

**BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
AS A DULY CONSTITUTED ELECTORAL BOARD**

Objections of: RAUL HERNANDEZ)
)
)
To the Nomination) No.: 19-EB-ALD-126
Papers of: BYRON SIGCHO-LOPEZ)
) Rel.: 19-EB-ALD-117
Candidate for the office of)
Alderman of the 25th Ward of the City of)
Chicago)

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of the Board of Election Commissioners of the City of Chicago, Commissioners Marisel A. Hernandez, William J. Kresse, and Jonathan T. Swain, organized by law in response to a Call issued by Marisel A. Hernandez, Chair of said Electoral Board, for the purpose of hearing and passing upon objections (“Objections”) of RAUL HERNANDEZ (“Objector”) to the nomination papers (“Nomination Papers”) of BYRON SIGCHO-LOPEZ, candidate for the office of Alderman of the 25th Ward of the City of Chicago (“Candidate”) to be elected at the Municipal General Election to be held on February 26, 2019, having convened on December 10, 2018, at 8:30 a.m., in Room 800, 69 West Washington Street, Chicago, Illinois, and having heard and determined the Objections to the Nomination Papers in the above-entitled matter, finds that:

1. Objections to the Nomination Papers of the Candidate were duly and timely filed.
2. The Electoral Board was legally constituted under the laws of the State of Illinois.
3. A Call to the hearing on said Objections was duly issued by the Chair of the Electoral Board and served upon the members of the Electoral Board, the Objector and the Candidate, by registered or certified mail and by Sheriff’s service, as provided by statute.

4. A public hearing held on these Objections commenced on December 10, 2018 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Christopher Agrella for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board's Call served upon them to appear before the Hearing Officer on the date and at the time designated in the Hearing Schedule. The following persons, among others, were present at such hearing: the Objector, RAUL HERNANDEZ, by his attorney JAMES P. NALLY; the Candidate, BYRON SIGCHO-LOPEZ, by his attorney Andrew Finko.

7. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. The Hearing Officer recommends that the Objections to the Candidate's Nomination Papers be overruled. The Hearing Officer found that the Candidate's use of the name "Byron Sigcho-Lopez" in his Nomination Papers, when the name on Candidate's birth certificate is "Byron Francisco Sigcho Lopez," is in compliance with Section 10-5.1 of the Election Code (10 ILCS 5/10-5.1), which allows candidates to use their "given name or names, initial or initials, a nickname by which the candidate is commonly known, or a combination thereof. Following an evidentiary hearing, the Hearing Officer also found that the Candidate is a lawful resident at the address stated on his nomination papers, and that he has been a resident of the 25th Ward for the requisite one-year period.

8. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Officer, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Officer's recommended findings and conclusions of law. A copy of the Hearing Officer report and

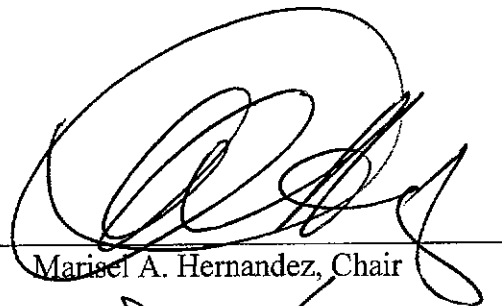
recommendations is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

9. For the reasons stated above, the Electoral Board overrules the Objections to the Candidate's Nomination Papers.

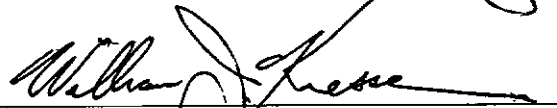
10. The Electoral Board further finds that objections to the Candidate's Nomination Papers were filed in related case(s) Rel.: 19-EB-ALD-117, but that those objections are or will be dismissed as well..

IT IS THEREFORE ORDERED that the Objections of RAUL HERNANDEZ to the Nomination Papers of BYRON SIGCHO-LOPEZ are hereby OVERRULED, and said Nomination Papers are hereby declared VALID and the name of BYRON SIGCHO-LOPEZ, candidate for the office of Alderman of the 25th Ward of the City of Chicago, SHALL be printed on the official ballot for the General Municipal Election to be held on Tuesday, February 26, 2019.

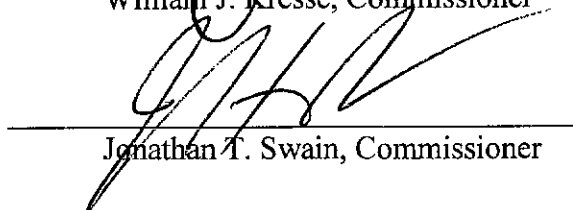
Dated: Chicago, Illinois, on January 08, 2019.



Marisel A. Hernandez, Chair



William J. Kresse, Commissioner



Jonathan T. Swain, Commissioner

NOTICE: Pursuant to Section 10-10.1 of the Election Code (10 ILCS 5/10-10.1) a party aggrieved of this decision and seeking judicial review of this decision must file a petition for judicial review with the Clerk of the Circuit Court of Cook County within 5 days after service of the decision of the Electoral Board.

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND
PASSING UPON OF OBJECTIONS TO THE NOMINATION PETITIONS OF
CANDIDATES FOR THE FEBRUARY 26, 2019, MUNICIPAL GENERAL ELECTION FOR
MAYOR, CLERK, TREASURER AND ALDERMAN IN THE CITY OF CHICAGO**

RAUL HERNANDEZ,)
)
 Petitioner-Objector,)
)
 v.) No. 19 EB ALD 126
)
)
 BYRON SIGCHO-LOPEZ,)
)
 Respondent-Candidate.)

HEARING OFFICER'S REPORT AND RECOMMENDED DECISION

This matter first came before the hearing officer on December 10, 2018, set on the Call for 10:45 a.m.

At 10:55 a.m. the first call of the case took place, at which time Mr. James Nally, Esq. appeared on behalf of the objector, Mr. Andrew Finko, Esq. on behalf of the candidate. Both sides filed their appearances and as well as tendering an executed non-disclosure agreement and acknowledged receipt of a copy of the rules.

At this juncture the hearing officer marked the nomination petition of the, as Exhibit A, the objection as Exhibit B, the proof of service of the Call upon objector as Exhibit C, and the appearance of the candidate as Exhibit D. All were accepted into evidence without objection by either side.

The candidate seeks to appear on the ballot for election to the office of Alderman of the 25th Ward of the City of Chicago, to be voted upon in the February 26, 2019, Municipal General Election.

The objection asserted two grounds for invalidating the candidate's nomination papers. First, that the candidate had changed his name from Byron Sigcho to Byron Sigcho-Lopez within the past

3 years and had failed to disclose this name change in the petition sheets submitted to the voters; the second allegation is that the candidate lacked a one year required residency in the 25th Ward, falsely alleging a residence at 1813 South Carpenter Street, Chicago, Illinois, such that the Statement of Candidacy executed on November 18, 2018, was false and fraudulent and the petition sheets presented to the voters worked a fraud upon them.

Candidate indicated an intent to file a motion to strike, as a consequence the matter was set down for argument on December 16, 2018, at 11:30 a.m. Subsequent thereto a motion to strike was filed, as was a response and reply, all timely.

On December 16, 2018, at 11:30 a.m. this matter was recalled, both sides appeared and argument heard.

