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## Appeal Board Rules Lowell Election Valid

NOVEMBER 2005 - A Division of Administrative Law Appeals (DALA) Magistrate has ruled that the Lowell Retirement Board's decision to declare Jim Quealy's election to the Board is valid. Since no objections to the DALA ruling were filed with Contributory Retirement Appeal Board, it becomes final and binding on all parties.

Last April, Quealy, a retired firefighter was a one-vote winner 583-582 over firefighter Bill Kilbride in an election to fill the remainder of Larry Sullivan's three-year term. Sullivan died last November, shortly after being reelected.

Kilbride appealed the Board's decision to validate Quealy, largely because one ballot, which the board declared legal, had originally been marked for Kilbride, but crossed out by the voter and marked for Quealy. If the Board had ruled the ballot to be invalid, there would have been a tie, and a subsequent runoff between Quealy and Kilbride. Three other candidates with lesser vote totals would not have been included.

In her decision, Magistrate Kimberly Fletcher sided with the "intent" of the voter. She also noted an earlier court decision approving ballots in which voters made a change in their vote by crossing out their first vote on the ballot.