

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

CASE TYPE: CIVIL/OTHER

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Paul Wikstrom,

Court File No. 62-CV-24-7378

Hon. Leonardo Castro

Contestant,

v.

**[PROPOSED] FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

Curtis Johnson,

Contestee.

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**I. INTRODUCTION**

In the November 5, 2024 General Election, Contestee Curtis Johnson, the DFL Candidate for the State House of Representatives in District 40B, defeated his opponent, Paul Wikstrom, by 7,503 votes, which is a margin of more than 30 points. The Ramsey County Canvassing Board certified the results of the election on November 13, 2024.

On November 20, 2024, Contestant Paul Wikstrom filed an Election Contest pursuant to Minnesota Statute Section 209.12, requesting the Court find that Contestee Curtis Johnson committed material, serious, and deliberate violations of Minnesota Election Law, when he filed an affidavit of candidacy that included a Roseville address. The Contest alleges that Mr. Johnson did not in fact reside at the Roseville address in the six months prior to the 2024 general election.

On November 27, 2024, Contestee Curtis Johnson filed a motion to dismiss the Contest on the basis that Wikstrom's residency challenge was barred by laches and was an improper basis for an election contest and should have been brought pursuant to Minnesota Statute Section 204B.44. On December 2, 2024, Conestant responded to the motion to dismiss, and filed a

motion for a default judgment and motion in limine to exclude evidence regarding Contestee's residency status in the month leading up to the election. The Court heard the motions on December 3, 2024 and denied all motions on December 4, 2024.

The Court held an evidentiary hearing on December 5, 6, and 7, 2024. Contestant was represented by Nick Morgan of Husch Blackwell and Erick Kardaal of Mohrman, Kaardal & Erickson, P.A. Contestee was represented by David Zoll and Rachel Kitze Collins of Lockridge Grindal Nauen PLLP. After considering all evidence presented at the hearing and the parties' post-trial submissions, the undersigned makes the following Findings of Fact and Conclusions of Law.

#### **FINDINGS OF FACT**

1. In December 2023, the sitting State Representative for House District 40B, Jamie Becker Finn, announced her intention not to seek reelection. Day 3 Tr. 74:19-22.
2. Contestee Curtis Johnson met with Representative Becker Finn to discuss running for her seat. Day 3 Tr. 74:19-25.
3. Johnson discussed the issue with his family, and particularly his wife, Dr. Jill Johnson, who agreed to support his candidacy and to move into District 40B. Day 3 Tr. 75:23-76:6.
4. At that time, the Johnson family resided at 3084 Payne Avenue, in Little Canada, which was outside the boundaries of District 40B. *See* Day 1 Tr. 25:11-19. Their daughter, Jamie, resided with them. Day 3 Tr. 6:25-7:1. Their older child, Charlie, was in college, and planning to attend graduate school, but would stay with them when back in Minnesota. Day 3 Tr. 22:11-18.

5. Mr. Johnson has served for many years on the Roseville School Board, representing Roseville, Little Canada, Shoreview, and several other cities in the region. Day 3 Tr. 73:2-9.

6. Little Canada used to share a State House district with Roseville and Shoreview, but was divided into separate districts after redistricting in 2022. Day 1 Tr. 24:12-21; Day 3 Tr. 75:4-14.

7. The Johnson family knew that Mr. Johnson could not run for the seat in 40B while living in Little Canada. Day 3 Tr. 75:15-22; 80:4-7.

8. Initially, the Johnson Family considered purchasing a new home within the district immediately, but that proved more complicated than they expected. Day 3 Tr. 76:2-9.

9. The Johnsons decided that Mr. Johnson would rent an apartment within the district while they continued to look for a new home. Day 3 Tr. 76:9-11. Dr. Johnson and Jamie would continue to reside at the Little Canada house, until they could find a home for them all to live in together. Day 3 Tr. 123:24-125:6.