Candidate, after first setting forth certain assertions as to the candidate's (and voters') constitutional right to ballot access and citations thereto, argued that the objection failed to fully state the nature of the objection. As to the name change, candidate asserted the objection failed to set forth the name from which the candidate changed; as to residency, that the objection failed to allege what other, alternative address the candidate was purported residing within during the relevant time frame. The motion further asserted a lack of good faith/lack of actual factual knowledge sufficient to support the objection. In the prayer for relieve candidate, in addition to/as an alternative to seeking dismissal of the objection, demanded the objector be compelled to appear and answer in a preliminary fashion as to the factual basis the objector had to bring the objection.

Attached to the candidate's motion to strike was a set of documents authenticated by the translated affidavit of the Ecuadorean Counsel General to Chicago, Dr. Carlos Lenin Housse Davalos, including a birth certificate and voting card (Ecuadorean elections) for the candidate setting forth the candidate's name as Byron Francisco Sigcho Lopez. *Inter alia*, the Counsel General's affidavit asserted his opinion as to the custom of Latin American immigrants to the United States to oftentimes use shortened last names in order to avoid confusion as to what their middle names might

be.

In response objector, in sum, denied the needed level of specificity as demanded by the candidate and referenced specific allegations within the body of the objection in further defense of other attacks, asserting these were sufficiently pleaded factual claims subject to proofs at a hearing and that the objection sufficed at the pleading stage.

In the course of the hearing it was stipulated that the candidate was born in Ecuador as Byron Francisco Sigcho Lopez and largely conceded by objector, if not specifically stipulated, that this portion of the objection rested on the candidate's lack of use of the surname "Lopez" for a significant period of time in excess of the 3 years and that the candidate's use of the name Sigcho-Lopez on his nomination petition constituted a name change.

The hearing officer denied the candidate's motion to strike regarding the specificity required, and in particular as it related to the residency issue, and reserved on the question of the name change issue, not as to sufficient specificity, but as to the Sigcho-Lopez vs Sigcho difference.

The candidate's motion was factually incorrect in asserting the objection alleged candidate was required to live at 1813 S. Carpenter. The objection, paragraph 3, clearly alleged 1) a requirement of residency in the ward for 1 year prior to the election; and 2) this candidate did not reside in the ward for the requisite time. The objection in paragraphs 4 and 5 likewise clearly put the candidate on notice of the claim that the candidate did not reside at 1813 S. Carpenter as stated on his petition sheets presented to the petition signers, rendering each of them false and fraudulent (par. 4) likewise that the candidate did not reside at 1813 S. Carpenter as of the time the Statement of Candidacy was executed which, if true, rendered it false (par. 5).

The hearing officer made it clear he was inclined to grant the candidate's motion to strike the name change allegation at which point objector's counsel, asserting possible additional evidence that might swing the question, convinced the hearing officer to reserve a decision on this issue.

An evidentiary hearing was set down on all matters for December 26, 2018, at 10:00 a.m.

Objector's witness and document disclosure were due by 5:00 p.m. on December 23, 2018, candidate's witness and document disclosure due by 5:00 p.m. on December 24, 2018.

In the interim, on December 15, 2018, objector timely requested the Board issue five (5) subpoenas in order to permit objector to secure the presence and testimony of certain individuals to provide testimony and documentary evidence regarding the candidate's residency for the past several years in order to evidence (presumably) that the candidate did not reside at his stated location as of the date of his signing/filing his Statement of Candidacy, or within the ward for the last year.

Candidate objected to these subpoenas as being overly broad, specifically in reference to the name change issue.

By separate recommendation in the case file it was the recommendation of this Hearing Officer, granted by the Board, to issue these subpoenas to objector, which objector received. Candidate did not seek the issuance of any subpoenas.

On December 21, 2018, objector filed a Request to Produce in the nature of a Supreme Court Rule 237 Request, seeking the person of the candidate and certain address and name related documents including tax and bank statements, official documents such as drivers' licenses, vehicle registrations, real estate documents, utility bills and the like. Candidate filed an objection in the nature of a motion to strike asserting the request was overbroad and seeking irrelevant evidence. Candidate's motion to strike was denied, with the *caveat* that both parties were instructed to ensure financial, account numbers and other private information were redacted.

On December 24, 2018, candidate served objector with candidate's Request to Produce in the nature of a Supreme Court Rule 237 Request, to which objector objected and sought to strike.

Objector's motion to strike was granted. Unlike candidate's Request to Produce, objector sought the person of the objector and to compel objector to produce the person of Sean Hoffman, an attorney (per candidate) and a non-party to the case. The balance of the candidate's Request to Produce sought information from the objector as to what the objector knew and when he knew it

regarding the underlying claims in the objection, as well as, in the main, seeking to explore the question of alternative motives and other irrelevant matters which also comprised a collateral attack on the hearing officer's prior ruling on the candidate's earlier motion to strike the objection.

In that a Rule 237 type Notice to Produce cannot compel a party to produce a non-party to the case it also obviated the need to even reach the question of whether an attorney client privilege may exist as to what Mr. Hoffman may have communicated to objector. The underlying basis for the candidate requesting the presence of the objector as well as the requested documents also sought to elicit other irrelevant information.

This hearing officer also noted that the prefatory statements contained in the candidate's Notice to Produce also reference knowledge or belief on the part of the candidate that objector undertook some sort of inquiry and interviewing (through Hoffman and possibly others), and as such these statements are somewhat at odds with the candidate's "no good faith inquiry" theory.

Had the candidate desired the presence of Mr. Hoffman a timely request for a subpoena should have been made. No such request was made. However, had the candidate sought the issuance of subpoenas for the person of Mr. Hoffman, objector and the related documents for the reasons set forth in the instant Notice to Produce, it would have been the recommendation of this hearing officer to deny such a request on the same grounds set forth.

The objection properly stated the objector's interest in bringing this objection. Any other motives, help from competing campaigns/possible alignment with other campaigns is irrelevant.

On December 26, 2018, at 10:00 a.m. the matter reconvened for the evidentiary hearing and both sides appeared. Neither side alleged any violation of any disclosure deadlines at this time and the case proceeded.

A summary of the evidence presented at the trial follows, in the order presented by each side. Out of judicial economy candidate was permitted to put testimony in for candidate's case in defense during objector's case in chief in order to obviate the need to recall witnesses.

While a recitation of all the evidence follows, upon the close of all the evidence certain facts are deemed by this hearing officer not to be in controversy:

1. The candidate's name at birth was Byron Francisco Sigcho Lopez.
2. The candidate oftentimes during the relevant three year period would commonly truncate his last name, only employing Sigcho.
3. The candidate employed no other surnames or variations other than "Sigcho" or, less frequently, "Sigcho-Lopez".
4. For the 15 month period ending July 30, 2018, the candidate lived at 1740 W. 21st Place, Chicago, Illinois, a location inside the 25th Ward.
5. The candidate claimed that on July 30, 2018, he moved from 1740 W. 21st Place and established his residency at 1813 S. Carpenter, 2nd Floor Apartment, Chicago, Illinois, a location in the 25th Ward; the candidate would not claim any other residence after July 30, 2018.
6. On September 4, 2018, the candidate and his then fiancé, soon to be wife, purchased 1901 W. 21st Street, Chicago, Illinois, a location in the 25th Ward, and a location, because of its condition and rehabilitation/construction, has never been occupied by the candidate or his wife.
7. On September 8, 2018, the candidate married Loreen Targos, who at the time lived and owned a condominium at 20 North State Street, Unit 601, Chicago, Illinois, a location outside the 25th Ward.
8. Candidate's campaign office since September/October, 2018, was located at 1622 S. Blue Island, Chicago, Illinois, a location inside the 25th Ward boundaries.
9. 1813 S. Carpenter, Chicago, Illinois is a two flat apartment building. The 1st floor (or ground unit) was at the time occupied by Glora Herrera and her adult sons, Camilo Rodriguez, Carlos (Charlie) Rodriguez, and Christian Rodriguez. The 2nd Floor (or upper unit) was occupied by Martha Herrera.
10. Gloria and Martha are sisters. Robert Herrera is their brother. He owned a piece of property across the street, 1810 S. Carpenter. Baudelia Herrera is Gloria, Martha and Roberto's mother, who lived next door at 1817 S. Carpenter.

