NBCON

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

Objections of: JAY RAMIREZ	)	
	)	
	)	
To the Nomination	)	No.: 23-EB-ALD-068
Papers of: SAM ROYKO	)	
	)	
Candidate for the office of Alderperson for	)	
the 1st Ward, City of Chicago	)	
	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of the Board of Election Commissioners for the City of Chicago, Commissioners Marisel A. Hernandez, William J. Kresse and June A. Brown, 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 JAY RAMIREZ ("Objector") to the nomination papers ("Nomination Papers") of SAM ROYKO, candidate for the office of Alderperson for the 1st Ward ("Candidate") at the Municipal General and Alderperson Elections to be held on Tuesday, February 28, 2023, having convened on Friday, December 9, 2022, at 4:00 p.m. 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 or service was waived.

4. A public hearing held on these Objections commenced on Friday, December 9, 2022 and was continued from time to time. The Electoral Board assigned this matter to Hearing Officer Joseph Morris for further hearings and proceedings.

5. 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, JAY RAMIREZ, and/or his attorney PERICLES ABBASI; the Candidate, SAM ROYKO, and/or his Attorneys ROSS D SECLER, BURTON S ODELSON and PRISCILLA CENTENO.

6. The Hearing Officer has tendered to the Electoral Board his report and recommended decision. The Hearing Officer recommends that the Objections to the Candidate's Nomination Papers be overruled and that the Nomination Papers be declared valid.

7. 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.

8. For the reasons stated above, the Electoral Board overrules the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of JAY RAMIREZ to the Nomination Papers of SAM ROYKO candidate for the office of Alderperson for the 1st Ward, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of SAM ROYKO, candidate for the office of Alderperson for the 1st Ward, SHALL be printed on the official ballot for the Municipal General and Alderperson Elections to be held on Tuesday, February 28, 2023.

Dated: Chicago, Illinois, on Friday, January 13, 2023.

Marisel A. Hernandez, Chair

William J. Kresse, Commissioner

June A. Brown, 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 BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
AS THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS
TO NOMINATION PAPERS OF CANDIDATES
FOR THE FEBRUARY 28, 2023, MUNICIPAL GENERAL ELECTION
FOR MAYOR, CLERK, TREASURER, ALDERPERSONS,
AND MEMBERS OF POLICE DISTRICT COUNCILS
IN THE CITY OF CHICAGO

JAY RAMIREZ, *Objectors-Petitioner,*	)	
vs.	)	No. 23-EB-ALD-068.
SAM ROYKO, *Candidate.*	)	Hearing Officer Morris

REPORT AND RECOMMENDED DECISION OF THE HEARING OFFICER

To the Board of Election Commissioners of the City of Chicago:

Hearing Examiner JOSEPH A. MORRIS reports as follows:

Introduction

1. This is a case involving a Candidate who filed nominating papers seeking election as Alderperson of the 1st Ward of Chicago. The gravamen of the Objector's Petition is that the Candidate does not reside at the address stated in his nominating papers and that the Objector suspects that he resides elsewhere, albeit still in the 1st Ward. Proceedings established that Objector had no evidence supporting that theory and no plan for obtaining such evidence. If an evidentiary hearing had been held, no probative evidence was available to establish Objector's claims. There thus was no genuine issue of material fact in the case, no reason to hold an evidentiary hearing

beyond the one effectively held, and no basis for denying that Candidate was entitled to a favorable disposition as a matter of law. The Hearing Officer recommends disposition of the case in a manner akin to summary judgment in favor of Candidate.

Preliminary Proceedings

1. This matter came before the Hearing Officer, pursuant to notice, for initial hearing on December 12, 2022. The Objector was present by counsel, Pericles C. Abbasi. The Candidate was present by counsel, Priscilla Centeno of Odelson & Sterk. No issue was raised as to sufficiency or timeliness of notice of the objection or of the hearing. Both parties filed written appearances and confidentiality and non-disclosure agreements; both parties agreed to service by e-mail of notices and other writings in this proceeding.

2. Without objection, the Candidate's nomination papers for the office of Alderperson of the 1st Ward of the City of Chicago were admitted into the record as Board Group Exhibit A; the Objector's Petition and attachments were admitted into the record as Board Group Exhibit B; the returns of service of process by the Sheriff of Cook County, Illinois, were admitted into the record as Board Group Exhibit C; and the parties' written appearances and confidentiality and non-disclosure agreements were admitted into the record as Board Group Exhibit D.

