

New York Supreme Court

APPELLATE DIVISION—FIRST DEPARTMENT

DESIS RISING UP AND MOVING, AARON FERNANDO, PAUL PERSAUD, SARWAN PERSAUD, NADIA PERSAUD, NADIRA PERSAUD, BISHAM PERSAUD, HARBHAJAN S. SURI, CHARANJIT S. SURI, DAVINDER S. SURI, SUKHVIR SINGH, SWARAN SINGH, LOVEDEEP MULTANI, PRINHTPAL S. BAWA, KAMLESH TANEJA, RAJWINDER KAUR, INDERBIR SINGH, PARAMJIT KAUR and RAJBIR SINGH,

**CASE NO.
2023-03051**

Petitioners-Appellants,

—against—

NEW YORK CITY DISTRICTING COMMISSION, CHAIR DENNIS M. WALCOTT, HON. MARILYN D. GO, MARIA MATEO, JOSHUA SCHNEPS, LISA SORIN, MSGR.

(Caption continued on inside cover)

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Respondents-Respondents.

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Statement Pursuant to CPLR 5531

STATEMENT PURSUANT TO CPLR 5531

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION—FIRST DEPARTMENT

DESIS RISING UP AND MOVING, AARON FERNANDO, PAUL PERSAUD, SARWAN PERSAUD, NADIA PERSAUD, NADIRA PERSAUD, BISHAM PERSAUD, HARBHAJAN S. SURI, CHARANJIT S. SURI, DAVINDER S. SURI, SUKHVIR SINGH, SWARAN SINGH, LOVEDEEP MULTANI, PRINHPAL S. BAWA, KAMLESH TANEJA, RAJWINDER KAUR, INDERBIR SINGH, PARAMJIT KAUR AND RAJBIR SINGH,

Petitioners-Appellants,

—against—

**New York County
Clerk’s Index
No. 151762/2023**

**Appellate Division
Case No.
2023-03051**

NEW YORK CITY DISTRICTING COMMISSION, CHAIR DENNIS M. WALCOTT, HON. MARILYN D. GO, MARIA MATEO, JOSHUA SCHNEPS, LISA SORIN, MSGR. KEVIN SULLIVAN, KAI-KI WONG, MAF MISBAH UDDIN, MICHAEL SCHNALL, KRISTEN A. JOHNSON, YOVAN SAMUEL COLLADO, GREGORY W. KIRSCHENBAUM, MARC WURZEL, KEVIN JOHN HANRATTY, DR. DARRIN K. PORCHER, each in their capacity as members of the New York City Districting Commission, BOARD OF ELECTIONS IN THE CITY OF NEW YORK, NEW YORK STATE BOARD OF ELECTIONS,

Respondents-Respondents.

-
1. The index number of the case is 151762/2023.
 2. The full names of the original parties are as set forth above. There has been no change in the parties.
 3. The action was commenced in Supreme Court, New York County.
 4. The action was commenced on February 24, 2023 by service of verified petition; an order to show cause was filed on February 24, 2023.
 5. The nature and object of the action is to seek review under Article 78 of the New York Civil Practice Law and Rules to contest the certification of the New York City Districting Commission’s Final Plan for failure to comply with the New York City Charter.
 6. This appeal is from a Decision and order of the Honorable Erika M. Edwards, entered in favor of Respondents, against Petitioners on May 18, 2023, which denied Petitioners’ verified petition and motion by order to show cause.
 7. The appeal is on a full reproduced record.

Petitioners' Notice of Appeal, dated June 2, 2023
[pp. 2 - 3]

FILED: NEW YORK COUNTY CLERK 06/02/2023 02:45 PM

NYSCEF DOC. NO. 24

INDEX NO. 151762/2023

RECEIVED NYSCEF: 06/02/2023

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

In the Matter of the Application of

Index No.: 151762/2023

DESIS RISING UP AND MOVING, AARON FERNANDO, PAUL PERSAUD, SARWAN PERSAUD, NADIA PERSAUD, NADIRA PERSAUD, BISHAM PERSAUD, HARBHAJAN S. SURI, CHARANJIT S. SURI, DAVINDER S. SURI, SUKHVIR SINGH, SWARAN SINGH, LOVEDEEP MULTANI, PRINTHPAL S. BAWA, KAMLESH TANEJA, RAJWINDER KAUR, INDERBIR SINGH, PARAMJIT KAUR, and RAJBIR SINGH

Petitioners,

NOTICE OF APPEAL

For and Order Pursuant to Article 78 of the N.Y. C.L.P.R.

-against-

NEW YORK CITY DISTRICTING COMMISSION, CHAIR DENNIS M. WALCOTT, HON. MARILYN D. GO, MARIA MATEO, JOSHUA SCHNEPS, LISA SORIN, MSGR. KEVIN SULLIVAN, KAI-KI WONG, MAF MISBAH UDDIN, MICHAEL SCHNALL, KRISTEN A. JOHNSON, YOVAN SAMUEL COLLADO, GREGORY W. KIRSCHENBAUM, MARC WURZEL, KEVIN JOHN HANRATTY, and DR. DARRIN K. PORCHER each in their capacity as members of the New York City Districting Commission, BOARD OF ELECTIONS IN THE CITY OF NEW YORK, NEW YORK STATE BOARD OF ELECTIONS,

Respondents.

PLEASE TAKE NOTICE that Petitioners hereby appeal from the decision, order and judgement of the Supreme Court of the State of New York, New York County (Edwards, E.) in

the above captioned matter entered on May 18, 2023, which denied relief on Petitioner's Article 78 claim. This appeal is from each and every portion thereof which ruled adversely to Petitioner or by which Petitioner is aggrieved, and it is to the Appellate Division, First Department, of the Supreme Court of the State of New York.