As to the name change objection, at the close of objector's case this hearing officer granted candidate's motion for a directed finding on this issue. Alternatively the candidate's motion to strike, previously reserved, should be granted.

Objector produced no additional evidence during the evidentiary hearing beyond what was presented during the hearing on the candidate's motion to strike. Byron F. (Francisco) Sigcho Lopez

is the candidate's given name. As a matter of law the candidate employed no other name other than Sigcho-Lopez, or Sigcho, leaving off "Lopez". In fact, during objector's case testimony and documents [Obj. Ex#8, 9 and 10] came in to evidence indicating the candidate was alternatively know in the community as Byron Sigcho or Byron Sigcho-Lopez. There was no evidence this candidate in any fashion used any other name or sought to mislead or defraud the voters.

This hearing officer's findings and recommendations to the Board are to overrule the objection on this allegation and find that the candidate is in conformity with the Election Code, which states the candidate may employ ". . . the candidate's given name or names . . . or a combination thereof . . . in addition to the candidate's surname." *Jackson v. Lane*, 08-EB-WC-19 (Chicago Electoral Board 2007); *Cole v. Andrews*, 99-EB-ALD-047 (Chicago Electoral Board 1999); *Newton v. Andrews*, 99-EB-ALD-191 (Chicago Electoral Board 1999).

Objector's case, in this posture, would rise or fall upon whether at a time prior to or as of the time the candidate executed his Statement of Candidacy, the candidate established residency at 1813 S. Carpenter, Second Floor, Chicago, Illinois, a location within the 25th Ward, and to a lesser extent, whether the candidate abandoned this residence at some point thereafter.

Regarding the candidate's motion for directed finding in regards to residency the hearing officer denied same, finding that it was not proper to find for the candidate as a matter of law when viewing all the evidence in the light most favorable to objector and after parsing out the evidence candidate elicited in objector's case (which was permitted to come out for judicial economy's sake as part of the candidate's case in defense).

Testimony and Other Evidence Presented:

Objector opened his case in chief by calling the candidate, Byron Sigcho-Lopez. Objector would thereafter call Carlos (Charlie) Rodriguez and Gloria Herrera. Objector would offer into evidence the following Exhibits: Unless otherwise noted, evidence was admitted without objection of the other party. Evidence as described in this list is described colloquially and not necessarily as a

determinative descriptor of what it portends.

- #1 Notice to Produce – Previously deemed irrelevant and not admitted, this hearing officer is reversing himself and admitting it. Objector’s counsel employed it during the hearing and it is relevant to more clearly evidence what items were requested of the candidate and whether or not the candidate had any such items - Admitted
- #2 Byron F. Sigcho 12-10-2018 issued Certified Voter Registration Statement that the candidate’s voter registration was cancelled 7-24-2018 at the 1740 W. 21st Street, Chicago Address – Admitted
- #3 Whittier Elementary School Board Screenshot – Admitted
- #4 Picture 1813 S. Carpenter Fence/Gate with 2nd mailbox with Herrea / Sigcho / Martinez names – Admitted
- #5 Picture 1813 S. Carpenter Fence looking towards street with no 2nd mailbox seen in Ex #4 – Admitted
- #6 Picture 1813 S. Carpenter Fence looking out wider than Ex #5 – no mailbox as seen in Ex #4, other mailbox noted to the right – Admitted over objection as to provenance of the date depicted (date which was disregarded)
- #7 Text-chat screen shot of Carlos Rodriguez – Admitted
- #8 Affidavit of Camilo Rodriguez – Admitted over objection as to conclusions /speculation contained therein which the hearing officer would disregard
- #9 Affidavit of David Barrera – Admitted over objection as to conclusions /speculation contained therein which the hearing officer would disregard
- #10 Affidavit of Patricia Condon – Admitted over objection as to conclusions /speculation contained therein which the hearing officer would disregard.
- #11 08-17-2007 Quit-Claim deed of 1813 S. Carpenter from Baudelia Herrera to Gloria Herrera – Presented in objector’s rebuttal case – Admitted over candidate’s objection that it was not timely disclosed. Objector claimed no notice that it would be needed, despite receiving candidate’s Exhibit 23 (discussed below). While a fair inference could be made that objector was on notice that this document was relevant and should have disclosed it prior, it was still admitted. However, its admittance opened the door to admit candidate’s Exhibit #23, a video + Spanish – English translation of same, previously denied during candidate’s case in defense, in that the subject matter of the video (disputes over who owned 1813 S. Carpenter) became relevant and at least three witnesses at this hearing (Carlos, Martha, and Roberto Herrera) are heard speaking on the video and testified to the subject matter during the hearing.

Candidate (in addition to testimony and evidence elicited from Mr. Sigcho-Lopez during objector’s case), would call Martha Herrera, Roberto Herrera and Loreen Targos.

Candidate would offer into evidence the following Exhibits: Unless otherwise noted,

evidence was admitted without objection of the other party. Evidence as described in this list is described colloquially and not necessarily as a determinative descriptor of what it portends.

- #1 U of I Mercer Insurance Enrollment Offer to Candidate at 1813 S. Carpenter - Admitted
- #2 1740 W. 21st Place Lease – Byron Sigcho – Admitted
- #3 B of A Account Statements Martha Herrera – Admitted
- #4 City of Chicago Heating Disclosure – 1740 W 21st Place – Byron Sigcho – Admitted
- #5 [22 Page Group] 7-30-2018 Issued Chicago Board of Elections Verification of Registration Byron Francisco Sigcho Lopez at 1813 S. Carpenter Address + Various Texts Screenshots, pg 123 of nomination petition, pictures – Admitted – Page 1, not objected to, pages 2-22 over objection.
- #6 12-24-2018 Voter Registration Certificate Byron Francisco Sigcho Lopez at 1813 S. Carpenter Address – Admitted
- #7 Wintrust Bank Statements – Friends of Byron Sigcho at 1813 S. Carpenter – Admitted
- #8 10-15-18 Form D-2 – Friends of Byron Sigcho-Lopez at 1813 S. Carpenter – Admitted
- #9 10-1-18 State Farm Insurance Policy renewal Byron Sigcho at 1813 S. Carpenter – Admitted
- #10 [Group] Various ActBlue Illinois postcards addressed to Friends of Byron Sigcho at 1813 S. Carpenter – Admitted
- #11 AFSCME People Postcard addressed to Byron Sigcho Lopez at 1813 S. Carpenter – Admitted
- #12 Chicago Federation of Labor postcard addressed to Byron Sigcho Lopez at 1813 S. Carpenter – Admitted
- #13 Facebook advertising letter addressed to Byron Sigcho Lopez at 1813 S. Carpenter – Admitted
- #14 IVI-IPO postcard addressed to Byron Sigcho Lopez at 1813 S. Carpenter – Admitted
- #15 Mikva Challenge postcard addressed to Byron Sigcho Lopez at 1813 S. Carpenter – Admitted
- #16 [Group] Various postcards addressed to and/or returned as undeliverable to Byron Sigcho Lopez at 1813 S. Carpenter – Admitted
- #17 Various Ecuadorean government issued cards in the name of Byron Francisco Sigcho-Lopez – Admitted
- #18 Ecuadorean government issued proof of vaccination in the name of Byron F. Sigcho-Lopez – Admitted
- #19 [Group] Affidavit of, and documents authenticated by, the translated affidavit of the Ecuadorean Counsel General to Chicago, Dr. Carlos Lenin Housse Davalos – Admitted