3. Each party stated that he was in possession of the Rules of the Electoral Board.

4. It appeared on the face of the Objector's Petition that the Objector alleged that:

> Candidate has listed his address on his Petitions and statement of Candidacy as 1605 West Ohio Street, Unit 1, Chicago, IL 60622. However, his actual residence is 1218 North Noble Street, Unit 25, Chicago, IL 60642.

Objector's Pet., ¶ 5. The parties stipulated that both addresses — that is, 1605 West Ohio Street and

1218 North Noble Street — lie within the boundaries of the 1st Ward. Thus the case presents two questions, a question of fact and a derivative question of law.

(a) The question of fact is: Does the Candidate reside at 1605 West Ohio Street?

(b) The question of law is: Assuming that it is determined that Candidate resides at an address that, although located within the pertinent ward, is not the address set forth by Candidate in his nominating papers (including petitions circulated to and subscribed by electors), are the nominating papers thus fatally defective?

The parties agreed that no other questions were presented in the case.

4. Candidate stated that he intended to move, pursuant to Rule 5 of the Rules of the Electoral Board, to strike and dismiss or otherwise challenge the sufficiency of the Objector's Petition. A briefing schedule was established on such a motion; the parties were reminded of the rules applicable to the seeking of subpoenas for compelling evidence before the Electoral Board; and a hearing was scheduled on the motion and on the applications, if any, for subpoenas.

Application for Subpoenas

5. Candidate filed no application for subpoenas.

6. Objector seasonably filed an application for a single subpoena. The subpoena sought by Objector would have been a subpoena *duces tecum* addressed to Chicago Title Land Trust Company which would have commanded that respondent to produce the following:

> Any records that indicate that Samuel Royko is a beneficiary of Chicago Title Land Trust No. [a number was there inserted which is here redacted by omission, hereinafter "the Trust Number"].

Objector's Req. for Subpoena, Appendix (Proposed Subpoena). The Objector explained the request

as follows:

> Reason: Para. 5 [of Objector's Petition] alleges Candidate resides at 1218 North Noble Street, Unit 2S owned by Chicago Title Land Trust Trust No. [the Trust Number] dated 10/31/19. Subpoena asks only if Candidate is beneficiary and to not name any others.

Objector's Req. for Subpoena.

7. The application for the subpoena was complicated by the fact that the parties knew, or suspected, that the, or a, beneficial owner of the land trust was a person who was and is a protectee under an Order of Protection issued by the Circuit Court of Cook County in proceedings unrelated to this proceeding and unrelated to the parties to this proceeding. The parties reported that they had been contacted by an Illinois attorney, apparently independent of the parties here, who averred to them that he represented the protectee subject to the Order of Protection and urging them, and through them the Electoral Board, to do nothing that would publicly disclose the protectee's identity or compromise her safety. Both parties indicated to the Hearing Officer that they were sensitive to those concerns. Objector has incorporated language in his proposed subpoena that would have instructed the respondent, Chicago Title Land Trust Company, "DO NOT INCLUDE THE NAME OF ANYONE BESIDES SAMUEL ROYKO IN ANY RESPONSE". Objector's Req. for Subpoena, Appendix (Proposed Subpoena).

HEARING OF DECEMBER 17, 2022

8. A hearing was held on December 17, 2022, on Candidate's Rule 5 motion, styled as his " Motion to Dismiss Objector's Petition or in the Alternative for Summary Judgment ", and on Objector's Request for Subpoena. Mr. Abbasi attended on behalf of the Objector. The Candidate attended in his proper person and Ross Secler of Odelson & Sterk attended as Candidate's counsel.

9. At the hearing the parties agreed that the only factual issue in the case is whether or not the Candidate resides in Unit 1 at 1605 West Ohio Street in Chicago, Illinois. Tr. 7.[1]

10. The Objector distilled his case to proposition that, at one time the Candidate resided at the Noble Street address, a property that Judy Royko and he owned; that he purported to sell the property to a land trust in 2019; and that he then purported to reside thereafter at the Ohio Street address; but if the purported sale in 2019 of the Noble Street property was a sham, and the Candidate still owned all or part of the Noble Street property by retaining all or part of the ownership of the beneficial interest in the land trust, then he may still reside at the Noble Street property rather than at the Ohio Street address. Counsel for Objector summarized Objector's theory in this way:

> The facts of the matter, we don't dispute the records produced by the Candidate or public records. The one at issue for our case is that there was this transfer in 2019 from Mr. Royko and Judy Royko to a land trust. There was consideration of $450,000 for it. We want to see if this was -- if Mr. Royko has any interest in the land trust. If that's the case, we believe that would show that his residency would still be there. If there is no interest, then our case is pretty much done.

