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October 3 Roundtable Update

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NEW YORK REDISTRICTING ROUNDTABLE UPDATE

State Court Orders Independent Redistricting Commission to Redraw Assembly Map

Last Friday, New York County State Supreme Court Justice Laurence Love issued a decision ordering the Independent Redistricting Commission (IRC) to reconvene to “initiate the constitutional process for amending the assembly district map based on the 2020 census data by formulating a proposed assembly map.” This follows the Appellate Division First Department’s finding that the assembly plan, enacted by the legislature following a breakdown in the IRC process, is invalid. The First Department then tasked this court with determining the “proper means for redrawing the state assembly map, in accordance with N.Y. Const, art III, § 5–b,” the section that sets forth the IRC process, before the 2024 election cycle.

Judge Love emphasized that “this Court has been presented a unique opportunity to essentially allow the envisioned constitutional process a second chance to succeed.”

The judge distinguished this case from a recent decision in Albany County Supreme Court (*Hoffman v. N.Y. State Independent Redistricting Commission*). In that case, a different judge denied petitioners’ request that the court compel the IRC to submit a second congressional redistricting plan to the legislature and limit the use of the congressional plan drawn by the special master in *Harkenrider v. Hochul* to the 2022 elections.

Judge Love was not convinced by Petitioners’ argument in the Nichols case that the dismissal in Hoffman should control the decision here. He explained that the Hoffman action involved a different subsection of the state constitution, Article III, Section 4(e). This section states that redistricting shall take place “every ten years commencing in 2021.” Judge Love further reasoned that the congressional map approved by the *Harkenrider* court is “in full force and effect” until the 2030 redistricting cycle. Whereas, in this case, because the *Harkenrider* case and map-drawing by the special master did not include the assembly plan, there is no currently approved map. Therefore, that section of the constitution does not apply.

In addition, Judge Love differentiated this case from *Harkenrider*, noting that the *Harkenrider* court based its decision for not allowing the IRC and legislature to fix the substantive and procedural deficiencies on time constraints. However, Judge Love explained, “while the adoption of a judicially-drawn map was previously necessary due to time constraints, the landscape has changed dramatically providing significantly more time to implement a new assembly map for the 2024 election cycle.” He further noted, “given the amount of time before the next round of New York State assembly designating petitions are due in 2024, there is no valid reason to resort to the utterly anti-democratic emergency response necessarily resorted to in *Harkenrider*.”

Judge Love also addressed Petitioners’ argument that the IRC is “doomed to fail” and would not be able to successfully fulfill its constitutional duty. He explained that “the IRC is already

established, has the past experience of coordinating and conducting statewide hearings, and now only has a responsibility to present an assembly map.” However, he also indicated that “the court would be naïve to ignore the possibility of further litigation.” Therefore, the decision directs the commission to present its first assembly plan to the legislature on or before April 28, 2023, and bases the remaining constitutionally relevant dates on that date. The judge also set a calendar for the legislature to act through early Summer, 2023).

Judge Love concluded with this cautionary statement:

“It is my sincere hope that the IRC and legislature, forearmed with the knowledge of the Harkenrider decision and knowing the sole remaining task before the parties is creating an assembly map, will be up to the challenge. However, all should take heed - if the parties again fail to perform their constitutionally mandated duties, this Court will have little choice but to intervene and take over that responsibility.”

A copy of the decision is attached.

Bipartisan Suffolk County Redistricting Commission Agreement

After weeks of disagreement, Suffolk County’s 8-member bipartisan county legislative redistricting commission agreed on a new redistricting plan for the county legislature. After each party presented separate plans that resulted in a stalemate, representatives of the Democratic and Republican commissioners met and developed a plan that creates an 18-district plan that includes four minority opportunity districts and no clear advantage for either major political party. The recommended plan now goes to the full county legislature for approval.

Town of Brookhaven Board Approves New Plan

Following after the breakdown of this Suffolk County town’s redistricting commission, the town board approved a new map of its own. While all seven members (including the one lone Democratic member) voted to approved the map, critics argued that the map did not adequately protect minority communities and that the board was likely to remain with an all white membership. Others said that the map could be subject to challenge in 2023 after the New York State John R. Lewis Voting Rights Act goes into effect. The new state law includes stronger protections for minority voters than the federal voting rights act.

NYC Districting Commission Concludes Mapping Sessions

The NYC Districting Commission went back to work to draw a new 51 district city council map following the commission’s earlier rejection of its own draft map on September 22. The commission met last Thursday and Friday via ZOOM to rework several districts that commission members wanted to change. The mapping sessions were open for live public view (and chat box comments) via YouTube. The commission is expected to meet on Thursday, October 6 at 11:00 AM via ZOOM to vote on the new map. If approved, the map will be submitted to the NYC Council for a three week review period. The Council can either accept the plan (ending the redistricting process) or make suggested revisions to the plan by a resolution. If that happens, the Commission will hold further public hearings and will revise the map. The Commission’s final map is not subject to Council review.

Commission meetings can be viewed here: <https://bit.ly/3rmOoua>

Upcoming Redistricting Hearings

Nassau County

The commission has scheduled the following public hearings to hear public comments about redistricting. All of the meetings begin at 6:00 PM.

Oct. 3 at Albany Avenue Community Center, 214 North Albany Ave., North Massapequa

Oct. 13 at Freeport TBA; Oct. 18 at Glen Cove City Hall, 9 Glen St.;

Oct. 20 at Albany Avenue Community Center, 214 N. Albany Ave., North Massapequa;

Oct. 25 at Elmont TBA;

TBA at Hicksville.