- #20 Email chain re: construction delays 1901 W. 21st Street – Admitted
- #21 Pictures of construction issues 1901 W. 21st Street – Admitted over hearsay objection, they were authenticated and foundation laid by Ms. Targos
- #22 B of A statements May, 2018, through October, 2018, Byron Sigcho, containing addresses 1740 W. 21st Street until October, 2018, statement, 1813 S. Carpenter – Admitted
- #23 Video (on disk and thumb drive) and translation of same - discussion regarding 1813 ownership – Admitted over objection as to hearsay, *see supra*
- #24 Affidavit of Karolina Wiech as to being roommate of Loreen Targos at 20 N. State through mid-August, 2018, Admitted over objection of improper notary/interested party (Targos is notary)
- #25 Affidavit of Fabian Herrera as to observations of candidate’s presence at 1813 S. Carpenter – Admitted
- #26 Affidavit of Jaime Herrera as to observations of candidate’s presence at 1813 S. Carpenter – Admitted

The Hearing:

In sum, Mr. Sigcho-Lopez stated he resided on the second floor apartment at 1813 S. Carpenter, Chicago, Illinois from July 30, 2018, to the present, prior thereto living alone at 1740 W. 21st Place for some 15 months, the last three on a month to month tenancy after his one year lease ran out.

With the landlord requiring him to move from 1740 W. 21st Place and unable to find a month to month rental location within the 25th Ward, Martha Herrera, described as a good friend, permitted the candidate to set up residency with her in the second floor apartment at 1813 S. Carpenter rent free. The candidate described the general layout and configuration of the 2nd floor apartment that jibed with the other witnesses. He stated he would sleep on the couch, with his blankets and pillows that would be rolled up and tucked away when he was not sleeping there. The candidate described the interior in general agreement with all the other witnesses. The candidate stated he had his toothbrush there and would shower there. Whenever Martha’s grandchildren came over to stay for a visit the candidate would sleep elsewhere.

Roberto Herrera helped him move the candidate’s personal effects into 1813 S. Carpenter 2nd

floor premises on July 30, 2018, which were deposited into a front bedroom used as a storage area and his clothing placed in drawers in a dresser in the storage area. His furnishings were given away or donated.

The candidate stated he also received mail there but that after a disruption in mail/lock-out situation with Martha occurred in early December, 2018, a second mailbox was secured to the gate at the front of the 2 flat for Martha and the candidate, identifying the mailbox in Objector's Exhibit 4. There was also testimony about this mailbox being vandalized and the candidate's name partially scraped off and the candidate made a police report to that effect. [Cand. Ex.#5, Pg. 18]

Candidate married Loreen Targos on September 8, 2018. The candidate and spouse closed on a house/mixed commercial residence structure on September 4, 2018, located at 1901 W. 21st Street, Chicago, Illinois which, because of problems that were revealed post purchase and rehab/construction needs, to date of the hearing they did not expect to move into for several more months, probably no earlier than Spring, 2019.

Ms. Targos at all relevant times lived in a one bedroom condo located at 20 North State Street, Unit 601, Chicago, Illinois.

Objector stated he did not move into the 20 N. State Street residence with Ms. Targos for a variety of reasons, the first being that it was a 1 bedroom apartment and Ms. Targos, as of July, 2018, had a roommate, he needed to use a car frequently and there was no easy parking, it was not as close to his work as he'd like, and he candidly admitted that the location was not in the 25th Ward, such that he never had any intention of moving there.

The first floor residence at 1813 S. Carpenter was occupied by Ms. Gloria Herrera and her children, Christian, Camilo and Carlos (Charlie) Rodriguez. Gloria is Martha's sister. Gloria and Martha's mother, Baudelia Herrera, lived next door at 1817 S. Carpenter. At the time he moved in the candidate believed Baudelita owned 1813 S. Carpenter, at the time of the hearing believed Gloria may actually be the owner.

The candidate stated he met Gloria approximately 5 times.

The candidate would sleep at the 1813 S. Carpenter residence approximately 5-7 times a week at the beginning, spending more and more time at his office at 1612 South Blue Island, Chicago, Illinois (also in the 25th Ward) as the campaign heated up, even sleeping there on occasion. The candidate also admitted to spending a few nights a week with his wife at her 20 S. State Street condominium at the beginning, once her wife's roommate moved out, and that these overnight visits had increased going into December, such that between his campaign office overnights and sleep-overs with his wife, by December, 2018, the candidate would only be sleeping approximately 1-2 times per week at the 1813 S. Carpenter address.

At all times the candidate stated that he definitely resided at the 1813 S. Carpenter address, never abandoned it, and he considered it his residence. The candidate admitted that upon the completion of the renovations and repair work at the 1901 W. 21st Street property he purchased with his wife he intended to move in, probably sometime in spring, 2019 but until then he had no intention of moving out of 1813 S. Carpenter.

In response to objector's Request to Produce Candidate admitted he did not have a written lease nor any utilities, driver's license, state ID, vehicle registrations or tax returns in his name at the 1813 S. Carpenter address, and that his wages were direct deposited such that he did not have checks with the address on them. Candidate's drivers license, issued in 2015, had an address prior to the 1740 W. 21st Place residence that the candidate had not bothered to change, intending to do so when it expired in 2019.

Objector introduced Objector's Exhibit 2, a December 10, 2018, certified statement from the Chicago Board of Elections that the candidate's voter registration at 1740 W. 21st Place, in the name of Byron F. Sigcho, was cancelled effective July 24, 2018.

It would come out in (friendly) cross through Candidate's Exhibit 5, page 1, and Exhibit 6, that the candidate, listed on the Chicago Board of Election voter registration documents as Byron

Francisco Sigcho-Lopez, was registered to vote at 1813 S. Carpenter as of July 30, 2018 [Ex.5] and was still registered to vote at that 1813 S. Carpenter address as of December 24, 2018 [Ex.6].

Objector elicited testimony that the candidate was still an active board member at the Whittier school board, elected in April, 2018, a district which is outside the 1813 S. Carpenter address but which was within the 1740 W. 21st Street address where the candidate resided at the time of his election and that the candidate had not resigned from that position, with the candidate indicating the other board members asked him to stay on. *See also* Cand. Ex.# 3.