Tr. 25.

11. Shortly thereafter, the following colloquy occurred between the Hearing Officer and Objector's counsel:

> HEARING OFFICER MORRIS: Lets assume that Mr. Royko and Judy Royko, for whatever reasons, have entered into some very complicated arrangement with one or more of the third parties to create a very complicated land trust ... arrangement in which they retained some ownership interest in the Noble Street property. Why does that matter if the truth of the matter is that Mr. Royko lives somewhere else, say at the Ohio Street property[?] And indeed what does it matter whether Mr. Royko own, two, six, 50 or 100 pieces of property situated around the First Ward or owns some complete or partial ownership interest [or] some other interest in the [nature] of a mortgage or some other kind of claim, if in fact the truth of the matter is that he resides, as the term "residence" [h]as legal significance in

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[1] Citations to the transcript of the hearing of December 17, 2022, are signaled by "Tr." followed by the page number in the transcript.

Illinois, at the Ohio Street address stated on his petition, what does it matter?

MR. ABBASI: If he does in fact reside on Ohio Street, it wouldn't matter.

Tr. 27-28.

12. A further colloquy between the Hearing Officer and Objector's counsel ensued shortly thereafter:

> HEARING OFFICER MORRIS: Say we established that Mr. Royko in fact does still own the Noble Street property, through whatever convoluted arrangement he owns it, and that convolution may be explained by the desire to protect [the woman is the protectee under the Order of Protection]. What if it turns out to be some kind of glorified purchase money mortgage or anything else, if Mr. Royko in fact lives at the Ohio Street address? In other words, say we establish -- say you established that Mr. Royko retained some residual interest in the Noble Street property, how does that help you show that Mr. Royko resides there or, more to the point, does not reside at the address that he claims?
>
> MR. ABBASI: That by itself --
>
> HEARING OFFICER MORRIS: It doesn't, does it? You need more. So do you have more? That is to say, do you have -- you haven't sought any other subpoenas. Do you have any other witnesses that are going to come in and say, "I see Royko getting up every morning and standing in the window of Noble Street and shaving"[?]
> ****
> [Or, "]I see Mr. Royko leaving early in the morning and coming home every night and from Noble Street that he leaves and to Noble Street he goes." Is anybody going to testify to that?
>
> MR. ABBASI: Speaking to the Objector, no.
>
> HEARING OFFICER MORRIS: I'm hard-pressed to say -- say we issued your subpoena and we've jumped through all the hoops ... to protect the identity of the woman who apparently needs protection, and the result of all of is it that Mr. Royko is a creditor or is a partial owner of the beneficial interest in the land trust or any such thing, I'm hard-pressed to see where that gets us in terms of establishing that Mr. Royko is not a true resident of the Ohio Street address. I suppose you will be calling into question his credibility, credibility on that, so it's credibility on anything. But that's an evidentiary point to raise if you got other evidence that says he doesn't reside at Ohio Street or where else he is claiming that he does. So help me help you Mr. Abbasi. Even if the title company tells us that lurking behind this mysterious land trust number is Royko, where does that get you?
>
> MR. ABBASI: At that point, we have to -- I believe in the rule that says subpoenas

can be asked for later if in the interest of justice, that would be a first step.

HEARING OFFICER MORRIS: Don't you think that you should be planning for that now? Because what you are conceding to me now is even if you know that, even if you know there is a Royko behind the land trust, you still need those other witnesses.

MR. ABBASI: Speaking to the Objector, they have no witnesses.

HEARING OFFICER MORRIS: Well, thank you. That's a candid and truthful response and is probably helpful to all of us.

Tr. 28-31.