Dated: New York, New York

June 2, 2023



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Decision and Order of the Honorable Erika M. Edwards Appealed
From, dated May 5, 2023, with Notice of Entry
[pp. 4 - 16]

FILED: NEW YORK COUNTY CLERK 05/18/2023 03:45 PM
NYSCEF DOC. NO. 23

INDEX NO. 151762/2023
RECEIVED NYSCEF: 05/18/2023

SUPREME COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK

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In the Matter of the Application of
DESIS RISING UP AND MOVING, AARON
FERNANDO, PAUL PERSAUD, SARWAN PERSAUD,
NADIA PERSAUD, NADIRA PERSAUD, BISHAM
PERSAUD, HARBHAJAN S. SURI, CHARANJIT S.
SURI, DAVINDER S. SURI, SUKHVIR SINGH,
SWARAN SINGH, LOVEDEEP MULTANI,
PRINTHIPAL S. BAWA, KAMLESH TANEJA,
RAJWINDER KAUR, INDERBIR SINGH, PARAMJIT
KAUR, and RAJBIR SINGH,

**NOTICE OF ENTRY OF
DECISION AND ORDER**

Index No. 151762/2023

Petitioners,

-against-

NEW YORK CITY DISTRICTING COMMISSION,
CHAIR DENNIS M. WALCOTT, HON. MARILYN D.
GO, MARIA MATEO, JOSHUA SCHNEPS, LISA SORIN,
MSGR. KEVIN SULLIVAN, KAI-KI WONG, MAF
MISBAH UDDIN, MICHAEL SCHNALL, KRISTEN A
JOHNSON, YOVAN SAMUEL COLLADO, GREGORY
W. KIRSCHENBAUM, MARC WURZEL, KEVIN JOHN
HANRATTY, and DR. DARRIN K. PORCHER each in
their capacity as members of the New York City Districting
Commission, BOARD OF ELECTIONS IN THE CITY OF
NEW YORK, NEW YORK STATE BOARD OF
ELECTIONS,

Respondents.

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PLEASE TAKE NOTICE that the within is a true and complete copy of the Decision and
Order of the Honorable Erika M. Edwards, J.S.C., dated May 5, 2023, which was duly entered and
filed in the Office of the Clerk of the County of New York on May 18, 2023.

Dated: New York, New York
May 18, 2023

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ERIKA M. EDWARDS

PART 10M

Justice

-----X

INDEX NO. 151762/2023

DESIS RISING UP AND MOVING, AARON FERNANDO,
PAUL PERSAUD, SARWAN PERSAUD, NADIA PERSAUD,
NADIRA PERSAUD, BISHAM PERSAUD, HARBHAJAN S.
SURI, CHARANJIT S. SURI, DAVINDER S. SURI,
SUHKVIR SINGH, SWARAN SINGH, LOVEDEEP
MULTANI, PRINTHPAL S. BAWA, KAMLESH TANEJA,
RAJWINDER KAUR, INDERBIR SINGH, PARAMJIT KAUR
and RAJBIR SINGH,

MOTION DATE 02/24/2023

MOTION SEQ. NO. 001

Petitioners,

- v -

NEW YORK CITY DISTRICTING COMMISSION, CHAIR
DENNIS M. WALCOTT, HON. MARILYN D. GO, MARIA
MATEO, JOSHUA SCHNEPS, LISA SORIN, MSGR. KEVIN
SULLIVAN, KAI-KI WONG, MAF MISBAH UDDIN,
MICHAEL SCHNALL, KRISTEN A. JOHNSON, YOVAN
SAMUEL COLLADO, GREGORY W. KIRSCHENBAUM,
MARC WURZEL, KEVIN JOHN HANRATTY, DR. DARRIN
K. PORCHER, each in their capacity as members of the
New York City Districting Commission, BOARD OF
ELECTIONS IN THE CITY OF NEW YORK, NEW YORK
STATE BOARD OF ELECTIONS,

**DECISION + ORDER ON
MOTION**

Respondents.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 1, 2, 3, 4, 5, 6, 7, 8,
9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20

were read on this motion to/for ARTICLE 78 (BODY OR OFFICER).

Upon the foregoing documents, the court denies the Verified Petition filed by Petitioners
Desis Rising Up and Moving, Aaron Fernando, Paul Persaud, Sarwan Persaud, Nadia Persaud,
Nadira Persaud, Bisham Persaud, Harbhajan S. Suri, Charanjit S. Suri, Davinder S. Suri, Sukhvir
Singh, Swaran Singh, Lovedeep Multani, Printhpal S. Bawa, Kamlesh Taneja, Rajwinder Kaur,
Inderbir Singh, Paramjit Kaur and Rajbir Singh (collectively, "Petitioners").

On February 24, 2023, Petitioners filed this Article 78 Verified Petition against
Respondents New York City Districting Commission ("Districting Commission"), Chair Dennis

M. Walcott (“Walcott”), Hon. Marilyn D. Go, Maria Mateo, Joshua Schneps, Lisa Sorin, Msgr. Kevin Sullivan, Kai-Ki Wong, Maf Misbah Uddin, Michael Schnall, Kristen A. Johnson, Yovan Samuel Collado, Gregory W. Kirschenbaum, Marc Wurzel, Kevin John Hanratty, Dr. Darrin K. Porcher, Board of Elections in the City of New York (“NYC BOE”) and New York State Board of Elections (“NYS BOE”) (collectively, “Respondents”). The individual Petitioners are registered Asian American voters who live in the area of Richmond Hill/South Ozone Park, Queens, New York. Desis Rising Up and Moving is an organization with members who reside in this community. Petitioners allege that Respondent Districting Commission is responsible for preparing a districting plan for elections, that Respondent Walcott is the chair and that the other individual Respondents were members of the Districting Commission at the time of the Districting Commissions certification of its Certified Final Plan on November 1, 2022.

Petitioners challenge the Districting Commission’s certification of the Final Plan. In their Verified Petition, Petitioners seek a judgment and order vacating the Certified Final Plan; instructing the Districting Commission to certify an amended plan that correctly applies the criteria of § 52(1)(b) to the Richmond Hill/South Ozone Park Asian community as exemplified in the Unity Map, which was an alternative plan submitted by Petitioners; and granting temporary injunctive relief to Petitioners with a Temporary Restraining Order enjoining Respondents NYC BOE and NYS BOE from administering City Council elections in New York City until an amended plan that satisfies § 52(1)(b) is certified.

In their motion by Order to Show Cause, Petitioners seek a declaration that Respondents have arbitrarily failed to ensure the fair and effective representation of the racial and language minority groups in New York City by failing to create an opportunity district for Asian American voters in Richmond Hill/South Ozone Park; an order annulling Respondents’ certification of the

Final Plan that failed to ensure the fair and effective representation of racial minority groups as arbitrary and capricious; and an order directing Respondents to certify a new New York City Council District Plan that creates an opportunity district for Asian American voters in Richmond Hill/South Ozone Park no later than two weeks from the date of the Order to Show Cause, which was signed by the court on February 27, 2023, and entered the following day.