During (friendly) cross by candidate's counsel several other documents were introduced in the nature of rehabilitation, each connecting candidate's name with the 1813 S. Carpenter address to which the candidate testified, including Cand. Ex. #1, an offer by the U of I, candidate's employer, of medical insurance enrollment; Cand. Ex. #5, Page 1, July 30, 2018, Issued Chicago Board of Elections Verification of Registration to Byron Sigcho-Lopez at 1813 S. Carpenter; Cand. Ex. #6 December 24, 2018, Voter Registration Certificate of Byron Sigcho-Lopez's current voter status at 1813 S. Carpenter; Cand. Ex. #9 October 1, 2018, State Farm Insurance auto policy renewal to Byron Sigcho at 1813 S. Carpenter; Cand. Ex. #11, an AFSCME People Postcard addressed to Byron Sigcho Lopez; Cand. Ex. #12 Chicago Federation of Labor postcard addressed to to Byron Sigcho-Lopez at 1813 S. Carpenter; Cand. Ex. #13, Facebook advertising letter addressed to to Byron Sigcho-Lopez at 1813 S. Carpenter; Cand. Ex. #14, IVI-IPO postcard addressed to to Byron Sigcho-Lopez at 1813 S. Carpenter; Cand. Ex. #15, Mikva Challenge postcard addressed to to Byron Sigcho-Lopez at 1813 S. Carpenter; Cand. Ex. #16 [Group] Various postcards addressed to and/or returned as undeliverable to to Byron Sigcho-Lopez at 1813 S. Carpenter; Cand. Ex. #22, Bank Statements evidencing a change in address to 1813 S. Carpenter as of the October statement.

Objector would also present part of Board Group Exhibit A, the candidate's nomination papers, specifically pointing to the candidate's petition sheet 123 (Cand. Ex. 5, Pg. 6). This petition sheet was circulated by the candidate and notarized on September 15, 2018. This petition sheet, as

with all of them, had a clearly typed heading listing the candidate's name and address, with the address listed being 1813 S. Carpenter. This petition sheet was signed by all the adult residents at 1813 S. Carpenter: Martha Herrera, Camilo Rodriguez, Gloria Herrera, Carlos Rodriguez, Christian Rodriguez, as well as Baudelia Herrera, residing at 1817 S. Carpenter and Roberto Herrera.

The candidate further testified that he had filed a change of address form with the post office from the 1740 W. 21st Place address to 1813 S. Carpenter.

Carlos (Charlie) Rodriguez, called next, testified that he had lived at 1813 S. Carpenter, 1st floor, for 30 years. The witness is self-employed as a club DJ and web/graphic designer, during the relevant period working outside the house 2-3 times per week, and visits overnight with his girlfriend at her Uptown location 1-2 times per week.

Carlos testified that his mother owns the property, and that Martha and no one else lived on the 2nd floor. Carlos had been up on the 2nd floor apartment 6-7 times in the past year, only 1-2 of those times being since July, 2018, and that the last time was approximately a month ago to check for a leak in the roof.

He testified he knew of no rental agreement from his mother to the candidate, did not see the candidate there on a regular basis, noted that mail was coming to the house for the candidate and stated he was curious why that was because he didn't believe the candidate lived there.

Carlos stated that in a conversation with the candidate about the mail that the candidate stated his house was being fixed and he needed an address for mail but the candidate didn't mention living there, and in conversations with Martha she was aware the candidate was receiving mail at the address. There was no testimony from Carlos as to whether he specifically inquired of Martha or the candidate whether the candidate was actually living there.

Carlos admitted seeing the candidate and his wife in the second floor apartment approximately a month ago, presumably when the witness checked for a leaking roof, which would comprise one of the two times Carlos testified he was present within the 2nd floor apartment between

July, 2018, and his testimony. It would be the only time the witness saw the candidate within the 2nd floor apartment.

The witness testified to two separate text screenshots, the first initially identified as Objectors Exhibit #5 but subsequently accepted into evidence as Objector's Exhibit #7, wherein the candidate's residence at 1813 was discussed, and Candidate's Exhibit #5, page 14-15 and 16-17, neither document, despite the witness stating they referenced the candidate not actually living there, give any clarity as to any such assertion, merely (pg. 16) as to ". . . cuz I got facts on them."

Objector's last witness was Gloria Herrera, mother of Carlos (Charlie) Herrera and sister to Martha Herrera.

Gloria Herrera testified that she owned the 1813 S. Carpenter property, lived there her whole life, that her sister Martha has lived on the 2nd floor for some 20 years, that no one else lives on the second floor, nor did Gloria give anyone else permission to live there and that Martha pays her rent rather than money towards a share (1/2) of the mortgage.

Gloria had hip surgery in July, 2018, and would go to physical therapy 2-3 times per week from July through August and used a walker to get around during this time frame, but would be back to work by September 17, 2018.

Between August and the present Gloria stated she was up in the 2nd floor apartment 4-5 times, didn't see any men's clothing, that there was no dresser in the storage room, and had only met the candidate one time when he parked in her handicapped parking space when she asked him to move and that she had never seen the candidate come in or out of the apartment building despite working on her computer approximately 4 times a week at the front window for her regular tele-commute job as a program coordinator and technical assistant.

Gloria stated she confronted the candidate outside the building about his use of her mailbox and stated she told him to stop having his mail delivered to her mailbox, to which the witness stated the candidate made no response.

The witness stated Carlos was "in and out" of the house a lot because of his successful DJ career, and even went to Puerto Rico recently for a week to perform, but that Camilo and Christian are homebodies that are almost always home.

The witness asserted that Martha admitted the candidate did not live there but had his mail delivered there while his house was being remodeled/repared.

Gloria further stated that at some point she had the lock changed on the original mailbox and for a period Martha did not have a key because of a problem on the new lock, and that the second mailbox with Marth and the candidate's name on it was placed there without Gloria's permission but that Gloria did not have an issue with it being installed.

Upon the conclusion of Gloria's testimony, the aforesaid objector exhibits were entered into evidence, of which the following affidavits were admitted, the relevant facts and conclusions thereupon set out briefly below.

Objector's Exhibit #8, the affidavit of Camilo Rodriguez, states that he lives at 1813 S. Carpenter, that Gloria (mom) owns the property, that Martha (aunt) is the tenant of Gloria, and since February 2018 he was in Martha's apartment numerous times, that he knows Byron Sigcho a/k/a Byron Sigcho-Lopez and that in his opinion the candidate does not live on the 2nd floor apartment in that Camilo never saw any men's personal affects or other items belonging to the candidate in Martha's apartment, also testifying that in December, 2018, he did see the candidate bringing things into the 2nd floor apartment.

Candidate's Exhibit #9, the affidavit of David Barrera, states he has lived at 1807 S. Carpenter for a year, knows his neighbors at 1813 S. Carpenter, knows Gloria owns the building, has never seen the candidate (set out in a picture above the affidavit) at the 1813 S. Carpenter premises and has never seen him coming in or out of the 1813 S. Carpenter premises, further, that a mailbox with the candidate's name affixed was only affixed to the gate in December, 2018, and that in his opinion the candidate does not live at 1813 S. Carpenter.

Objector's Exhibit #10, the affidavit of Patricia Condon, wherein the affiant states that on December 3, 2018, at approximately 5:40 p.m. she witnessed a person she identified from a picture at the top of the affidavit as Loreen Targos, wife of Byron Sigcho a/k/a Byron Sigcho-Lopez, open a mailbox at 1813 S. Carpenter, remove the mail and take some with her, leaving in a car.

At this point objector rested. Candidate's motion for a directed finding at the close of candidate's case was ruled upon as stated *supra*.

Candidate then opened his case in defense (in addition to the candidate's testimony during the objector's case in chief) by calling Martha Herrera to the stand.

The witness, a retired Chicago public school teacher, in accord with the other witnesses, including the candidate, confirmed the various apartment configurations and residents of the 1813 S. Carpenter address.