### **The Rosedale Estates Apartment**

10. The Johnsons looked at a few apartments before choosing Rosedale Estates. Mr. Johnson testified that he needed an apartment that was available more than six months before the general election and that fit their budget. Day 3 Tr. 82:5-83:9.

11. Mr. Johnson paid an application fee and holding fee for Apartment 103 at Rosedale Estates on February 28, 2024. Day 3 Tr. 86:19-25; Contestee's Exhibit 302.

12. Mr. Johnson signed the one-year lease for Apartment 103 on March 5, 2024. Day 3 Tr. 83:10-23; Day 3 Tr. 84:3; Contestee's Exhibit 301.

13. Mr. Johnson moved into the apartment on March 5, 2024. Day 3 Tr. 84:9-11.

14. Dr. Johnson helped Mr. Johnson move into Apartment 103 on March 5, 2024. Day 3 Tr. 19:17-18; 32:2-5.

15. Mr. Johnson paid \$920 per month in rent; \$75 per month in garage rent; \$11 per month in renter's insurance; and for sewer and water. Day 3 Tr. 85:18-86:16; Contestee's Exhibit 302.

16. Mr. Johnson did not set up electric utilities at the apartment because there was extensive construction going on at the property, there were no individual meters in the apartment units, and management was handling everyone's electric bill. Day 3 Tr. 87:7-14.

17. Mr. Johnson testified that \$1,000 per month in rent and other expenses was not an easy expenditure for the family to make, but they made it work. Day 3 Tr. 87:22-88:20.

18. The Johnsons purchased furniture and a 32-inch television, and cleaning supplies for the apartment. Day 3 Tr. 32:16-19; 34:2-4, 18-20. Mr. Johnson also had a bed, a table in the apartment which he used for a desk, as well as two bookcases, and a lamp near the windows. Day 3 Tr. 91:5-13; 20-23.

19. Mr. Johnson moved other items into the Apartment including personal items, such as clothes, glasses, silverware, pots and pans, as well as memorabilia, including collector's items and pictures for the wall. Day 3 Tr. 93:1-10; 126:2-5.

20. Mr. Johnson described the layout of the Apartment in detail, and noted that there were a couple feet of wood floor at the entrance, followed by carpet. Day 3 Tr. 89:1-90:21. Mr. Johnson noted that the pictures Contestant introduced into evidence of a sample unit in the Apartment were not accurate depictions of his studio unit. Day 3 Tr. 90:23-91:2.

21. After Mr. Johnson moved into the apartment, he changed the address on his driver's license. Day 3 Tr. 91:24-92:16; Contestee's Ex. 309.

22. Mr. Johnson went in to change the license in early March, and the license was issued on March 25, 2024. Day 3 Tr. 92:21-24; Contestee's Ex. 309.

23. Mr. Johnson changed his voting registration to match his new address. Day 3 Tr. 94:23-95:25; Contestee's Ex. 313.

24. Mr. Johnson voted in the primary and general election at North Heights Lutheran Church, next door to the apartment on Rice Street. Day 3 Tr. 96:9-18; Contestee's Ex. 314.

25. Dr. Johnson testified that the balance of nights that Mr. Johnson spent at the apartment varied over time depending on different factors, including their younger daughter's mental health challenges, and her difficulty adjusting to change. Day 3 Tr. 17:12-18:10.

26. Mr. Johnson testified that he spent at least two nights a week at the Apartment, which increased substantially in October and onwards. Day 3 Tr. 170:22-171:5; 173:13-17.

27. Mr. Johnson had a number of maintenance issues at the Apartment, which he reported through Rosedale Estate's resident portal. Contestee's Ex. 303.

28. The maintenance issues were accompanied by photographs of the incidents, which Mr. Johnson took himself. Contestee's Exs. 303-308.

29. On May 3, 2024, Mr. Johnson lost his mailbox key, and requested that a replacement be made, which he received the same day. Day 3 Tr. 98:4-7; Contestee's Ex. 303.