13. Yet another colloquy between the Hearing Officer and Counsel for the Objector ensued to determine whether or not the Objector, conceding that he lacked voluntary witnesses who could give evidence to the effect that Candidate does not reside at the Ohio Street address, still needed subpoenas to compel the testimony of involuntary witnesses to that effect. The answer was in the negative:

HEARING OFFICER MORRIS: Mr. Abbasi, [Electoral Board] Rule 19 (c) provides that "The party requesting the subpoena must submit such request in writing to the Hearing Officer ... and file such request with the Electoral Board not later than five business days after the first hearing before the Hearing Officer." We are past that now. No matter what the answer of the title company is to the subpoena you proposed, at most you could get from it is an answer that says, "Mr. Royko has some interest in the land trust." But as you have conceded, that doesn't tell us anything about where in fact he resides. It tells us what he owns. And you would have to know that. We all know that from the beginning. No matter what he owns doesn't tell us where he resides. So the question is, do you or, more to the point, [does] your client, have any proposed witnesses who need to be compelled to testify[?] That is the purpose of the subpoena to appear and testify as to the truth of where Mr. Royko resides. And your candid answer to me was that you are aware of no such witnesses that require compulsion.

MR. ABBASI: Correct.

Tr. 33-34.

14. To expedite the proceedings, Candidate volunteered to testify at the hearing despite

the fact that the hearing had been convened to consider Candidate's Rule 5 motion and Objector's request for a subpoena. The Hearing Officer cautioned Candidate that if he testified he was subject to cross-examination. Candidate nonetheless wished to offer his testimony. Tr. 41-43.

Objector was invited to object to the taking of Candidate's testimony but did not object. Tr. 43.

15. Candidate testified that he resides at "1605 West Ohio, Unit 1, Chicago, Illinois, 60622" and that he has "lived there for three years since 2019, right before Thanksgiving." Tr. 44. Asked by his counsel, "Where did you live prior?", Candidate answered, "1218 North Noble." Tr. 45. He identified the warranty deed by which title to the Noble Street property was conveyed by Judy Royko and him to the land trust, Tr. 45-46 and Candidate's Ex. 1-A, and he testified that his mother, Judy Royko, and he received consideration for the sale and paid real estate transfer taxes upon the conveyance of the Noble Street property to its purchaser. Tr. 49. He left behind no chattels — "not even a wedding dress" — at the Noble Street property. Tr. 48. He testified further that all his personal property, and that of his girlfriend, "Erin", who resides with him at the Ohio Street address and who is "on title" with him regarding that property, was moved from the Noble Street residence to that on Ohio Street. Tr. 47-48. He testified further that since 2019 he has not physically entered the Noble Street property. Tr. 49, 57. With respect to the Ohio Street property, Candidate testified that Erin and he own it subject to a mortgage; he produced a copy of the mortgage naming them as mortgagors of it, and he produced an electric bill and a real estate tax bill issued to him pertaining to it. Tr. 50-52, Candidate's Exs. 1-C, 1-D, and 1-E. Candidate also produced copies of the Board's records showing the history of his voter registrations and showing that from and after March 7, 2020, he has been registered to vote from the Ohio Street Address. Tr. 53-54, Candidate's

Ex. 1-F. Without objection by Objector, all of Candidate's marked and offered exhibits were received into evidence.

16. By his counsel, Objector cross-examined Candidate, which examination in its entirety proceeded as follows:

BY MR. ABBASI: Q Mr. Royko, when this transaction occurred in 2019 for 1218 Noble, did you have a realtor for it?

A We did.

Q And how many offers did you receive?

A I believe we received two.

Q And was it listed on the MLS?

A It was.

Q And the other offer, do you know why that one didn't become a contract?

A We chose between the two offers and this was a cash offer.
[Unrelated interruption]

Q So for 1605 Ohio, did you have a realtor help you find that property?

A We did.

Q And did you make the offer for that after accepting the offer for Noble?

A No offer was contingent on the sale of Noble.

Q And were the proceeds from the sale of 1218 14 Noble used for the purpose of 1605 Ohio?

A They were.

Q Have you been inside the 1218 Noble apartment or condo in the years 2020, '21 or '22?

A No.

Q Do you have any interest in -- or are you a beneficial interest in any Chicago Title Land Trust?

A No.

Q And that includes the 1218 Ohio -- excuse me. That includes 1218 North Noble?

A I have no interest in 1218 North Noble.

Q Do you have any financing agreement going on 2 with the purchaser, we won't name, for 1218 North Noble?

A No.

Q Does any family of yours have any interest in 1218 North Noble?

A No.

Q Is any family ever been a beneficiary of a land trust that has ownership in 1218 North Noble?

A No.

Q After did you, do you own any property besides 1605 West Ohio?

A No.

MR. ABBASI: No further questions.

Tr. 56-58.

