

BOARD OF ELECTIONS

Matthew M. Damschroder, Director Dennis L. White, Deputy Director

December 4, 2006

Donald J. McTigue, Esq.
Kilroy for Congress
3886 North High Street
Columbus, Ohio 43214

Dear Mr. McTigue:

We are in receipt of your letter of December 4, 2006 on behalf of Mary Jo Kilroy, Democrat-nominated candidate for Representative to Congress from the 15th Ohio Congressional District, requesting that the observers from all of the candidates involved in the automatic recount of votes cast for the office of Representative to Congress from the 15th Ohio Congressional District be permitted to view the provisional ballot applications found by the Board to be deficient resulting in the applicant's provisional ballot being excluded from the official count. You have also requested a list of such ballots, if one exists, and the reason for rejecting each such ballot.

As you know, Section 3505.183(C)(1) of the Ohio Revised Code requires the Board to create such a list:

"For each provisional ballot rejected under division (B)(4) of this section, the board shall record the name of the provisional voter who cast the ballot, the identification number of the provisional ballot envelope, the names of the election officials who determined the validity of that ballot, the date and time the determination was made, and the reason that the ballot was not counted."

However, the Help America Vote Act limits access to this information:

"Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot." 42 USC 15482 Sec. 302(a)

Accordingly, this office will not release information about individual provisional voters and whether or not their specific ballots were or were not counted to anyone other than the voter.

We trust that the list showing the total number of rejected provisional ballots by general rejection category that has already been provided to you will suffice.

Sincerely,

Matthew M. Damschroder
Director

Dennis L. White
Deputy Director