The court previously denied Petitioners request for a Temporary Restraining Order enjoining NYC BOE and NYS BOE from administering City Council elections in New York City until a lawful amended plan is certified when the court declined to sign this section of the proposed Order to Show Cause. However, Petitioners also requested a preliminary injunction pending the court's decision, which the court did not grant on March 9, 2023, during oral argument.

Petitioners allege in substance that the Certified Final Plan violated the New York City Charter by failing to ensure the fair and effective representation to the maximum extent practicable of the Indo-Caribbean and Punjabi South Asian community residing in Richmond Hill/South Ozone Park. Petitioners further allege that the group qualifies as a racial or language minority group and that it is centered along a two-mile stretch of Liberty Avenue. Petitioners argue that the Final Plan failed to prioritize the representation of this protected racial minority community because it unlawfully diluted the community's voting strength by splitting it into three City Council districts, namely Districts 28, 29 and 32. Petitioners further argue that the Final Plan unlawfully split the district along Liberty Avenue and again by 100th and 99th Streets to the West.

Petitioners further argue in substance that the Districting Commission could have easily adopted the alternative redistricting proposal, called the "Unity Map," that was submitted, which

would have complied with the New York City Charter, as well as state and federal law. They argue that the Unity Map proposal would keep the Richmond Hill/South Ozone Park Asian community intact in District 32, it would not have diluted the representation of any other racial or language minority group and that it would not have violated the one person, one vote principle. Instead, Petitioners argue in substance that the decision to certify the Final Plan was arbitrary and capricious because the Districting Commission chose to prioritize the representation of a white community interest over the fair and effective representation of a protected minority racial group along the coastline of the Western Rockaways and Howard Beach areas in violation of the New York City Charter. Petitioners further argue that the Final Plan prevents the Asian voters in Richmond Hill/South Ozone Park from having a reasonable opportunity to elect a candidate of their choice.

Respondent NYC BOE and NYS BOE take no position in this proceeding.

The remaining Respondents oppose Petitioners' Verified Petition and motion by Order to Show Cause. They argue in substance that Petitioners failed to establish any of the requirements for emergency injunctive relief because such relief is barred by the doctrine of laches. They further argue that the Districting Commission's decision to certify the Final Plan was not arbitrary and capricious or unlawful, as it was made with a rational basis and did not violate the New York City Charter or federal or state law. The non-BOE Respondents further argue in substance that the Districting Commission followed the process mandated by the New York City Charter, it reviewed and considered the public's input and testimony, including input from many of the Petitioners, and held public hearings and sessions. It also considered the Unity Map and retained Dr. Lisa Handley, who is a voting rights and redistricting expert. Dr. Handley determined in substance that the Final Plan satisfied the requirements of the United States Voting

Rights Act of 1965 and that it increased the number of districts that offer Asian voters an opportunity to elect their preferred candidates of choice.

The non-BOE Respondents argue that the Petitioners improperly waited until February 24, 2023, to file their Petition, which was almost to the end of the four-month Statute of Limitations. They argue in substance that Petitioners had ample notice and knowledge of the contents of the Certified Final Plan because it was adopted by the Districting Commission and submitted to the New York City Council for consideration on October 6, 2022, pursuant to Charter § 51(c). City Council accepted the Plan and the Districting Commission voted 11-4 at a public meeting to certify the Final Plan, pursuant to Charter § 51(g). The non-BOE Respondents further argue that the Districting Commission certified that the requirements of Charter § 52(1)(b) were implemented in the Final Plan by filing a Certification Statement, dated November 1, 2022, which was filed with the Clerk's office on November 2, 2022, as required by Charter § 51(g). The non-BOE Respondents also argue that the Petitioners were on notice even earlier since the Preliminary Plan had been released on July 15, 2022, which began the public hearing process. The non-BOE Respondents further argue that Petitioners should be barred by laches for waiting almost four months after the Certified Final Plan was filed, which was on the eve of the commencement of petitioning, to file this proceeding.

The non-BOE Respondents further argue in substance that the election schedule has been set, petitioning began on February 28, 2023, and the City, State, candidates and voters rely on this schedule. The non-BOE Respondents argue in substance that early voting for the Primary elections for New York City Council, Judges and District Attorneys are scheduled for June 17, 2023 to June 25, 2023, and the Primary elections will be held on June 27, 2023. They argue in substance that if the court were to order a change in even one Election District, then the

surrounding Election Districts would be impacted based upon the size, population and physicality of that area. It would also require considerable expense and time to staff necessary positions to redraw the Election District map and time to reconstitute the Districting Commission and complete the process of certifying a new Plan. They further argue in substance that if the court were to grant Petitioners' request to vacate certification of the Final Plan and delay petitioning, then it would have a domino effect and make it impossible to hold the City Council primary elections as scheduled.

The non-BOE Respondents further argue that if the court were to grant Petitioners' request to enjoin the City from implementing the election activities, then the Primary election would be delayed by several months, voters would have to vote in two elections which would suppress voter turnout, the City would have to bear a significant financial cost, it would cause the candidates to have to re-file applications for matching funds and possibly even have to return funds. Therefore, Respondents argue that if the court were to grant Petitioners' request, then the candidates, their supporters, New York City taxpayers and voters would all be severely prejudiced.

Petitioners disagree and argue in substance that if the court were to grant their request to redraw District 32 and keep the Asian community in Richmond Hill/South Ozone Park intact, while still complying with the requirements of the City Charter, then only six other City Council Districts would need to be adjusted, including Districts 23, 24, 27, 28, 29, and 31.

New York City Charter § 52(1)(b) requires that "to the maximum extent practicable" the Districting Commission's plan "shall be established in a manner that ensures the fair and effective representation of the racial and language minority groups in New York city which are protected by the United States voting rights acts of nineteen hundred sixty-five, as amended"

(New York City Charter § 52[1][b]). This criteria is given the second highest priority out of the seven considerations.

A determination subject to review under Article 78 exists when, first, the agency “reached a definitive position on the issue that inflicts actual, concrete injury and second, the injury inflicted may not be significantly ameliorated by further administrative action or by steps available to the complaining party” (*Walton v. New York State Dept. of Correctional Servs.*, 8 NY3d 186, 194 [2007]).

