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## March 25 Roundtable Update

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**WE ARE NEW YORK'S LAW SCHOOL****N.Y. ELECTIONS, CENSUS & REDISTRICTING UPDATE****REDISTRICTING LITIGATION****NYC Council Challenge: *Desis Rising v. NYC Districting Commission***

On March 15, in the Appellate Division, First Department, the city's Corporation Counsel submitted the city's response brief arguing that the trial court's dismissal of the case challenging the city council map should be affirmed. The city's central arguments for dismissal are that (1) the petitioners waited too long to bring this challenge and to appeal (laches) and (2) the petition lacks merit as the commission rationally approved the final redistricting plan based on a reasonable view of the facts and their contention that the city charter does not require maximizing minority populations in a single district at all costs.

On their laches argument, the city contends that granting the petition when it was filed would have upended the 2023 election calendar, and granting it at this point, now that the commission's term has expired, would create greater issues as there is no process in the charter for redrawing district lines at this point.

On the merits, the city asserts that the final plan complied with the charter's requirement that the commission ensure fair and effective representation of Asian voters "to the maximum extent practicable." Further, the city argues that the petitioners' preferred "Unity Map" was actually insufficient at achieving their goals of bolstering minority representation. The city also emphasizes the commission's duty to apply the redistricting criteria in the priority order set forth by the charter and that the commission has discretion to determine what is practicable when applying the criteria.

**VOTING RIGHTS**

**Cheektowaga Town Board:** A lawsuit has been filed challenging the at-large election system used to elect the Cheektowaga Town Board. In the November 2023 election for the Cheektowaga Town Board, the plaintiff was the candidate of choice for the minority population living in the northwest portion of Cheektowaga. The plaintiff did not win a seat on the Town Board because of majority-white voting bloc outside of the northwest section.

Determinations by the defendant's experts established that there is racially polarized voting. As a result, black residents of northwestern Cheektowaga

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are unable to elect candidates of their choice and the New York Voting Rights Act, which prohibits voter dilution, has allegedly been violated.

To remedy the alleged violation, the current Town Board voted on a resolution to hold a town-wide referendum during the 2024 elections on whether to adopt single-member districts or wards to elect town board members. The plaintiff argues that a referendum alone is insufficient because NYVRA violations must be resolved by laws enacted by local government or by a proposal approved by a court or the New York Attorney General. The plaintiff has asked the court to order Cheektowaga to enact a map of 6 single-member districts for future town board elections.

**NYC Non-Citizen Voting:** The plaintiffs of *Fossella v. Adams* have appealed an appellate court decision to the New York Court of Appeals. The appellate court ruled in February that a New York City law, which would have allowed certain non-citizens to vote in local elections, violated the New York State Constitution and Municipal Home Law. The law would have authorized more than 800,000 green card holders and other residents with federal work authorization to vote in local elections. The judge wrote that if noncitizens were allowed to vote, it stands to reason they could also run for mayor.

**COMING SOON**

**Redistricting Reform:** New York Law School will be convening a conference on New York redistricting reform in the late Spring. Discussion will focus on how to reform New York's redistricting process through a new constitutional amendment. Further information will be included in upcoming weekly newsletters. In the meantime, please share your idea on how to improve the process via a return email to this address.