17. No further evidence was taken at the hearing of December 17, 2022.

18. The Hearing Officer said that he would take Candidate's Motion to Dismiss Objector's Petition or in the Alternative for Summary Judgment and Objector's Request for Subpoena under advisement and, against the possibility that Candidate's motion was not granted, scheduled a hearing on the merits of the case for December 22, 2022.

19. On December 22, 2022, the Hearing Officer entered a Case Management Order

stating that he had determined that a recommendation to the Electoral Board that Motion to Dismiss Objector's Petition or in the Alternative for Summary Judgment be granted is justified on the record of the case; that there was therefore no need to conduct the hearing scheduled for December 22, 2022; and that the hearing was therefore stricken from the call.

Analysis and Evaluation

20. The sole material question of fact present in this case is: Does the Candidate reside at 1605 West Ohio Street? Because the burden is upon the Objector to prove that the candidate is ineligible for office, *Hagen v. Stone*, 277 Ill. App. 3d 388, 390 (1995), in the context of this case it is the burden of the Objector to prove that the Candidate does *not* reside at 1605 West Ohio Street.

21. When the Objector was asked what proof he had to show that the Candidate resided anywhere other than at 1605 West Ohio Street, his only straw was to observe that, in 2019, the Candidate had created a public record of appearing to sell his former residence by conveying it into a land trust. Objector suggested that, if the records of the land trust company showed that, in fact, behind the veil of the land trust the Candidate retained some beneficial or other interest in the land trust, then it might be inferred that the Candidate still "resides", within the meaning of Section 3.1-10-5(c) of the Illinois Municipal Code, 65 ILCS 5/3.1-10-5(c), at his former address.

22. But even if Candidate continued to own all of, or some interest in, his former residence, ownership of property in an election district, without more, is not sufficient to qualify one as a voter, and therefore as a candidate, in that district. *Clark v. Quick*, 377 Ill. 424, 36 N.E.2d 563 (1941); *Huber v. Reznick*, 107 Ill. App. 3d 529, 543, 437 N.E.2d 828 (5th Dist. 1982). All the more compelling, then, is the conclusion that ownership of property does not tether one, for purposes of

voting or candidacy, to any particular place merely because one owns it. No statute compels a person to reside in, and be an elector and a candidate at, only a property that one owns, particularly inasmuch as at any given time one might own more than one property. Ownership of Blackacre may be evidence that one resides at Blackacre, even if standing alone ownership may not be dispositive of the question of one's residence. But no law says that if one owns Blackacre one can never reside at Whiteacre, whether or not one owns Whiteacre. Accordingly, even if Objector were able to establish that Candidate Royko continued after 2019 to own in some way, in whole or in part, the Noble Street property, that would not establish whether or not Candidate resided at the Oak Street address, and might not even be probative of it.

23. Thus, the only evidence that Objector sought to adduce in this case — a piercing of the veil of an Illinois land trust to learn whether or not Candidate had some beneficial interest in the trust — was not in the least probative of whether or not Candidate resides at that place.

24. On the record of this case Objector, through counsel, admitted that he had no evidence that Candidate resided other than at the Ohio Street address. Two elements are necessary to establish residency for purposes either of voting or of candidacy, (1) physical presence in the place, and (2) the intention to remain thereof as a permanent home. *Maksym v. Board of Election Commissioners*, 242 Ill.2d 303, 950 N.E.2d 1051 (2011); *Stein v. County Board of Trustees of DuPage County*, 85 Ill.App.2d 251, 229 N.E.2d 165 (2d Dist), *aff'd*, 40 Ill.2d 477, 240 N.E.2d 668 (1968). With or without the aid of compulsory process, Objector knew of no witnesses whom he could call to give evidence as to either Candidate's physical presence or candidate's intentions.

25. By contrast, Candidate, through his own testimony and exhibits entered into the record without objection by Objector, presented substantial evidence as to his physical presence and

intentions. Candidate did so notwithstanding the fact that, having no burden of proof in the matter, he had no *duty* to present such evidence, and no *need* to present it absent counter evidence to rebut. Candidate's evidence easily established that he resides at the Ohio Street address set forth in his nominating papers.

