

December 14, 2023

Via certified mail

Hon. Maureen O’Connell
Nassau County Clerk
Office of the Nassau County Clerk
240 Old Country Road
Mineola, NY 11501

RE: *Notice of Violation of the John R. Lewis Voting Rights Act of New York (NYVRA)*

Dear Ms. O’Connell:

We write pursuant to Election Law § 17-206(7), on behalf of our clients New York Communities for Change, Maria Jordan Awalom, Monica Diaz, Lisa Ortiz, and Guillermo VanEtten, to notify you that Nassau County’s redistricting plan, Local Law 1-2023 (“Local Law 1” or the “Map”), is not in compliance with the John R. Lewis Voting Rights Act of New York (the “NYVRA”). Specifically, the Map dilutes the votes of Black, Latino, and Asian voters by drawing district boundaries that impermissibly impair those communities’ ability to elect their candidates of choice, and/or to influence the outcome of elections for the Nassau County Legislature. We respectfully request that the Legislature, which we have copied on this communication, take the remedial steps set forth in the NYVRA to cure the County’s present non-compliance.

I. The Requirements of the NYVRA

Election Law §17-206(2)(a) states: “No board of elections or political subdivision shall use any method of election, having the effect of impairing the ability of members of a protected class to elect candidates of their choice or influence the outcome of elections, as a result of vote dilution.” Illegal vote dilution under the NYVRA occurs when a district-based method of election adopted by a political subdivision results in circumstances where “candidates or electoral choices preferred by members of the protected class would usually be defeated” and either: “(a) voting patterns of members of the protected class within the political subdivision are racially polarized; or (b) under the totality of the circumstances, the ability of members of the protected class to elect candidates of their choice or influence the outcome of elections is impaired.” N.Y. Elec. Law § 17-206(2)(b)(ii).

II. Nassau County’s Violation of the NYVRA

The Map violates the NYVRA’s prohibition on racial vote dilution. As the Legislature has long known, voting in Nassau County elections is racially polarized. Moreover, and separately, under the totality of the circumstances, the Map impairs the ability of Black, Latino, and Asian voters to elect candidates of their choice or to influence the outcome of elections for the office of Nassau County legislator.

Voting in Nassau County has been, and continues to be, racially polarized. In a report provided to the Legislature during the redistricting process, Dr. Megan Gall analyzed recent, endogenous, interracial contests and found convincing evidence of racial polarization. Indeed, counsel for the Legislature admitted during a February 16, 2023 public hearing that their own analysis had found racially polarized voting in Nassau County. The Legislature refused to show the public these analyses at the time of the debate or vote on the Map; those records were finally disclosed only a few weeks ago to settle a lawsuit brought by the League of Women Voters of Port Washington-Manhasset. These records, prepared by the Legislature's "redistricting expert" Sean Trende, show that voting is racially polarized in Nassau County.

This evidence is consistent with three decades of bipartisan consensus that Nassau County's legislative map must be drawn to comply with legal prohibitions against racial vote dilution. Furthermore, social and historical conditions that interact with the electoral process reveal that under the totality of the circumstances, the ability of Black, Latino, and Asian voters to influence the outcome of elections or to elect candidates of their choice for the office of Nassau County legislator is impaired.

Despite clear evidence that redistricting in Nassau County must draw remedial districts to comply with applicable protections against racial vote dilution (including the mapmaker's own admission of racially polarized voting in Nassau County), the mapmaker acknowledged that the Legislature gave no consideration to race in drawing district lines. Under these circumstances, the Legislature's purportedly "race blind" approach is unlawful.

Black, Latino, and Asian residents make up over one-third of Nassau County's citizen voting age population. However, the Map creates only 4 districts out of 19 where Black, Latino, and Asian residents constitute a majority of the citizen voting age population. The Map further impairs the political influence of voters of color, and particularly Asian voters, by unnecessarily dividing a large and geographically compact Asian community in the northwestern section of the County. Records produced by the Legislature contradict its claim that it did not consider race in redistricting, and also show that the Map packs and cracks the County's communities of color. Indeed, the Map cracks or packs communities of color in such places as Lakeview, Freeport, Inwood, South Valley Stream, Valley Stream, Elmont, and New Hyde Park.

Given the history and persistence of racially polarized voting in Nassau County, the Legislature either knew or should have known that a "race-blind" approach was inappropriate. Taking adequate measures to protect Black, Latino, and Asian voters from racial vote dilution, the Nassau County Legislative redistricting plan could and should have included six districts where Black, Latino, and Asian residents constituted a majority of the citizen voting age population while adhering to other traditional districting principles. In addition, the Nassau County Legislative redistricting plan should keep the Asian community in the New Hyde Park area together in one district with other large and compact Asian communities in the area to avoid impairing those voters' political influence.

In sum, Local Law 1 violates the NYVRA, among other legal protections for the voting rights of New Yorkers.

III. Conclusion

This letter serves as notice, pursuant to Election Law § 17-206(7), of the County’s violation of the NYVRA. We encourage the Legislature to take advantage of the opportunity provided by the NYVRA’s “safe harbor” provision to correct such violations without resort to litigation and the resulting costs to the taxpayers. We also urge the Legislature to undertake the process of remediating these violations in a transparent manner that provides the public—particularly the impacted Black, Latino, and Asian communities—with a meaningful opportunity for input and a basis to evaluate whether any proposed plan complies with the law. Absent timely remedial action, we intend to initiate litigation after the conclusion of the 50-day safe harbor period.

Please inform us at your earliest convenience the steps you intend to take to ensure that the Nassau County Legislative redistricting plan complies with the NYVRA and all other applicable legal protections.

Sincerely,

Perry M. Grossman
Director
Voting Rights Project
New York Civil Liberties Union

Jerry Vattamala
Director
Democracy Program
Asian American Legal Defense
and Education Fund

Miranda Galindo
Supervising Counsel
Voting Rights
LatinoJustice PRLDEF

Adriel I. Cepeda Derieux
Deputy Director
Voting Rights Project
American Civil Liberties Union

Michael G. Scavelli
Partner
Steptoe LLP

cc:

Clerk of the Nassau County Legislature

Nassau County Legislators:

Kevan Abrahams, LD 1
Siela A. Bynoe, LD 2
Carrié Solages, LD 3
Denise Ford, LD 4
Debra Mule, LD 5
C. William Gaylor III , LD 6
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James Kennedy, LD 12
Thomas McKevitt, LD 13
Laura Schaefer, LD 14

John R. Ferretti Jr. LD 15
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Hon. Bruce Blakeman, Nassau County Executive
Nassau County Board of Elections Commissioners