Martha stated in Spring or Summer 2018 the candidate asked her if he could reside in her apartment and she checked with her mother in that Martha was of the belief the property was owned by Baudelia Herrera, and after her mother indicated she didn't mind agreed to allow the candidate to live there.

Martha stated she herself did not have any written lease and characterized her payments not as rent but rather as paying ½ the mortgage and for repairs, but that she did not pay for utilities. Martha wrote Gloria a check every month and doesn't know who exactly was on the deed.

The candidate moved into the 2nd floor residence on July 30, 2018, with the help of Roberto Herrera, Martha & Gloria's brother, and that the candidate and Roberto moved boxes, bags and bins belonging to the candidate into the front storage area of the 2nd floor apartment. Martha gave the candidate a set of keys to the apartment. She further testified that the candidate would sleep on the couch, eat in by cooking or ordering in, that his toothbrush and shower articles were there, that during the August/September 2018 time period he would be sleeping there 60-70% of the time, and he still lives there as of the time she was testifying and that he was 100% authorized to live there.

Breaking down the candidate's comings and goings, Martha indicated that for August he would be sleeping at 1813 S. Carpenter approximately 4 times per week, September and October 3-4 times per week, and for the November to present time approximately 2-3 times per week, other times the witness speculated that the candidate might be at the campaign office or with his wife. When Martha's grandkids came over to stay with her for a visit the candidate would sleep elsewhere. The witness acknowledged supporting the candidate's efforts, and agreed that the candidate did not pay anything to stay with her.

Martha testified that Gloria was unhappy that she was not told of the candidate's moving, but that Gloria was only up in her apartment one time during the August to present time frame, for approximately 3 hours while the local women in the neighborhood sewed "Day of the Dead" dolls for an outdoor altar display, and that after her hip surgery Gloria actually lived with their mother at 1817 S. Carpenter for some 4-6 weeks as she recuperated, and was not on the premises at all during that time frame.

Martha would see Gloria's children, Carlos (Charlie), Christian and Camilo around the premises at various times, Carlos the least, Christian the most, between 1 time every couple of weeks for Carlos to 3-4 times a week for Christian.

Martha testified that Carlos was only up in her apartment one time since July 30th, for five minutes to check on a leaking roof and/or water coming down the wall.

Objector next called Roberto Herrera to the stand, who was Martha and Gloria's brother. A retired Chicago firefighter who lived at 2446 West 45th Street, Chicago, Illinois, Mr. Herrera, who owns 1810 S. Carpenter, testified that he believed his mother, Baudelia Herrera, owned 1813 S. Carpenter.

The witness first met the candidate on July 30, 2018, when Martha asked Roberto to help move the candidate out of 1740 W. 21st Place to Martha's 1813 S. Carpenter, 2nd floor apartment.

The witness transported some 10-15 boxes and bags for the candidate from the 1740 W. 21st

Place location and physically deposited them in the front storage room located in Martha's 1813 S. Carpenter, 2nd floor apartment.

Subsequently thereafter the witness would be present in the 2nd floor apartment approximately 4 more times for various reasons, including social visits with the candidate, at least one time with Roberto's wife, and would see the candidate there with Martha, noting that on one occasion they were eating dinner, believing that the candidate had ordered Chinese food on that instance. On another time the witness was present he drank a few beers with the candidate while in the apartment, and on one occasion the candidate's wife was present. It was the witnesses' opinion based on his observations and interactions that from the July 30, 2018, date through the date of his testimony the candidate resided in the 2nd floor apartment at 1813 S. Carpenter.

The witness never discussed the candidate's residency on Carpenter with Gloria in that in his opinion there was no need to do so.

The candidate's last witness was Loreen Targos, the candidate's wife. She testified she alone owned the one bedroom 20 N. State Street condominium, that her personal identification documents, such as driver's license and related documents for her were listed at the 20 N. State Street address, and that all bills and utilities for that address were in her name. She is registered to vote at that address and plans to change it as soon as she moves into her 1901 W. 21st Street home. She lived alone in that location until June, 2018, at which time a friend, Karolina Wiech, moved in temporarily while Ms. Targos was out of town. When Ms. Targos came back into town Ms. Wiech would remain a roommate until mid-August, 2018, at which point she moved out.

At no time did the candidate consider moving into her condominium, in that there was a roommate of hers living there in July/August, it was generally cramped, he needed his car frequently and the parking was difficult, the witness herself being required to rent parking ½ mile away for \$150 per month and at no time did either of them expect to live together at the 20 N. State Street address, with the shared intent to move into the 1901 W. 21st Street property as soon as construction

was done and either rent out or sell the State Street condominium.

The witness confirmed the date of marriage, the purchase of the 1901 W. 21st Street property by the candidate and her, and the candidate's prior residence at 1740 S. 21st Place, further testifying the candidate never moved into the State Street condominium, never resided to date in the 1901 W. 21st Street property, and that Ms. Targos helped the candidate move into the 1813 S. Carpenter 2nd Floor residence on July 30, 2018.

The witness further acknowledged that the candidate would overnight with her sporadically at the State Street condominium, and that she herself, at one time the campaign manager for the candidate, had fallen asleep a couple of times at the campaign office along with the candidate, but that the candidate did not move into the campaign office nor the 1901 W. 21st Street property, which the witness described as uninhabitable while it was undergoing a 'gut-rehab' that was not anticipated when they first offered to purchase the property in May, 2018, at which time they had expected a quick closing and occupancy, although there was one apartment at the 1901 W. 21st Street property still occupied by a renter who had 6 months remaining on a lease.

Ms. Targos stated she had been present at the 1813 S. Carpenter, 2nd floor premises a few more times after the move-in, but never stayed overnight there.

Upon the conclusion of Ms. Targos' testimony, the aforesaid candidate exhibits were entered into evidence, of which the following affidavits were admitted, the relevant facts and conclusions thereupon set out briefly below.

Candidate's Exhibit #24 is the affidavit of Karolina Wiech, who stated she had previously met the candidate who she understood to be Ms. Targos' boyfriend and later fiancé. Affiant lived at the 20 N. State Street condominium from June, 2018, through mid-August, 2018, with Ms. Targos living there starting in July through affiant's mid-August departure, during which time she never saw any men's clothing, personal effect, documents or anything she identified as the candidate's possessions at the premises, and that affiant and Ms. Targos were the only residents of the

condominium and she never saw the candidate live there.

Candidate's Exhibit #25 is the affidavit of Fabian Herrera as to observations of candidate's presence at 1813 S. Carpenter, who stated that for all of 2018 he lived in the front 2nd floor apartment at 1810 S. Carpenter with windows facing 1813 S. Carpenter, and that during the period late Summer and Fall, 2018, through the present time he would regularly (every 2-3 days) see the candidate park his vehicle and enter the 2nd floor apartment at 1813 S. Carpenter, and would hold conversations with the candidate at least 1-2 times a week and was of the opinion that the candidate resided at the 1813 S. Carpenter, 2nd floor apartment.

Candidate's Exhibit #25 is the affidavit of Jaime Herrera as to observations of candidate's presence at 1813 S. Carpenter. Similar to Candidate's Exhibit #24, affiant stated that for all of 2018 he lived in the 1st floor apartment at 1810 S. Carpenter with windows facing 1813 S. Carpenter, and that during the period late Summer and Fall, 2018, through the present time he would regularly (at least 1-3 times a week) see the candidate enter and/or leave 1813 S. Carpenter, and would hold conversations with the candidate frequently, and was of the opinion that the candidate resided at the 1813 S. Carpenter address.

