valid. With those 9 valid signatures removed from the Complainant's list of 20 challenges, that leaves the Complainant with only 11 acceptable challenges. Given that the Respondent turned in 213 accepted signatures, and subtracting the 11, still leaves the Respondent with 202 valid signatures, the Respondent respectfully requests that The Commission place him on the ballot.

- 33. If The Commission disagrees with the Respondent's Response, then it should still be noted that prior to the June 1st deadline the respondent submitted an additional 98 supplemental signatures. A simple review of the respondent's Election Commission file would show these signatures and the receipt listed as "Exhibit 5.". By any calculation these supplemental signatures will bring the Respondent substantially over the needed 200 signatures to achieve ballot access and the Respondent requests that he be placed on the ballot.

- 34. The Respondent requests a forfeiture or sanctions against the complainant for the three frivolous challenges by the Complainant as detailed in Paragraphs 10, 13, and 21 of this Response.

Respectfully Submitted,

6/7/18
Date

Jennifer A. Johnson
Respondent

148 E. Johnson St
Address

Madison WI 53703
Address

Exhibit 1

WISCONSIN STATE LEGISLATURE

WS19 race by standard.vfl

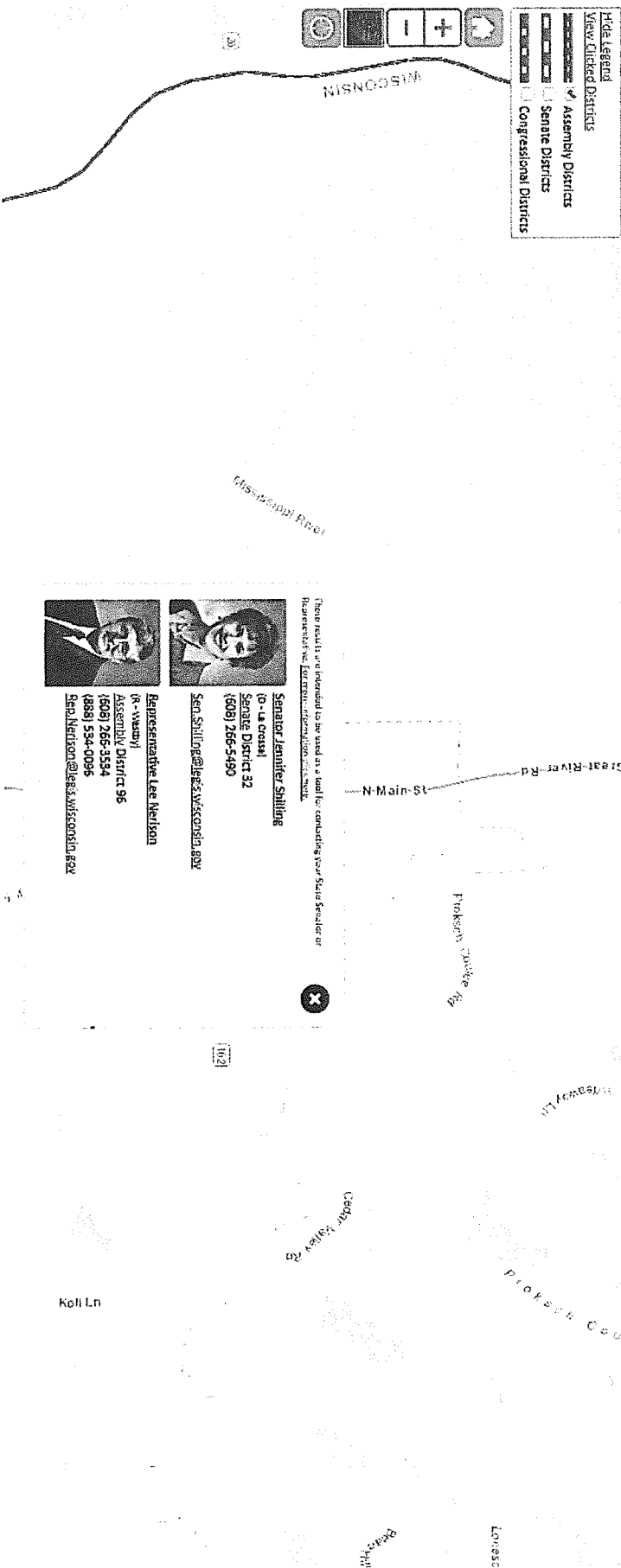
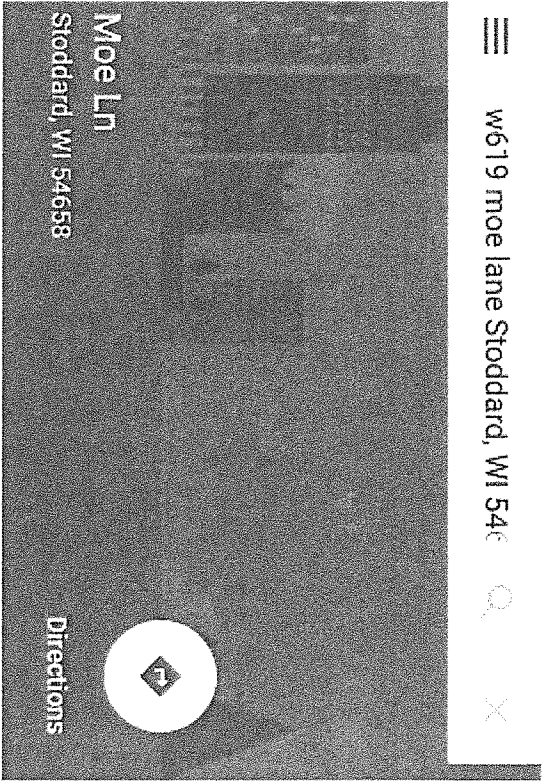