30. On May 4, 2024, Mr. Johnson came back to his Apartment at the end of the day and as he was walking toward the kitchen, noticed that the carpet was wet, and realized that water had come up from the drain in the kitchen sink and spilled onto the floor. Day 3 Tr. 98:18-99:10; Contestee's Ex. 303, 308.

31. In the maintenance request submitted on May 4, 2024, Mr. Johnson noted that a similar issue had happened a week prior. Contestee's Ex. 303. Mr. Johnson testified that on that

occasion, he had called the manager directly, and they had sent someone out to take care of it, and the manager reminded him that he could use the portal to make requests. Day 3 Tr. 99:16-24; 100:2-10.

32. Six days later, on May 10, Mr. Johnson reported that the sink appeared to be clogged again. Day 3 Tr. 100:13-22; Contestee's Ex. 303.

33. On June 9, 2024, Mr. Johnson came back to the apartment, and smelled something off, and discovered that this time, something had exploded out of the tub and toilet. Day 3 Tr. 101:11-25; Contestee's Exs. 303, 306, 307. Mr. Johnson noted that he had some clothes he had to get washed as a result of this incident. Day 3 Tr. 102:4-5.

34. On July 16, Mr. Johnson had another issue with the sink, where it overflowed and soaked into the carpet. Day 1 Tr. 33:23-34:8; Contestee's Ex. 303; 305.

35. These issues made it difficult for Mr. Johnson to stay at the apartment for a day or two afterward, because they would cause the small apartment to smell. In particular, when water from the sink got into the carpet, maintenance would have to clean the carpet. Day 3 Tr. 101:2-10; 103:1-15.

36. On October 10, 2024, Mr. Johnson returned to the Apartment to discover that what appeared to be sewage and feces had exploded out of his toilet and bathtub. Contestee's Ex. 303; 304.

37. The apartment was uninhabitable the evening of October 10, 2024, and Mr. Johnson spent the night at the Little Canada home. Day 1 Tr. 32:4-6; Day 3 Tr. 103:20-104:2.

38. At some point between October 10 and October 15, the Apartment Manager contacted Mr. Johnson and told him that they were unsure why this was happening in Apartment 103, and they did not want him in there until they could figure out what was going on with the

Apartment. They offered him the option of moving upstairs into Apartment 303 until they could figure out what was going on with Apartment 103. Day 1 Tr. 28:20-25; Day 3 Tr. 105:12-19; 135:5-16.

39. Rosedale Estates has not issued Mr. Johnson a new lease; Mr. Johnson's lease still reflects Apartment 103, and Mr. Johnson still receives his mail though Apartment 103. Day 3 Tr. 106:1-10.

40. Mr. Johnson moved into Apartment 303 on October 15, 2024. Day 3 Tr. 107:21.

41. On October 17, 2024, Mr. Johnson submitted a maintenance request for Apartment 303, noting that the knob had come off when he tried to adjust the heat in the Apartment. Day 3 Tr. 107:14-20; Contestee's Ex. 303.

42. On October 31, 2024, Contestant's volunteer took a photograph of Mr. Johnson's vehicle parked outside the Apartment complex. Day 2 Tr. 114:11-17; 115:11-2; Contestant's Ex. 226. The volunteer also captured a photo of the Apartment building which showed lights on in Apartment 303. Day 2 Tr. 116:23-25; 117:4-6; Contestant's Ex. 224; Day 3 Tr. 108:3-25.

43. Contestant's volunteer testified that after October 15, 2024, he never again saw the blue Mitsubishi driven by Mr. Johnson parked outside the Little Canada house. Day 2 Tr. 214:1-4; *see generally* Day 2 Tr. 216:20-226:24; 232:11-20.