In an Article 78 proceeding, the scope of judicial review is limited to whether a governmental agency’s determination was made in violation of lawful procedures, whether it was arbitrary or capricious, or whether it was affected by an error of law (*see* CPLR § 7803[3]; *Matter of Pell v Board of Educ.*, 34 NY2d 222, 230 [1974]; and *Scherbyn v BOCES*, 77 N.Y.2d 753, 757-758 [1991]). In reviewing an administrative agency’s determination, courts must ascertain whether there is a rational basis for the agency’s action or whether it is arbitrary and capricious in that it was without sound basis in reason or regard to the facts (*Matter of Stahl York Ave. Co., LLC v City of New York*, 162 AD3d 103, 109 [1st Dept 2018]; *Matter of Pell*, 34 NY2d at 231). Where the agency’s determination involves factual evaluation within an area of the agency’s expertise and is amply supported by the record, the determination must be accorded great weight and judicial deference (*Testwell, Inc. v New York City Dept. of Bldgs.*, 80 AD3d 266, 276 [1st Dept 2010]). When a court reviews an agency’s determination it may not substitute its judgment for that of the agency and the court must confine itself to deciding whether the agency’s determination was rationally based (*Matter of Medical Malpractice Ins. Assn. v Superintendent of Ins. of State of N.Y.*, 72 NY2d 753, 763 [1st Dept 1988]).

Furthermore, an agency is to be afforded wide deference in the interpretation of its regulations and, to a lesser extent, in its construction of the governing statutory law, however an agency cannot engraft additional requirements or assume additional powers not contained in the enabling legislation (*see Vink v New York State Div. of Hous. and Community Renewal*, 285 AD2d 203, 210 [1st Dept 2001]).

The Legislature is tasked with balancing the requirements imposed by the New York State Constitution, the United States Constitution, the New York City Charter and any additional legislation (*see Matter of Wolpoff v Cuomo*, 80 NY2d 70, 79 [1992]). The court's role is not "to second-guess the Districting Commission's reasonable policy choice related to implementing the technical requirements of districting" (*Brooklyn Heights Ass'n v Macchiarola*, 82 NY2d 101, 106 [1993]; citing *Matter of Wolpoff*, 80 NY2d at 79). As the Court of Appeals noted, it is "hesitant to substitute [its] own determination for that of the Legislature even it [it] would have struck a slightly different balance on [its] own" (*id.*).

Here, the court finds that Petitioners failed to demonstrate their entitlement to the relief requested and that Respondents demonstrated that if the court were to grant Petitioners' requested relief then the candidates, voters and New York City taxpayers would be extremely prejudiced. Therefore, the court denies Petitioners' request for a preliminary injunction. The court finds that Petitioners failed to demonstrate the likelihood of their success on the merits of the Verified Petition, that they will suffer irreparable harm absent the preliminary injunction and that the balance of equities favor the court granting the preliminary injunction.

Additionally, the court denies Petitioners' request to vacate the Certified Final Plan and to direct the Districting Commission to certify an amended plan. The court disagrees with Respondents and finds that Petitioners are not barred by the doctrine of laches for their delay in

filing this proceeding until the eve of the commencement of petitioning and the alleged prejudice that would follow if the court stayed petitioning, vacated the Certified Final Plan and caused the City Council elections to be delayed. However, the court determines that Petitioners failed to demonstrate that the decision to certify the Final Plan was not in violation of lawful procedures, it was not arbitrary and capricious, and it was not affected by an error of law. Additionally, Petitioners failed to demonstrate that the Districting Commission violated the New York City Charter by failing to apply the mandates of § 52(1)(b) for failing to ensure the fair and effective representation of the racial and language minority groups in New York City to the maximum extent practicable.

The court finds that the record indicates that the determination to certify the Final Plan was rationally based. The decision was made after the Districting Commission properly completed the certification process as required. There was a public comment process which included testimony from numerous people and many of the Petitioners testified, submitted comments, or otherwise participated in the process. The Districting Commission properly considered the testimony, comments, submissions and alternatives, such as the Unity Map. The Districting Commission carefully evaluated the Certified Final Plan's compliance with the New York State and United States Constitutions, the New York City Charter and weighed the applicable criteria set forth in New York City Charter § 52(1), (2) and (3). The court agrees with Respondents that the Districting Commission weighed the competing interests and all necessary requirements to create the Final Plan and decided to adopt the Final Plan in lieu of all others. The Districting Commission retained Dr. Handley as an expert consultant and considered her findings. Dr. Handley concluded that the Certified Final Plan complied with the Voting Rights Act and that it expanded the voting power of Asians in New York City. Although Petitioners and

their expert disagree with Dr. Handley's findings and they submitted the Unity Map as a viable alternative, the Districting Commission chose not to accept Petitioners' expert's determinations or the Unity Map's redistricting proposal.

Since the court finds that the certification of the Districting Commission's Final Plan was rationally based and lawful, even if the court were to disagree with the Districting Commission's decision not to adopt the Unity Map or any other viable alternative to the Certified Final Plan, then the court is precluded from substituting its own judgment for that of the Districting Commission.

Additionally, the court finds that Respondents demonstrated that if the court were to grant Petitioners' requests for relief, then it would impact neighboring Election Districts at a minimum, the map would have to be redrawn, the Districting Commission would have to be reconstituted, the City Council primaries would be delayed, there would have to be two primary elections and it would be costly and require a delay of several months. Therefore, the candidates, voters, tax payers and City would be extremely prejudiced.

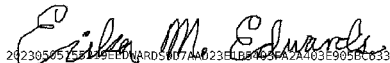
Although the court always endeavors to protect the rights of racial and language minorities against voting rights violations, here, Petitioners simply failed to demonstrate the merits of their claims.

The court has considered additional arguments raised by the parties which were not specifically discussed herein and the court denies all requests for relief not expressly granted herein.

As such, it is hereby

ORDERED and ADJUDGED that the court denies the relief requested in Petitioners' Verified Petition, the court denies Petitioners' motion by order to show cause and the court dismisses the Verified Petition without costs to any party.

This constitutes the decision and order of the court.


20230505 15:14:00 EDWARDS 077AA0235E1B24036A2A403E905BCE033B

<u>5/5/2023</u> DATE			<u>ERIKA M. EDWARDS, J.S.C.</u>
CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>
	<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>
			DENIED
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>
	<input type="checkbox"/>		NON-FINAL DISPOSITION
			GRANTED IN PART
			OTHER
			SUBMIT ORDER
			FIDUCIARY APPOINTMENT
			REFERENCE

FILED: NEW YORK COUNTY CLERK 02/24/2023 02:36 PM

NYSCEF DOC. NO. 1

INDEX NO. 151762/2023

RECEIVED NYSCEF: 02/24/2023

STATE OF NEW YORK
SUPREME COURT, COUNTY OF NEW YORK

In the Matter of the Application of

DESI RISING UP AND MOVING, AARON FERNANDO, PAUL PERSAUD, SARWAN PERSAUD, NADIA PERSAUD, NADIRA PERSAUD, BISHAM PERSAUD, HARBHAJAN S. SURI, CHARANJIT S. SURI, DAVINDER S. SURI, SUKHVIR SINGH, SWARAN SINGH, LOVEDEEP MULTANI, PRINTHPAL S. BAWA, KAMLESH TANEJA, RAJWINDER KAUR, INDERBIR SINGH, PARAMJIT KAUR, and RAJBIR SINGH

Petitioners,

For and Order Pursuant to Article 78 of the N.Y. C.L.P.R.

