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## October 10 Roundtable Update

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## **NEW YORK REDISTRICTING ROUNDTABLE UPDATE**

### **NYC Commission Submits Revised Plan to City Council**

On October 6<sup>th</sup>, the New York City Districting Commission voted 13-1 to submit 51 newly drawn [City Council district maps](#) to the City Council. The maps were revised from the preliminary plan published by the Commission in July and a proposed revised plan in September that was not approved by the Commission. The Council has three weeks to review the maps and to vote by approving a resolution requesting changes in the plan.

The population in these council districts cannot deviate from a range of more than 5% overall from 172,882 people, the ideal district population. The maps were revised from the preliminary plan, creating a Staten Island-Brooklyn “cross-over” in District 50, to better balance the other 48 districts in population throughout the city.

To ensure that the Revised Plan is in compliance with the federal Voting Rights Act of 1965, the Commission engaged Dr. Lisa Handley, a national expert on Racial Bloc Voting Analysis (RBV). Her analysis demonstrated that the Revised Plan provides minority voters with an opportunity to elect their preferred candidates. Black, Hispanic, and Asian voters maintain their voting strength. Asians, as the fastest growing minority group in the city, have the opportunity to elect their candidates of choice in a new drawn district 43 in Brooklyn.

### **Ulster County: Are the County's Redrawn Districts Illegal?**

On July 20<sup>th</sup>, the Ulster County Reapportionment Commission adopted redistricting maps for the county legislature. Some observers say that Ulster County's redistricting plan is "unambiguously a violation of state law." Ulster County uses an independent commission to draw districts and boundaries, but apparently, the independent commission was not aware of the change in New York State law requiring the amount of overall district deviation from the former 10% to 5%. As of now, the county is waiting for the commission to respond on whether it will make changes (or have the county face a possible legal challenge. For coverage in the Shawangunk Journal, see the article [here](#).

### **Broome County Redistricting Litigation: *Tokos v. County of Broome***

After oral argument on September 30<sup>th</sup>, the parties submitted letters to the judge with additional authority for the court to consider on the pending motions.

#### Plaintiffs' Letter

First, plaintiffs address the County's assertion that maintaining competitive balance between the major parties is the “over-riding goal” of redistricting. Plaintiffs argue that the County's “competitive balance” justification for splitting the Town of Maine and

failing to create districts as nearly equal in population as possible is “meritless and exposes the arbitrary at best and devious at worst nature” of the map. plaintiffs point to Municipal Home Rule Law §34(4)(e) which does not require the creation of competitive districts, nor does it list it as a factor to be considered in redistricting. Additionally, plaintiffs state that “Defendants are not free to ignore the State Legislature’s direction that equality of population is the first priority in any redistricting plan.”

Next, plaintiffs address the County’s argument that they are not required to use prisoner-adjusted population data. plaintiffs argue that state law imposing a 5% limit on population deviation and requiring that “any local government” use prisoner-adjusted data for redistricting applies to charter counties including Broome County. plaintiffs also dispute defendants’ assertion that exceeding the 5% deviation only shifts the burden to the County to prove compliance. Plaintiffs contend that this “judge-made” burden-shifting scheme is irrelevant when dealing with a “clear numerical standard set by the New York State Legislature.”

Finally, plaintiffs argue that there is no historical justification for dividing the Town of Maine into three districts. They reiterate that two of the sections would be joined with the Village of Endicott, a community that has very little in common with the town. They also note that prior to 2010 the town had never been split into three districts nor joined with Districts 6 or 7 which contain the Village of Endicott. Finally, plaintiffs contend that the maps they produced demonstrate it is clearly “practicable” to keep the town whole therefore this division constitutes a violation of MHRL §34(4)(e).

### County Defendants’ Letter

First, defendants reiterate their assertion that in cases where a charter county’s redistricting results in a deviation exceeding 5%, the burden should shift to the government to justify the deviation and that the Local Law should not be invalidated per se.

Next, the County argues that their charter, not MHRL §10(13)(c), controls the redistricting of the Broome County Legislature. They argue that the reference to “all local governments” in the state law refers only to non-Charter Counties. Therefore, defendants maintain, the County was permitted to use federal census figures instead of prisoner-adjusted data for redistricting.

Finally, defendants argue that because plaintiffs withdrew their claim that the map should be invalidated for the 2022 election, the court should deny plaintiffs’ request for a special master. Citing the recent decision in *Nichols v. Hochul*, defendants contend that without the time constraints that necessitated the appointment of a special master in *Harkenrider*, any demand for a special master should be denied.

## **Upcoming Redistricting Hearings**

### Nassau County

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

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.

## **Redistricting Institute Resources**

The New York Census and Redistricting Institute has archived many resources for the public to view on our Digital Commons Page.

Our Redistricting Resources page contains notes from previous NYC Districting Commission hearings as well as resources on the John R. Lewis Voting Rights Act. You can access the page here: [https://digitalcommons.nyls.edu/redistricting\\_resources/](https://digitalcommons.nyls.edu/redistricting_resources/)

Our Redistricting Roundtable Updates page contains all archived Roundtable Updates. You can access the page here: [https://digitalcommons.nyls.edu/redistricting\\_roundtable\\_updates/](https://digitalcommons.nyls.edu/redistricting_roundtable_updates/)