### **The Johnsons' Vacation**

44. On September 18, 2024, Mr. Johnson and Dr. Johnson drove their eldest child, Charlie, to graduate school in Eugene, Oregon, where Charlie was going to study composition. Day 3 Tr. 22:16-18; 110:2-6.

45. The Johnsons rented a Chevy Suburban to make the trip, because Charlie had a number of large items that needed to be moved, including an electric piano and several other instruments. Day 3 Tr. 23:2-5; 109:25-110:19; 110:22-25.

46. Mr. and Dr. Johnson picked up the Suburban from the airport on the morning of September 18, 2024, and drove it back to the Little Canada house, where they packed it up for the trip. Day 3 Tr. 111:5-8. Contestant's volunteers who were investigating Mr. Johnson's residency obtained pictures and videos of the Suburban parked in the driveway around 7:00 a.m. on the morning of September 18. Day 2 Tr. 164:11-25; Contestant's Ex. 34; 35. The tailgate on the Suburban was open and is consistent with when the Johnsons were preparing to leave on their trip. Day 3 Tr. 24:12-17.

47. Mr. and Dr. Johnson flew back from Oregon on September 28, 2024. Day 3 Tr. 23:6-11; 113:4-5.

48. Mr. Johnson's blue Mitsubishi was parked at the house in Little Canada throughout the ten-day period from September 18 to September 28. Day 3 Tr. 113:6-8.

49. The Johnson's younger daughter, Jamie, stayed at the Little Canada house during this time. Day 3 Tr. 113:15-19.

50. Dr. Johnson testified that they were not comfortable leaving Jamie entirely alone during this long of a period, and that they had hired a friend of the family to check in on Jamie, and to take her where she might need to go, because Jamie cannot drive. Day 3 Tr. 24:20-23; 25:1-15; Day 3 Tr. 113:10-11.

51. On September 21, 2024, at 11:00 p.m., Contestant's volunteers captured video of the Little Canada house with lights on and a car in the driveway. Day 2 Tr. 71:11-72:4;



Contestant's Ex. 47. Mr. Johnson testified that the car likely belonged to Jamie's friend Randy, who was available during that time to take Jamie where she needed to be. Day 3 Tr. 114:1-18.

52. Contestants also attempted to introduce evidence of a Facebook post that Mr. Johnson made on September 22, 2024, which include a picture of the field at U.S. Bank stadium during a Vikings game. Day 3 Tr. 156:13-19. Mr. Johnson testified that his sister had season tickets, and had sent him the picture, and that he had posted it on Facebook. Day 3 Tr. 157:9-12.

### **Efforts to Sell the Little Canada House and Purchase a House in District 40B**

53. The Johnsons were referred by a friend to a realtor, Becky Penttila, and had their first conversation with Ms. Penttila around January 2024. Day 2 Tr. 256:24; 257:1-6; Day 3 Tr. 80:8-17.

54. The Johnsons have a representation agreement with Ms. Penttila for buying a house. Day 2 Tr. 266:16-18; Day 3 Tr. 7:19-23. Ms. Penttila testified that a listing agreement is not signed until they are about to list the property. Day 2 Tr. 266:19-25.

55. Ms. Penttila testified that as soon as they started looking for a home in February, there was a home on Victoria Street within the district that the Johnsons liked very much, but which sold for \$40,000 above the asking price within two days of being listed. Day 2 Tr. 258:12-16.

56. Since February, the Johnsons have continued to search for homes in District 40B. Day 2 Tr. 259:17-19.

57. Ms. Penttila noted that low inventory, the narrow geographic search area, and affordability issues have limited the number of homes that will work for the Johnsons. Day 2 Tr. 259:2-8.

58. There have been five or six houses that the Johnsons have been interested in, and two have been serious contenders. Day 2 Tr. 259:20-24.