Exhibit 2



Moe Ln

Wolfe Ln

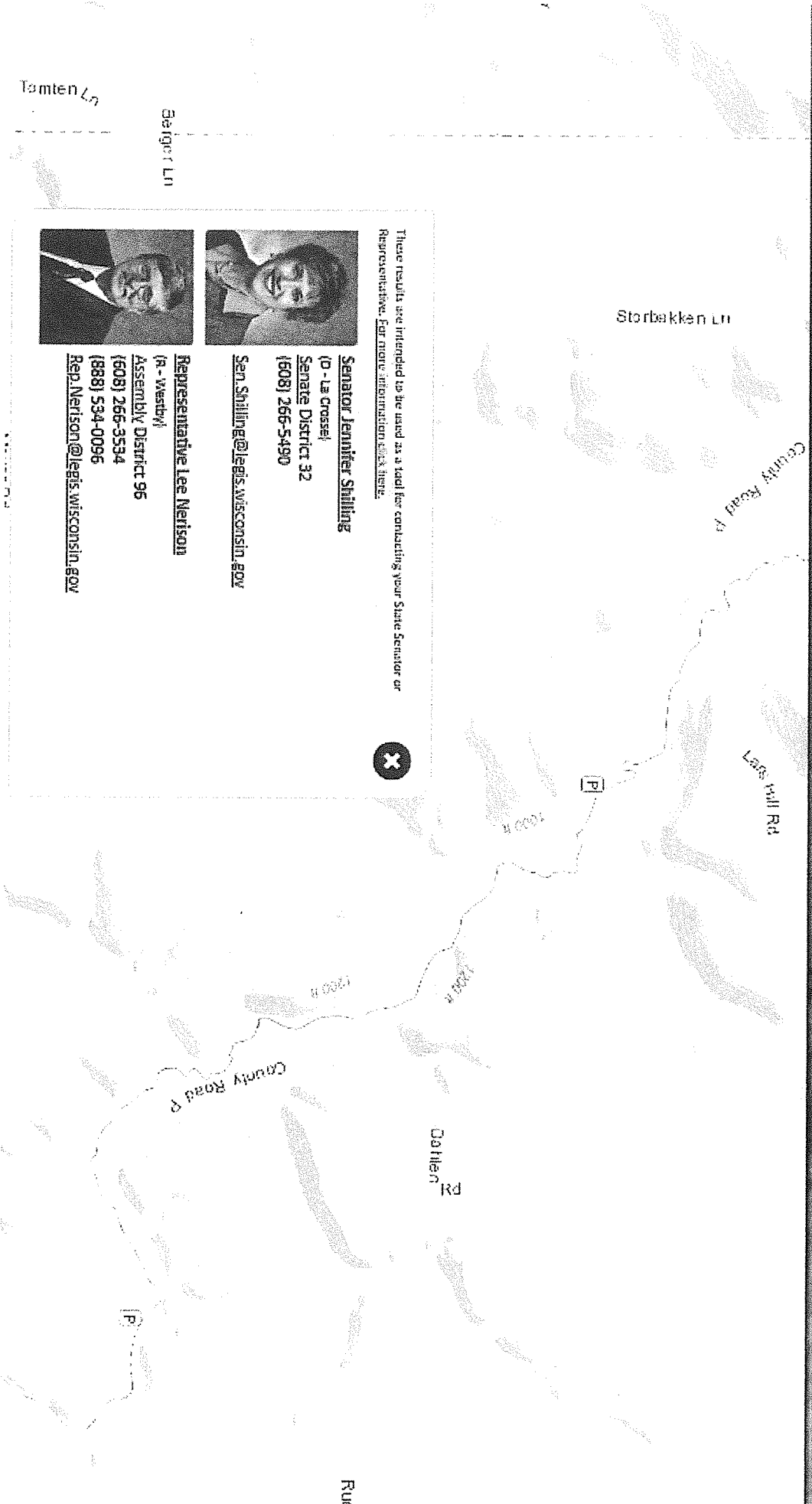
Moe Ln

Moe Ln

Exhibit 4

LEGISLATURE

5873 Sunset Ln, Westby, Wisconsin, 54667



These results are intended to be used as a tool for contacting your State Senator or Representative. For more information click here.

Senator Jennifer Shilling

(D - La Crosse)
Senate District 32
(608) 266-5490

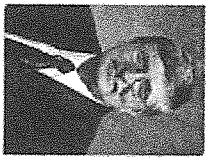
Sen.Shilling@legis.wisconsin.gov



Representative Lee Nerison

(R - Westby)
Assembly District 96
(608) 266-3534
(888) 534-0096

Rep.Nerison@legis.wisconsin.gov



Tamten Ln

Balgor Ln

Storbakken Ln

County Road P

Lake Hill Rd

1200 ft

1200 ft

1200 ft

County Road P

Cahten Rd

Rur

P

P

X