26. The Rules of the Electoral Board do not expressly provide for summary judgments. Neither do they prohibit summary judgments in appropriate cases. Rule 5 does permit motions that test the "legal sufficiency" of an objection, and it is no stretch to say that a fact-dependent claim for relief that is unsupported by any facts lacks legal sufficiency. Although the Illinois Appellate Court said in *Caldwell v. Nolan*, 167 Ill.App.3d 1057, 522 N.E.2d 175 (1st Dist. 1988), that the Code of Civil Procedure is inapplicable to administrative proceedings absent a statutory direction to apply them, it also noted that Section 10-10 of the Illinois Election Code, 10 ILCS § 5/10–10, does direct an electoral board to "adopt rules of procedure for the introduction of evidence and the presentation of arguments...." Under the umbrella of that authority, the Board has adopted Rule 1(b) which provides, in its various subsections, that the Board may "[r]ule upon offers of proof and receive relevant evidence" (Rule 1(b)(v)); "[d]irect parties to appear and confer for the settlement or simplification of issues and otherwise conduct case management conferences" (Rule 1(b)(vi)); "[c]onsider and rule upon all motions presented in the course of the proceedings" (Rule 1(c)(ix)); "[i]ssue subpoenas, rule upon objections to subpoenas, regulate discovery and enter orders of protection as may be deemed necessary to protect against any unwarranted intrusion upon privacy of any person affected by discovery in the proceedings" (Rule 1(b)(x)); "[c]onsider such evidence as may be submitted, including but not limited to, documentary evidence, affidavits and oral testimony" (Rule 1(b)(xi); and perhaps most relevant to the instant proceeding, "require the objector

to make a preliminary showing that certain of the factual allegations in the objector's petition are pled in good faith based on knowledge, information and/or belief formed after reasonable inquiry and strike any objection or any portion of an objection if it determines that the objection does not meet the requirements set forth in 10 ILCS 5/10-8 or is not well grounded in fact and/or law" Rule 1(b)(xvi)).

27. Thus, the case management hearing conducted in this case for the purpose of considering Candidate's Motion to Dismiss Objector's Petition or in the Alternative for Summary Judgment and for evaluating Objector's Request for Subpoena properly and necessarily tested the bases, if any, for the sole material factual allegation in Objector's Petition — that Candidate did not reside at the address stated in his nominating papers but, in fact resided at another address — and found not only that Objector had no probative evidence to offer in support of that allegation but had no information or belief as to such evidence and no plan or ability within the context of this case to obtain and present it. At the hearing it was revealed that Objector had no documentary evidence to present; no voluntary witnesses to call; only one witness for whom a subpoena was sought, from whom Objector hoped to obtain documents that, even if they proved exactly the point for which Objector sought to exhibit them, were not in the least probative of the factual issue in the case; no time left under the Rules for seeking additional subpoenas; and, in any event, no targets for such additional subpoenas even if applications for them were still timely.

28. In sum, it became evident that there existed in this case no genuine issue of material fact. Such evidence as there was, and as there could be, in the record showed that, in fact, Candidate resides at the address stated in his nominating papers. If that be the answer to the sole factual question presented in the case, then it follows that Candidate is entitled to judgment.

29. The answer to the sole question of fact raised in this case is that the Candidate resides at the address at which he stated in his nominating papers that he resides. For that reason, there is no need to reach the legal question of whether or not his nominating papers would be invalid if, in fact, he resided at some other place, even though that other place was still within the boundaries of the 1st Ward.

Recommended Findings, Conclusions, and Decision

30. On the bases of a facial examination of the nomination papers, of the Objectors' Petition and attachments, of the Candidate's Motion to Dismiss Objector's Petition or in the Alternative for Summary Judgment, of the Objectors' response thereof, of the evidence adduced by the parties, and of the entire record herein, the Hearing Officer recommends that the Electoral Board enter the following findings of fact:

(a) The Candidate resides at the address set forth in his nomination papers, to wit: 1605 West Ohio Street, Unit 1, Chicago, Illinois 60622.

31. The Hearing Officer recommends that the Electoral Board enter the following conclusions of law:

(a) The nomination papers filed by the Candidate substantially comply with the requirements of law and are sufficient in law and in fact.

[The rest of this page is intentionally left blank.]

32. The Hearing Officer recommends that the Electoral Board enter the following final administrative decision:

The name of SAM ROYKO shall appear and shall be printed on the ballot for election to the office of Alderperson the 1st Ward of the City of Chicago to be voted for at the Election to be held on February 28, 2023.

Dated: January 12, 2023.

Enter:

/s/ JOSEPH A. MORRIS

JOSEPH A. MORRIS
Hearing Officer