59. On one occasion, the Johnsons tried to put together an offer on a house in Roseville. They tried to take the equity out of their current home to put toward a down payment on the new house, but they could not make the financing work. They also tried to offer to pay rent on the new home while they put the Little Canada house on the market, but the seller would not entertain that offer. Day 2 Tr. 260:2-261:7. Ms. Pentilla noted that this house is still on the market, and the Johnsons would still like to purchase it if they could. Day 2 Tr. 260:20-21.

60. At this point, in order to purchase a house, it is likely the Johnsons will have to sell the house in Little Canada first. *See* Day 2. Tr. 261:9-10; Day 3 Tr. 168:24-169:12.

61. The Johnsons have faced some other difficulties with the move. Their daughter Jamie suffers from mental health issues, and she had some very strong reactions to leaving her home. It has taken Jamie a longer than usual period of time to get on board with the idea of moving. Day 2 Tr. 261:16-262:17; Day 3 Tr. 14:7-16:12. Mr. Johnson described Jamie's strong reaction to one of the first houses they considered making an offer on, and how Jamie did not take the idea well, and how they've been working to help get her comfortable with the idea of moving. Day 3 Tr. 118:11-119:4.

62. The Little Canada house also needs significant repairs prior to being put on the market, including fixing the electrical, fixing the basement due to water damage from a flood, and replacing the carpet. Day 3 Tr. 10:13-17; Day 3 Tr. 11:16-18; Day 2 Tr. 263:10-22; 264:2-6. The Johnsons have also been in touch with their insurance company about replacing the roof. Day 3 Tr. 60:17-61:4.

63. Ms. Pentilla has connected the Johnsons in touch with a handyman and electrician to help take care of some of the items in the house. Day 2 Tr. 263:10; 264:2-3; Day 3 Tr. 10:9-24.

64. The Johnsons have done landscaping work in the backyard and painted the deck. Day 2 Tr. 264:11-12; Day 3 Tr. 11:18-20.

65. The Johnsons have been unable to afford to complete some of the larger repair items, but they expect to be able to do so in the new year. Day 3 Tr. 11:19-23; 61:5-15; 61:25-62:5.

66. The Johnsons rented a POD to start moving some items out of the house in order to make it easier to do repairs and facilitate their move. Day 2 Tr. 262:20-21; Day 3 Tr. 12:11-13:2; 63:2-24.

67. The Johnsons and the realtor, Ms. Pentilla, are optimistic that they should be ready to put the house on the market by the end of February. Day 2 Tr. 265:17-18; Day 3 Tr. 13:16-20.

### CONCLUSIONS OF LAW

68. The party challenging the residency of a legislative candidate bears a heavy burden to prove the candidate is ineligible. *Monaghan v. Simon*, 888 N.W.2d 324, 331 (Minn. 2016).

69. This burden is heavy “in view of the drastic nature of the affirmative order, both to the candidate and to the electorate.” *Moe v. Alsop*, 180 N.W.2d 255, 260 (Minn. 1970).

70. Courts have required that petitioners prove by clear and convincing evidence that the candidate does not reside in the district for which they seek election. *See Monaghan*, 888 N.W.2d at 331; *see also In re conduct of Pendleton*, 870 N.W.2d 367, 377 (Minn. 2015).

71. In deciding whether a legislative candidate has resided in the district from which elected, the court focuses on “physical presence and intent.” Neither factor is determinative, and each informs the other. *Monaghan*, 888 N.W.2d at 331-32.

72. Intent can be demonstrated in many ways, including but not limited to physical presence, and the court considers physical presence *to the extent* that it manifests intent to reside in the district. *Id.* (citing *Piepho v. Bruns*, 652 N.W.2d 40, 44 (Minn. 2002)).