-against-

NEW YORK CITY DISTRICTING COMMISSION, CHAIR DENNIS M. WALCOTT, HON. MARILYN D. GO, MARIA MATEO, JOSHUA SCHNEPS, LISA SORIN, MSGR. KEVIN SULLIVAN, KAI-KI WONG, MAF MISBAH UDDIN, MICHAEL SCHNALL, KRISTEN A. JOHNSON, YOVAN SAMUEL COLLADO, GREGORY W. KIRSCHENBAUM, MARC WURZEL, KEVIN JOHN HANRATTY, and DR. DARRIN K. PORCHER each in their capacity as members of the New York City Districting Commission, BOARD OF ELECTIONS IN THE CITY OF NEW YORK, NEW YORK STATE BOARD OF ELECTIONS,

Respondents.

Index No.: _____

Verified Petition

Preliminary Statement

Richmond Hill/South Ozone Park, Queens is home to a vibrant, growing Asian community, but districting plans have repeatedly carved up the area and diluted the community's voting strength.¹ The Asian community in Richmond Hill/South Ozone Park has consequently long been denied fair and effective representation in local, state, and federal legislative bodies. The most recent example of unlawfully separating the Asian community came with the New York City Districting Commission certification of its 2022 redistricting plan splitting Richmond Hill/South Ozone Park into three city council districts—despite immense community support for a unified district.

Petitioners respectfully submit this petition seeking review under Article 78 of the New York Civil Practice Laws and Rules to contest the certification of the New York City Districting Commission's ("the Commission") Final Plan ("Final Certified Plan")² for failure to comply with the New York City Charter ("the Charter.") The Commission violated the Charter by failing to ensure the fair and effective representation of a racial or language minority group, to the maximum extent practicable. The Commission's illegal actions necessitate revisions to the district plan so that it complies with the law.

Richmond Hill/South Ozone Park is home to a robust Indo-Caribbean and Punjabi community, centered on Liberty Avenue, which has rapidly grown since the late 1970s.³ Today, roughly half the population is foreign born, with immigrants from Guyana, Trinidad, and India, making Richmond Hill/South Ozone Park one of the largest South Asian communities in New

¹ Exhibit A; Exhibit B.

² Exhibit C.

³ *Id.*

York City.⁴ The Asian community shares institutions including schools, community-based organizations, places of worship, transportation networks, and hundreds of ethnic small businesses along a two-mile stretch of Liberty Avenue.⁵ Petitioners are registered Asian American voters who live in Richmond Hill/South Ozone Park and a membership-based organization with members who reside in this community.

On November 1, 2022, despite repeated and explicit testimony from community members and organizations as to the nature of Richmond Hill/South Ozone Park's protected racial minority community and the Commission's legal obligations to prioritize its representation, the Commission certified a City Council districting plan—the Final Certified Plan—that splinters the Richmond Hill/South Ozone Park Asian community among three councilmanic districts. The Commission illegally split the Richmond Hill/South Ozone Park Asian community down its major thoroughfare, Liberty Avenue, and then again by 100th and 99th Streets to the west.

Following each decennial Census, jurisdictions are required to redistrict to ensure their legislative boundaries comply with the one person, one vote principle. In New York City, redistricting is governed by Charter Chapter 2–A. Section 52(1)(b) of that Chapter orders the Commission to prioritize the representation of such racial or language minority groups in its district plans over all other factors except the traditional one person, one vote principle. In doing so, the Charter provides protection supplementary to federal law to ensure the voting power of racial and language minority groups.

Keeping the Richmond Hill/South Ozone Park Asian community intact in District 32 would not require the Commission to dilute the representation of any other racial or language

⁴ *Id.*

⁵ *Id.*

minority groups, nor violate the one person, one vote principle. A coalition of racial justice organizations, consisting of the Asian American Legal Defense and Education Fund, LatinoJustice PRLDEF, and the Center for Law and Social Justice at Medgar Evers College submitted the Unity Map, a potential citywide 51-district plan, to the Commission on July 18, 2022. As demonstrated by the Unity Map,⁶ it was possible for the Commission to certify a districting plan that would ensure the fair and effective representation of the Richmond Hill/South Ozone Park Asian community while complying with the Charter and state and federal law. Indeed, the Unity Map upgrades District 28 from a Black plurality district into a majority Black district, while also ensuring fair and effective representation for Asian Americans in District 32.

Despite comments from Commission members that the Richmond Hill/South Ozone Park Asian community could not be kept intact, the Unity Map demonstrates it could have done so by eschewing the creation/maintenance of a white plurality district along the coastline of the Western Rockaways and Howard Beach, a district that the Commission chose to include in the Final Certified Plan. By doing so, the Commission arbitrarily and capriciously prioritized the representation of a white community of interest over fair and effective representation of a protected minority racial group, violating the clear mandate of the Charter.

Due to population equality requirements and the geography of this area of South Queens, JFK airport and the Rockaways, Districts 27, 28, 31 and 32 are all interconnected. Districts 27, 28 and 31 are all either majority or plurality Black districts that elect Black representatives. According to the Charter's mandates, these districts, at minimum, should remain so to ensure fair

⁶ Exhibit D.

and effective representation of the protected Black population in this area, but the Charter also requires the protected Asian community to be kept mostly whole with a reasonable opportunity to elect a candidate of their choice in District 32, as illustrated in the Unity Map. Compliance with the Charter’s mandate to ensure fair and effective representation for protected racial and language minority groups, to the maximum extent practicable, should result in three Black majority districts and one Asian opportunity district in this region, not two Black majority districts, one plurality Black district and one plurality white district—as currently contemplated by the Final Plan.

As a result of the Commission’s violation of the Charter, implementation of this defective Final Certified Plan must be halted, and the Commission must be ordered to create and certify a plan in compliance with the Charter.