Upon candidate resting, objector sought to enter into evidence Objector's Exhibit #11, as aforesaid, a copy of a 2006 quit-claim deed, which was permitted over candidate's objection.

Oral argument was entertained upon the close of the evidence.

In sum, objector, relying largely upon *Delk v Board of Election Commissioners of the City of Chicago*, 112 Ill.App.3d 735 (1st Dist. 1983), argued that the lack of surrounding documentation of the candidate's residency, as evidenced by the candidate's failure to produce most of the items on objector's Request to Produce [Obj. Ex.#1] that could connect the candidate with the 1813 S. Carpenter address trumps the bare testimony of witnesses (including the candidate) affirming his residency, further arguing that the testimony of the witnesses also confirmed a decrease over the months as to the number of overnights which also points to a fake residency, alleging the 1813 S.

Carpenter address, at best, was little more than a mail drop intended to preserve the candidate's 25th Ward residence, and that the only logical conclusion is that a newlywed would be staying with his new bride at her condo, in this case 20 N. State Street, outside the 25th Ward, and that the stated reasons for not staying there, another roommate, cramped, location, lack of parking, etc. were a sham.

Objector also advanced the argument that the candidate knew Gloria owned the premises and as such was, at best, a trespasser, citing the Illinois criminal trespass statute, 720 ILCS 5/21-3, which this hearing officer sets out, in relevant part: “. . . (a) A person commits criminal trespass to real property when he or she: (1) knowingly and without lawful authority enters or remains within or on a building; (2) enters upon the land of another, after receiving, prior to the entry, notice from the owner or occupant that the entry is forbidden; . . .”.

Objector further argued that the requirement of residency that a person “intends to remain” is trumped because the candidate (and the candidate's spouse) stated his intent to move to 1901 W. 21st Street as soon as it was habitable, anticipated to be completed sometime in the Spring of 2019, absent further set-backs in repairs and remodeling.

In response, candidate advanced *Maksym v. Board of Election Commissioners of the City of Chicago*, 242 Ill. 2d 303 (2011), *People ex Rel. Madigan v. Baumgartner*, 355 Ill.App.3d 842 (4th Dist. 2005) and *Hare v. Livingston*, 17 EB ALD 02 (Chicago Bd. of Election Commissioners, December 29, 2016) in defense, arguing intent as the most significant factor to consider in whether a residence has been established, with the candidate also focused on both the testimony and documentary evidence introduced rather than what was not produced, arguing that the candidate had refuted objector's allegation regarding residency not only by testimony but also by several documents that did, in fact, connect the candidate's name and the 1813 S. Carpenter address and supported his stated intent, as well as the testimony of Martha Herrera and Roberto Herrera.

Noting that Martha herself did not have a written lease or utilities in her own name, candidate

pointed to Candidate's July 24, 2018, cancellation of his voter registration at 1740 W. 21st Pace, [Obj. Ex. #2] candidate's July 30, 2018, voter's registration card with his address listed at 1813 S. Carpenter, [Cand. Group Ex. #5, Pg. 1], December 24, 2018, Certified Copy of current voter registration [Cand. Ex. #6], the U of I offer of medical insurance coverage, [Cand. Ex. #1], State Farm auto insurance policy renewal, [Cand. Ex. #9], postcards and letters from political organizations, Facebook, and businesses [Cand. Ex. #11, 12, 13, 14, 15, 16] and an October, 2018, Bank of America bank statement [Cand. Ex. #22] all containing the candidate's name connecting the candidate to the 1813 S. Carpenter address.

In the candidate's closing he also sought to rebut the testimony of Martha and Carlos (Charlie) as well as the affidavit of Camilo Herrera [Obj. Ex. #8] by reference to sheet 123 of the candidate's nomination papers [Board Group Ex. A and Cand. Ex. #5, Pg. 6], whereon the circulator's signature (the candidate) was notarized September 15, 2018, within which the candidate's name and 1813 S. Carpenter address were set forth at the top of the petition sheet and each of these individuals, Martha, Carlos (Charlie) and Camilo, along with Martha and Roberto, signed in favor of the candidate's efforts.

Candidate further argued that the "intent to remain" aspect did not require an open ended intent, but rather, that the person intended the current location be the person's residence, and not transitory, no matter that the person might have defined plans to move out at a later date.

After a review of all the evidence, argument and law, it is the recommendation of this hearing officer to overrule the objector's residency objection, in that the objector, who has the burden, failed to prove the candidate was not a resident at the 1813 S. Carpenter, 2nd Floor, Chicago, Illinois apartment, within the 25th Ward of the City of Chicago (or that the candidate ever abandoned same) as of the time he executed his Statement of Candidacy and presented his petition signature papers to the voters, and as such, the Statement of Candidacy was not fraudulent and invalid, nor the petition sheets presented to the voters.

Under the Election Code, the term residence means permanent abode, a person's principal dwelling place. Two elements are necessary to create a residence, physical presence and an intent to remain there as a permanent home. *Delk v Board of Election Commissioners of the City of Chicago*, 112 Ill.App.3d 735, 738 (1st Dist. 1983).

While the *Delk* Court, as stated by objector, held that while declarations of intent are admissible as evidence thereof, acts and surrounding circumstances should be given more weight in making the factual determination of intent *Delk* at 738, there is no hard and fast rule as to what acts and surrounding circumstances suffice to prove or disprove the question.

A residence or domicile is a continuing thing, and a person must, at all times, have a domicile. Accordingly, one's domicile may not be abandoned until another one is acquired. *Riley v. Dukes*, 15 EB ALD 011 (02 (Chicago Bd. of Election Commissioners, January 13, 2015).

Also, the stated intent of the candidate remains a significant, essential factor to consider. *Maksym v. Board of Election Commissioners of the City of Chicago*, 242 Ill. 2d 303 (2011); *People ex Rel. Madigan v. Baumgartner*, 355 Ill.App.3d 842 (4th Dist. 2005); *Hare v. Livingston*, 19 EB ALD 02 (Chicago Bd. of Election Commissioners, December 29, 2016)

In the instant matter it is not contested that the candidate abandoned the 1740 W. 21st Street address at the end of July, 2018 and certainly had no intent to return there. Also, there was no evidence that the candidate ever set up his residence at the 1901 W. 21st Street property such as to render the 1813 S. Carpenter residence a temporary location pending the candidate's return to 1901 W. 21st Street.

As such, another residence for the candidate must perforce come into existence after he vacated 1740 W. 1st Street. With his lease running out, and not being able to find a month to month apartment within the 25th Ward, this candidate testified convincingly that he importuned upon Martha Herrera to allow him to reside with her, which Martha stated in equally clear fashion she agreed to.

Martha, Roberto, Ms. Targos and the candidate all testified to the acts and events of moving in, the candidate's habitation, and other indicia of residence at 1813 S. Carpenter, 2nd floor.

It is true that in the intervening five months the candidate did not acquire many of the documents and identification cards that might be expected of a permanent resident in that time frame, such as a driver's license, cable and utilities accounts, or lease, but as to the last three items, the same can also be said of Martha Herrera, and it is uncontested that she lived at that location for as much as 20 years.