73. From March 5 until September 16, Contestants have no direct evidence regarding Mr. Johnson’s residency. The only evidence Contestant provided was the testimony of a neighbor, Julie Nordstrom, who testified to seeing Mr. Johnson’s car at the Little Canada house, and sometimes seeing Mr. Johnson while getting the mail or out in the yard or driveway. Ms. Nordstrom did not keep records. Day 1 Tr. 81:17-25. Ms. Nordstrom also testified that she did not consistently see Mr. Johnson in the mornings. Day 1 Tr. 71:12-20. This testimony was inconsistent with her declaration and indicates unreliability. It further provides no evidence that Mr. Johnson was staying at the Little Canada house, if Ms. Nordstrom did not see him in the mornings. Ms. Nordstrom was also very unclear as to timing; for example, she could not remember when the POD was delivered, and guessed both August and September, when the evidence shows it was mid-October. Day 1 Tr. 75:2. Ms. Nordstrom also had no contact with the Johnsons, other than to yell at Dr. Johnson to pick up after their dogs. Day 1 Tr. 73:4-8; 82:9-22; Day 3 Tr. 27:4-20. According to Ms. Nordstrom’s own testimony, she had little contact with any neighbor. Day 1 Tr. 82:15-16. This interaction, along with the evidence regarding Ms. Nordstrom’s political views, also indicate potential bias, which further undermines her credibility as a witness. Day 3 Tr. 28:7-11.

74. By contrast, Mr. Johnson testified that he moved into Apartment 103 at Rosedale Estates on March 5, purchased a bed, television, and moved a table, bookcases, and other items, including clothes, pots, pans, and glasses, as well as personal memorabilia into the apartment. He also changed his driver's license voter registration and voted from the location. Mr. Johnson testified that he spent at least two nights per week at the Apartment. Although Mr. Johnson did not keep a record of which nights he stayed at the apartment, there is direct evidence of Mr. Johnson being at the Apartment on May 3, and 4 (six months prior to the election), as well as the week prior, in addition to May 10, June 9, and July 16, because he experienced maintenance issues, took pictures, and submitted those issues to the Apartment. There is also evidence that Mr. Johnson's time at the Apartment increased closer to the election.

75. Mr. Johnson paid over \$1,000 per month in rent, utilities, and a garage space for the Apartment. Mr. Johnson testified that this was not an insubstantial amount of money for the Johnsons to spend on the Apartment.

76. One volunteer independently visited the Little Canada house on August 31 and September 9, and Mr. Johnson's car was not at the house during those visits. The volunteer did not attempt to determine whether Mr. Johnson was at the Apartment on these dates.

77. Although Contestant had suspicions in May or June regarding Mr. Johnson's residency, *see* Day 1 Tr. 61:1-9; 61:23-64:10; Contestant's coordinated effort to track Mr. Johnson did not begin until September 16. *See* Day 2 Tr. 244:6-22. Mr. Johnson's car can be seen at the house on September 16 around 2:00 pm in the afternoon, but there is no evidence of his car at the house later in the evening, therefore the evidence does not prove that Mr. Johnson stayed at the Little Canada house on the evening of September 16.

78. On September 17, Mr. Johnson can be seen leaving the Little Canada house in the evening to attend the League of Women Voters' forum, and returning to the house afterward. Mr. Johnson testified that this was the evening before they left on vacation, and he likely stayed at the house in order to prepare for the trip.

79. Mr. Johnson and Dr. Johnson were on vacation from September 18 to 28, 2024. Contestant's own evidence shows the vehicle that the Johnsons rented to drive to Oregon parked in the driveway on the morning of September 18. Going on vacation does not cause Mr. Johnson to lose his residency status. Contestant's evidence from this time period is irrelevant to proving residency.