Venue

1. This action is properly commenced in New York County because it is the county where the Districting Commission made the decision to certify the defective districting plan. An Article 78 petition may be filed in “any county within the judicial district where the respondent made the determination complained of” pursuant to Civil Practice Laws and Rules (“CPLR”) § 506(b) and § 7804(b). Thus, this action is properly commenced in New York County.

Parties

2. Petitioner Desis Rising Up and Moving (“DRUM”) is a non-profit, non-partisan multigenerational, membership-led organization representing low-wage South Asian and Indo-Caribbean New Yorkers. DRUM’s members include residents of Richmond Hill/South Ozone Park, including Petitioner Aaron Fernando. As part of its mission to build power among the

community and obtain political representation for its members, DRUM was actively involved in the New York City redistricting process. DRUM's Political Director Jagpreet Singh submitted written testimony to the Districting Commission stating that the South Asian community in Richmond Hill/South Ozone Park should be kept intact.⁷

3. Petitioner Aaron Fernando is a registered voter and resident of Richmond Hill/South Ozone Park.
4. Petitioner Paul Persaud is a registered voter and resident of Richmond Hill/South Ozone Park.
5. Petitioner Sarwan Persaud is a registered voter and resident of Richmond Hill/South Ozone Park.
6. Petitioner Nadia Persaud is a registered voter and resident of Richmond Hill/South Ozone Park.
7. Petitioner Nadira Persaud is a registered voter and resident of Richmond Hill/South Ozone Park.
8. Petitioner Bisham Persaud is a registered voter and resident of Richmond Hill/South Ozone Park.
9. Petitioner Harbhajan S. Suri is a registered voter and resident of Richmond Hill/South Ozone Park.
10. Petitioner Charanjit S. Suri is a registered voter and resident of Richmond Hill/South Ozone Park.
11. Petitioner Davinder S. Suri is a registered voter and resident of Richmond Hill/South Ozone Park.

⁷ Exhibit E.

12. Petitioner Sukhvir Singh is a registered voter and resident of Richmond Hill/South Ozone Park.
13. Petitioner Swaran Singh is a registered voter and resident of Richmond Hill/South Ozone Park.
14. Petitioner Lovedeep Multani is a registered voter and resident of Richmond Hill/South Ozone Park.
15. Petitioner Prithpal S. Bawa is a registered voter and resident of Richmond Hill/South Ozone Park.
16. Petitioner Kamlesh Taneja is a registered voter and resident of Richmond Hill/South Ozone Park.
17. Petitioner Rajwinder Kaur is a registered voter and resident of Richmond Hill/South Ozone Park.
18. Petitioner Inderbir Singh is a registered voter and resident of Richmond Hill/South Ozone Park.
19. Petitioner Paramjit Kaur is a registered voter and resident of Richmond Hill/South Ozone Park.
20. Petitioner Rajbir Singh is a registered voter and resident of Richmond Hill/South Ozone Park.
21. Respondent New York City Districting Commission (“the Commission”) is responsible for preparing a districting plan for election of city council members, subject to the rules of the New York City Charter. The Commission is comprised of fifteen full-time members, including a chair, Dennis M. Walcott.

22. Respondent Dennis M. Walcott is the Chair of the Commission and is named in this action in their official capacity.
23. Respondent Hon. Marilyn D. Go is a member of the Commission and is named in this action in their official capacity.
24. Respondent Maria Mateo is a member of the Commission and is named in this action in their official capacity.
25. Respondent Joshua Schneps is a member of the Commission and is named in this action in their official capacity.
26. Respondent Lisa Sorin is a member of the Commission and is named in this action in their official capacity.
27. Respondent Msgr. Kevin Sullivan is a member of the Commission and is named in this action in their official capacity.
28. Respondent Kai-Ki Wong is a member of the Commission and is named in this action in their official capacity.
29. Respondent Maf Misbah Uddin is a member of the Commission and is named in this action in their official capacity.
30. Respondent Michael Schnall is a member of the Commission and is named in this action in their official capacity.
31. Respondent Kristen A. Johnson is a member of the Commission and is named in this action in their official capacity.
32. Respondent Yovan Samuel Collado is a member of the Commission and is named in this action in their official capacity.

33. Respondent Gregory W. Kirschenbaum is a member of the Commission and is named in this action in their official capacity.
34. Respondent Marc Wurzel is a member of the Commission and is named in this action in their official capacity.
35. Respondent Kevin John Hanratty is a member of the Commission and is named in this action in their official capacity.
36. Respondent Dr. Darrin K. Porcher is a member of the Commission and is named in this action in their official capacity.
37. Respondent Board of Elections in the City of New York (“City BOE”) is a public agency of the City of New York responsible for election administration.
38. Respondent New York State Board of Elections (“State BOE”) is a public agency responsible for the execution and enforcement of all “statutes governing campaigns, elections and related procedures.”⁸
39. Complete relief cannot be accorded to Petitioners without the involvement of the City BOE and State BOE, as these Respondents are set to begin the elections process under the challenged Final Certified Plan on February 28, 2023,⁹ which will cause immediate and irreparable injury to members of the public unless they are restrained by the relief requested herein.

⁸ N.Y. ELEC. LAW § 3–104 (McKinney 2022).

⁹ NEW YORK STATE BOARD OF ELECTIONS, 2023 POLITICAL CALENDAR (2023), <https://www.elections.ny.gov/NYSBOE/law/2023PoliticalCalendar.pdf>.

Statement of Facts**The 1989 Charter Revisions: Legislative History**

40. The 1989 revisions to the Charter require the appointment of a districting commission to redraw councilmanic districts each decade.¹⁰ The Charter instructs that the commissions “shall be guided by the criteria set forth in section fifty-two.”¹¹

41. Section 52 of the Charter instructs the Commission to divide the city into districts subject to a prioritized list of criteria that “shall be applied and given priority *in the order in which they are listed*” and “*to the maximum extent practicable.*” (emphasis added).¹²

42. The highest priority criteria mandates districts stay within acceptable bounds of population equality, essentially codifying the one person, one vote principle.

43. The second highest priority criteria mandates the Commission create a districting plan “established in a manner that ensures the fair and effective representation of the racial and language minority groups in New York City which are protected by the United States Voting Rights Act.”¹³

44. The Charter then instructs the Commission to give weight, in descending priority, to maintaining communities and neighborhoods of common interest, creating geographically compact districts, not crossing borough lines, and minimizing the sum length of all boundary lines.¹⁴

45. In its submission to the Department of Justice (“DOJ”) for preclearance under Section 5 of the Voting Rights Act following the adoption of the 1989 Charter, the New York City Charter

¹⁰ NY CITY CHARTER § 50.