However, this is not to say that circumstantial evidence was completely absent as to the candidate's residence at 1813 S. Carpenter. At the conclusion of his prior lease, the candidate did cancel his voter registration at that address and immediately, as of July 30, 2018, establish his voter registration at the 1813 S. Carpenter address. Additional mail and other documents, including the candidate's insurance enrollment information from his employer as well as his bank statements and auto insurance policy renewal, also bear that address over the succeeding months. In short, the candidate presented more than his testimony and that of others, all of which evidenced the candidate not only set up his residence at 1813 S. Carpenter, but intended it as his permanent residence going forward.

Objector, saddled with the burden of proving the candidate's lack of residence as being more likely than not, has the unenviable task of attempting to prove a negative, viz., that the candidate does not reside in the location as claimed.

Objector's witnesses each testified that, while they saw the candidate at a block party and maybe one or two other times outside the premises, they never (save for Carlos seeing him there one time) saw him inside the 2nd floor apartment and never saw anything connected to the candidate within the 2nd floor apartment, although they admitted they did not open boxes in the storage area to check on the contents.

Over the five months or so covered by this testimony there were infrequent opportunities for

these witnesses to be within the 2nd floor premises, and it seemed most visits occurred during the day. Granted, Gloria Herrera testified to being on the 1st floor premises working 4 days a week at the window, again during the daytime. However, the candidate also testified to significant time away from the property, working on his campaign, at his work for the University of Illinois, and overnighing with his fiancé (later wife) at her place, and that as matters heated up he had several times fallen asleep at his campaign office. These temporary absences from his established residence will not cause him to lose or otherwise surrender his residence. *Stein v. County Board of Trustees of DuPage County*, 85 Ill.App.3d 251 (2nd Dist. 1968).

The same can be said of the affidavits offered wherein the affiants [Cand. Ex.# 8 and 9] stated they never saw the candidate on the 2nd floor. Leaving aside the conclusory statements contained therein, at the end of the day, all that could be said is that these witnesses, with some intermittent ability to observe, failed to see the candidate residing in the apartment.

The testimony of these witnesses for objector, as well as the affidavits offered by objector attesting to the lack of any sightings, are more than offset by the testimony and affidavits of other residents in the nature of positive sightings of the candidate within the apartment, socializing, sleeping, showering, eating, as well as affidavits by two residents across the street who affirmatively attest to seeing the candidate on a repeated and frequent basis coming and going in and out of the premises.

Martha in particular testified at some length to the candidate's residence on the 2nd floor, to him being given keys and his comings and goings. Roberto testified to seeing the candidate eating dinner there on one occasion and on another having a few beers with him while in the 2nd floor apartment.

The testimony of the candidate, Martha Herrera, Roberto Herrera and Loreen Targos was credible and corresponded to the available circumstantial documentary evidence.

The testimony of objector's witnesses, Gloria Herrera and Carlos (Charlie) Herrera, while on

their face also credible, have a somewhat separate problem above and beyond trying to prove a negative. These witnesses run into a bit of a credibility question when their testimony is viewed in light of page 123 of the candidate's nomination papers, wherein both Gloria and Carlos (and Camilo Rodriguez, an affiant) all now claiming the candidate did not live at 1813 S. Carpenter, yet each signed the candidate's petition papers in August/September, 2018, attesting to the exact opposite proposition.

Objector also advanced the (then) fiancé's condominium at 20 N. State as the only viable alternative residence to 1813 S. Carpenter, and argued that it was, in fact, the candidate's probable residence, yet no evidence, circumstantial or otherwise, in the nature of documents or testimony, was offered in support of this position other than the previously referenced testimony as to the candidate's occasional overnights with his fiancé/wife.

It is also uncontroverted that at the end of July, 2018, Ms. Targos had a roommate and two dogs in a one bedroom condominium, and that situation would continue through the middle of August, 2018, and the candidate and Ms. Targos provided ample credible reasons as to why the candidate did not want to move into the 20 N. State Street address. While opinions may differ and objector argued strenuously as to why anyone would want to reside separate from their newly wedded wife, this line of inquiry comprises mere speculation, not evidence, and this lack of any evidentiary support for this alternative address is in direct contrast to the circumstantial evidence that supports the candidate's position.

While the objector, with the burden on this issue, could produce no documentary evidence that the candidate was not a resident at 1813 S. Carpenter, 2nd floor as claimed, or that he had set up an alternative residence somewhere else, the candidate produced a limited but compellingly diverse number of documents evidencing his residence and in accord with the testimony and affidavits of several witnesses as to his claimed residence.

The issue of trespass, raised by objector in closing arguments and utilizing a 2006 deed [Obj.

Ex. #11], has little traction. Martha testified that she believed her mother Baudelia owned the property and asked her permission for the candidate to reside there, and received no objection. Roberto Rodriguez, owner of 1810 S. Carpenter and brother of Gloria and Martha, also testified that he believed his mother owned 1813 S. Carpenter. The candidate stated his belief at the time that the mother owned it. Candidate's Exhibit #23, a transcribed Spanish language discussion of this precise issue, came in because objector, in introducing the deed [Cand. Ex.#11] opened the door on this issue. While not considered evidence as to who truly owned the premises, it did reveal comments by Gloria, Roberto, Martha and Carlos that the issue was in some kind of dispute.

Gloria did state she confronted the candidate regarding his use of her mailbox and demand that he halt such use; however, no testimony or other evidence was received regarding any effort or demand by Gloria upon the candidate that the candidate not reside there or claim to reside there. In fact, shortly after Gloria's demand that the candidate cease using her mailbox, an alternative mailbox was installed with the candidate's name on it, the installation of which Gloria stated she did not object.

In short, even assuming Gloria actually is the sole owner of 1813 S. Carpenter, objector failed to prove the candidate had any knowledge of Gloria's ownership, such that he could not knowingly have acted the part of a trespasser.

As to the admittedly intended objective of the candidate at some point in the future to move into his purchased home at 1901 W. 21st Place, this was an event that would take place at some uncertain time months in the future, the exact date not even known. This is not the factual situation where a candidate, having temporarily relocated from an established residence, intending to return, filed nomination papers based upon the temporary residence address. This candidate will not be returning to a previously claimed residence that was only temporarily abandoned, but rather, has an expectation of establishing a new residence at some indeterminate time in the future at another location, also in the 25th Ward. Such a set of facts does not somehow transmute the candidate's

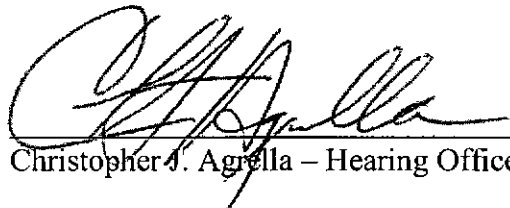
present intent to permanently reside at 1813 S. Carpenter into a temporary residence.

For purposes of this issue it is the recommended finding of this hearing officer that the candidate's residence was 1813 S. Carpenter, 2nd Floor, Chicago, Illinois and the objection on this issue should be overruled.

WHEREFORE your hearing officer recommends to this Board that it adopt the above findings, decisions and recommendations of the hearing officer and that the Board overrule the instant objection, that the Board further declare the candidate's nomination papers sufficient in law and fact, and that the candidate's name, Byron Sigcho-Lopez appear on the ballot for election to the office of Alderman of the 25th Ward of the City of Chicago, to be voted upon in the February 26, 2019, Municipal General Election.

Christopher J. Agrella
Hearing Officer
330 East Main Street
Suite 205
Barrington, Illinois 60010
Office: (847) 381-6800
Fax: (847) 381-6866

Respectfully Submitted,


Christopher J. Agrella – Hearing Officer