80. In the time period after the vacation, Contestants presented evidence of Mr. Johnson's car parked at the Little Canada house at various times, but presented no direct evidence of Mr. Johnson being present at the Little Canada house, or not being present at the apartment, except for on October 8, when they captured Mr. Johnson returning to the Little Canada house at 9:00 p.m. *See* Contestant Ex. 113. There were also times when Mr. Johnson's car was not parked at the Little Canada house. *See* Day 2 Tr. 180:12-14; Contestant's Ex. 69; Day 2 Tr. 182:13-17; Contestant's Ex. 76. Mr. Johnson testified that he likely went to the apartment during this period, but does not recall whether or not he stayed at the apartment during this time period. Contestant did little to determine whether Mr. Johnson was at the apartment on these days. One of Contestant's volunteers visited the apartment complex around noon on October 1. Day 2 Tr. 32:4-11; 23. The volunteer took a picture of the door and left a Wikstrom brochure. The volunteer claims he put a piece of tape on the door, but the photograph does not show the tape. *See* Day 2 Tr. 36:11-18; Exs. 84-86. A subsequent photo taken by the same volunteer on October 9 shows tape that is plainly and obviously visible. Contestant's Ex. 115.

Had this same tape been present on October 1 it would have been visible in the photograph from that date. The volunteer did not testify that he knocked on the door on either visit. The volunteer testified that he looked under the door and could see wood floors back to the window. Day 2 Tr. 44:2-3. Mr. Johnson testified that beyond the door, there were a couple feet of wood floor and then carpet. Day 3 Tr. 172:20-173:1.

81. On October 10, 2024, there is direct and undisputed evidence that Mr. Johnson was at the Apartment, because that is the day he discovered the explosion of sewage from his toilet.

82. It is undisputed that the apartment was uninhabitable the evening of October 10, 2024, and that Mr. Johnson stayed at the Little Canada house. Because the Apartment was uninhabitable, Mr. Johnson's decision not to stay at the apartment on October 10 has no bearing on residency.

83. There is evidence that Mr. Johnson was informed by the property manager that he could move into a different apartment after the incident on October 10, and that the apartment did not want him staying in Apartment 103 because they did not know what was going on with all of the issues. There is evidence that Mr. Johnson moved into Apartment 303 on October 15. Given the severity of the issue that occurred on October 10 in Apartment 103, no reasonable person would have stayed in that apartment if they had another choice, and Mr. Johnson's decision to remain at the Little Canada house from October 10 to October 15 has no bearing on residency.

84. After October 15, there is no evidence that Mr. Johnson returned to or stayed at the Little Canada house, and evidence and testimony that Mr. Johnson stayed in Apartment 303.

85. The Supreme Court has never dictated a specific standard with respect to physical presence. In *Piepho*, the Court held that it is “sufficient for a physical presence that the candidate leased an apartment in the new district, moved his personal belongings ... and spent some time there,” and that “it is reasonable to expect that the candidate’s accommodations may appear temporary in light of the difficulty of finding housing on short notice.” 652 N.W.2d at 45. Although this case does not involve redistricting as was the case in *Piepho*, it does involve the retirement of a sitting legislator and Mr. Johnson’s decision to run for office within a short period of time. The evidence shows Mr. Johnson leased an apartment, moved furniture and personal belongings into the apartment, changed his driver’s license and voting registration, and slept and spent time at the apartment.

86. In addition, there is substantial evidence that the Johnsons intended and still intend to reside in District 40B. “Intent is often proved circumstantially by looking at a person’s conduct and inferring from that conduct a person’s mental state.” The Johnsons engaged a realtor in January 2024, and have made reasonable and sustained efforts both to find a home to purchase within District 40B and to prepare the Little Canada house to put on the market. *Cf. In re conduct of Karasov*, 805 N.W.2d 255, 266-67 (Minn. 2011) (discussing whether the judicial officer made reasonable efforts to find a place to live within the district as probative of intent to remain). The Johnsons also tried to make an offer on a house in the district, but the seller was unwilling to accept the terms of the offer. Making an offer on a home is strong evidence of intent to remain. *Cf. Olson v. Zuehlke*, 652 N.W.2d 357 (Minn. 2002). The Johnsons also credibly explained that they could not afford all of the repairs needed on the Little Canada house, but are expecting to be able to do so early next year. In addition, credible evidence was



presented regarding the younger daughter's mental health issues and her difficulties with the idea of moving.