¹¹ NY CITY CHARTER § 51.

¹² NY CITY CHARTER § 52(1).

¹³ NY CITY CHARTER § 52(1)(b).

¹⁴ NY CITY CHARTER § 52(1).

Revision Commission (“Revision Commission”), responsible for drafting the new Charter, wrote that the purpose of the new districting scheme was “to ensure that council district lines are drawn to maximize electoral opportunities of racial and language minority groups” and that the Charter “explicitly requires the Districting Commission to accord extremely high priority to fair and effective representation of racial and language minority groups.”¹⁵

46. In the Revision Commission meeting minutes, a Commission member called § 52(1)(b), the second priority criteria, “the single most important thing” for protecting racial and language groups in the districting process.¹⁶

47. The Revision Commission further highlighted the importance of § 52(1)(b) in the larger districting scheme, commenting that “we made a number of changes from the current system, both, in substance of the criteria for districting which, as when you go through that, you’ll see stresses the importance of the fair and effective representation of racial and language groups covered by the Voting Rights Act.”¹⁷

48. The Revision Commission wrote that its interest in expanding the size of the City Council from 35 members to 51 was “in seeing if a change in the size of the City Council - - that is an enlargement in the size of the City Council, would enhance the opportunities for minorities to be elected” and “the principle issue we want to look at is, whether expansion of the Council would add opportunities for minorities to get elected to the Council.”¹⁸

49. In its submission to the DOJ, the Revision Committee stated that by expanding the size of the City Council, “the Districting Commission should, . . . be able to establish a council district in [both Chinatown and Flushing] in which Asian Americans would have a reasonable

¹⁵ Exhibit F, at 22.

¹⁶ Exhibit G, at 8.

¹⁷ Exhibit G, at 2–3.

¹⁸ Exhibit G, at 127.

opportunity to elect council members of their choice” by keeping the Asian community in these respective areas in a single council district.¹⁹ The Revision Commission stated, the Charter “requires the Districting Commission to accord very high priority to this need.”²⁰

50. The Revision Commission proffered a prototype 51-district plan illustrating how, even using the old 1980 Census data, it was possible to draw a district wholly containing Manhattan’s Chinatown where the Revision Commission believed Asians would have an opportunity to receive fair and effective representation in accordance with the protections created in § 52(1)(b).²¹ The Revision Commission drew two variations of a prototypical Chinatown district in which, “Asian Americans would have a reasonable opportunity to elect council members of their choice”²² The variations had the Asian share of total population at 28.7% and 30.6%, respectively, and the total non-white share of population at 76.8% and 62.5%, respectively.²³ The Section 5 submission states that “the Districting Commission should, as part of a 51-district plan based on the results of the 1990 census, be able to establish a council district in each of these areas in which Asian Americans would have a reasonable opportunity to elect council members of their choice.”²⁴

51. Likewise, the Inaugural Districting Commission in 1991, when certifying the first plan under the new Charter criteria, stated, it “drew district lines to enhance the opportunities of protected racial and language minority groups to participate in the political process and elect candidates of their choice, *to the greatest extent feasible.*” (emphasis added).²⁵

¹⁹ Exhibit F, at 21.

²⁰ *Id.*

²¹ *Id.* at 19–21; *See also* Exhibit H.

²² Exhibit F, at 21.

²³ Exhibit H.

²⁴ Exhibit F, at 21.

²⁵ Exhibit I, at 5.

52. The current Commission has expressed awareness that the Chinatown district was considered an opportunity district for racial and language minority voters by the drafters of the revised Charter. Chair Walcott explicitly acknowledged that “it was a clear intention” of the 1990 Districting Commission to create the Chinatown district “as an opportunity district to elect an Asian American candidate.”²⁶

The History of the Richmond Hill/South Ozone Park Asian Community

53. The Richmond Hills/South Ozone Park area contains an Asian community that is made up of, among others, Guyanese, Punjabi, Trinidadian, Surinamese, and Bengali New Yorkers. The influx of immigrants of largely South Asian and Indo-Caribbean descent since the late 1970s has transformed the Richmond Hills/South Ozone Park area into one of the highest concentrations of Asians in New York City.

54. The Richmond Hill/South Ozone Park Asian community defines itself geographically as the area contained approximately by the Van Wyck Expressway to the east, Woodhaven Avenue to the west, Forest Park and Hillside Avenue to the north, and the South Conduit/Belt Parkway to the South. Community groups and members testified to such boundaries prior to the Commission release of its Preliminary Map on July 15, 2022, including Petitioner Aaron Fernando on June 27, 2022.²⁷ Likewise, AALDEF, in collaboration with community-based organizations, developed a map of the Richmond Hill/South Ozone Park Asian community based on those boundaries and submitted it to the Commission on May 31, 2022.²⁸

²⁶ NYC Districting Commission, Public Meeting - September 29, 2022, YOUTUBE (Sep. 29, 2022), at 1:38:05–1:38:24, https://www.youtube.com/watch?v=Z6fRZr0Qi_0 (“It was a clear intention to create District 1 as an opportunity district to elect an Asian American candidate.”).

²⁷ Exhibit J.

²⁸ Exhibit K.

55. The City of New York, itself, has recognized the Indo-Caribbean community in Richmond Hill/South Ozone Park, with the City Council voting to co-name Liberty Avenue, between the Van Wyck Expressway and Woodhaven Ave, as Little Guyana Avenue.²⁹
56. Additionally, community members confirmed those boundaries during the Queens Public Hearing on August 18, 2022, including Albert Baldeo (District 24b Leader), Ambika Persaud (South Queens Women’s March Summer Organizer), Mohammed Ahmed (Caribbean Equality Project Founder), Anlisa Outar (Chhaya CDC Housing Counselor), Nalima Ahmed (Caribbean Equality Project Volunteer), and Richard David (Indo-Caribbean Alliance Co-Founder).³⁰
57. The Richmond Hills/South Ozone Park Asian community has historically been divided up and robbed of the opportunity to elect representatives of choice, and even hold particular representatives responsible for the issues facing the community. As reported by the New York Times, community members in Richmond Hills/South Ozone Park are divided into as many as seven state assembly districts and a myriad of city council and senate districts, which has frustrated and impeded the ability for the community to secure services from legislative representatives, including urgent COVID measures such as PPE and vaccine doses.³¹
58. In fact, none of the three sitting Council Members who are supposed to represent the divided Richmond Hill/South Ozone Park Asian community have offices in the area.
59. On the U.S. Census, many Indo-Caribbean residents enter “Other” as their racial categorization due to the complex nature of their identity but are members of Asian diasporas who in turn count as members of the Asian racial grouping for redistricting purposes.³²

²⁹ Exhibit A, at 3.