87. The cases that have held a candidate failed to establish residency entirely lack physical presence or intent, and usually both. In the *Monaghan* case, the candidate had leased a residence for years, and had little to no physical presence there, which was determined by visits to the residence that the candidate claimed to be living in. 888 N.W.2d at 332. Furthermore, the referee found that the candidate's claims that he intended to purchase the rental property were not credible. *Id.* at 333. In addition, *Monaghan* was the second attempt to disqualify the candidate from office. Two years prior, in 2014, an attempt was made to prove that the candidate did not live in his district, and the Court rejected the petition. In 2016, petitioners succeeded, after the candidate was still renting within the district, had no physical presence there, and had not sold the family home outside the district.

88. In *Melendez v. O'Connor*, the candidate did not dispute that there was no place within the district that he could call a residence for a period of nearly three months leading up to the election. 654 N.W.2d 114, 118 (Minn. 2002). *See also Pendleton*, 870 N.W.2d at 377 (judicial officer had no place to live in the district for six months and did not look for housing within the district for more than 4 months); *Karasov*, 805 N.W.2d at 266 (judicial officer stayed outside the district and made no reasonable attempts to find housing within the district for a three-month period).

89. Mr. Johnson has presented direct evidence of his physical presence at the apartment throughout the six-month period prior to the election, as well as strong evidence of the family's intent to find a permanent home within the district.

90. Contestant has not met his heavy burden of proving by clear and convincing evidence that Mr. Johnson did not reside and intend to reside within District 40B within the six months or thirty days prior to the November 5, 2024 General Election.

91. In addition, because this is an election contest, Contestant must also prove that Contestee engaged in *deliberate, serious, and material* violations of Minnesota Election Law. *See* Minn. Stat. § 209.02.

92. As a general matter, courts strive to avoid disenfranchising those who have already cast their ballots, even in the face of irregularities in the election. *In re Contest of Special Election held on November 4, 2014*, No. A14-2167, 2015 WL 1014155, at \*2 (Minn. App. Mar. 9, 2015) (citing *Sperl v. Wegwerth*, 120 N.W.2d 355, 359 (Minn. 1963)).

93. The Supreme Court has never articulated a specific standard that candidates must meet in order to demonstrate physical presence and intent. Mr. Johnson took the required steps to establish a residence within the district, and spent time and slept there. As noted, the Johnsons and their Realtor credibly testified as to their efforts to purchase a home within this district and prepare the Little Canada home for sale. In a post-election contest, the Court will not lightly set aside the results of an election; particularly when Contestant publicized his suspicions regarding Contestee's residency several weeks before the election, and yet Contestee won the election by a significant margin. The voters of District 40B had the opportunity to evaluate these claims and still elected Mr. Johnson to serve as their Representative. *Taylor v. Taylor*, 10 Minn. 107, 112 (1865) ("The public good demands that the will of the people as expressed at the ballot box should not be lightly disturbed.").

94. In sum, the Court concludes that Mr. Johnson established residency in District 40B as required by the Minnesota Constitution, art IV, § 6, and Minnesota Statutes sections

204B.06, subd. 4a(4) and 204B.06, subd. 1(3), and has not committed a deliberate, serious, or material violation of Minnesota Election Law.

95. This decision will be transmitted to the Minnesota State House of Representatives in accordance with the procedures of Minn. Stat. § 209.10, subd. 3, unless appealed to the Minnesota Supreme Court. This Court has no authority to revoke the election certificate issued to Mr. Johnson or to nullify the results of the election. The Minnesota State House of Representatives is the final arbiter of the eligibility of its members pursuant to Minn. Stat. § 209.10, subd. 6 and the Minnesota Constitution, art IV, § 6.

Dated: December 13, 2024

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**ATTORNEYS FOR CONTESTEE  
CURTIS JOHNSON**