³⁰ Exhibit L.

³¹ Nicholas Fandos, *Split 7 Ways, Immigrant Neighborhood Seeks to Unify Its Political Power*, N.Y. TIMES (Nov. 10, 2021), <https://www.nytimes.com/2021/11/10/nyregion/redistricting-queens-asians-nyc.html>.

³² Exhibit A, at 4-6..

60. The Commission was aware of this fact. During the September 29, 2022, public mapping session, while discussing Southeast Queens, Bryn Hammarberg, one of the Commission’s mappers, stated, in the “Richmond Hill area, we’re talking about an Indo-Caribbean population that isn’t always reflected in the [] Census designated racial and ethnic groups.”³³ Two Commission members subsequently acknowledged that these community members should be considered a part of the Asian racial categorization.³⁴

The 2022 Redistricting Cycle

61. The Commission released its Preliminary Map³⁵ on July 15, 2022. Despite significant community testimony to the contrary, the Commission once again divided the Richmond Hill/South Ozone Park community into Council Districts 32, 29, 28 and 27. Under the Preliminary Map, the Commission divided the Richmond Hill/South Ozone Park Asian community into four districts, none of which would be plurality Asian.

62. The Commission violated the Charter criteria’s prioritization in its Preliminary Plan by making its main objective the lower priority criteria of not crossing borough lines. The Preliminary Plan maintained three Staten Island districts which did not cross into another borough, despite Staten Island having the lowest growth rate of the boroughs and being the borough with the least portion of protected racial and language minorities. Preliminary Plan Districts 49, 50, and 51 deviated from the idea population of 172,882 by 4.3%, meaning, under the amended Municipal Home Rule Law, the most any of the other 48 districts could exceed the ideal population was 0.7%.³⁶ The Preliminary Map also divided two effective Hispanic-Asian

³³ NYC Districting Commission, Public Meeting - September 29, 2022, YOUTUBE (Sep. 29, 2022), at 2:54:58–2:55:20, https://www.youtube.com/watch?v=Z6fRZr0Qi_0.

³⁴ *Id.*

³⁵ Exhibit M.

³⁶ N.Y. Mun. Home Rule Law § 32(4)(a) (“the difference in population between the most and least populous district shall not exceed five percent of the mean population of all districts”).

coalition districts, Districts 38 and 26, where the minority communities consistently elected candidates of choice, replacing them districts with large white plurality.

63. AALDEF and others testified against these divisions as well as the division of the Richmond Hill/South Ozone Park Asian community stating they were clear Charter violations. Despite this testimony, the Commission only undid its Charter violations with relation to Districts 38 and 26, keeping the Richmond Hill/South Ozone Park divided.

64. In response to the Commission's Preliminary Map, on July 18, 2022, the Unity Map Coalition, a nonpartisan group composed of AALDEF, the Center for Law and Social Justice at Medgar Evers College (CLSJ), and LatinoJustice PRLDEF, submitted the Unity Map which illustrated how the Commission could draw districts that provided racial and language minorities fair and effective representation as required by the City Charter, and comply with state and federal law.

65. The Unity Map placed the Richmond Hill/South Ozone Park Asian community in an Asian opportunity district. A minority opportunity district is one in which the protected racial minority group has a reasonable opportunity to elect candidates of choice.³⁷

66. When discussing her evaluation of the Commission's Preliminary Map under Section 2 of the Voting Rights Act during the Commission's August 11, 2022 public meeting, the Commission's expert, Dr. Lisa Handley, stated, "if you have polarized voting, then you have to make sure that you create districts that give minority voters an opportunity to elect their candidates of choice."³⁸ Such an opportunity district, according to Dr. Handley, need not be

³⁷ Exhibit N, at 66-69.

³⁸ Exhibit N, at 29.

greater than 50% minority residents or citizens; it must simply grant the minority community the opportunity to elect candidates of choice.³⁹

67. But Dr. Handley's analyses of Black, Hispanic, and Asian opportunity districts shared for the September 22, 2022 and October 6, 2022 Commission meetings were flawed.⁴⁰ Handley's analyses were primarily based on the 2021 Mayoral election, an exogenous race, rather than the endogenous 2021 City Council race which would have shown racially polarized voting in Richmond Hill/South Ozone Park.⁴¹

68. Under the Final Certified Plan, the Richmond Hill/South Ozone Park Asian community does not have an opportunity to elect candidates of choice in Districts 28 or 32. The results of City Council elections under the 2013–2022 Plan illustrate that. Racial bloc voting analysis of the 2021 general election for then open City Council District 32 shows that the Asian candidate of choice in District 32, Felicia Singh, was defeated by the white candidate of choice, Joann Ariola.⁴² Felicia Singh is of Punjabi and Guyanese descent. Singh was defeated despite disproportionate support for her from the sizable Hispanic community as well.

69. Under the 2013–2022 Plan, District 28 contained the portion of the Richmond Hill/South Ozone Park Asian community south of Atlantic Avenue. District 28 was 36.7% Black, 20.5% Asian, and 18.4% Hispanic. Asians were unable to elect candidates of choice. In the last competitive primary for the City Council seat, in 2017, the Asian candidate of choice, Richard David, a Guyanese resident of Richmond Hill/South Ozone Park, was defeated by the Black community's candidate of choice, Adrienne E. Adams, the now Speaker of the City Council.⁴³

³⁹ See *id.* at 30-34

⁴⁰ See Exhibit O; Exhibit P.

⁴¹ Exhibit Q.

⁴² *Id.*

⁴³ *Id.*

70. The Unity Map drew District 32 to encompass the entirety of the Richmond Hill/South Ozone Park Asian community, resulting in an Asian plurality district. Under the Unity Map, District 32 would be 33.3% Asian and Other, 29.3% Hispanic, 21.0% white, and 7.9% Black by total population.

71. District 32 can be an Asian opportunity district, as demonstrated by the Unity Map. As seen in the 2021 City Council general election, Asian voters are cohesive while white voters vote as a bloc against Asian candidates of choice. The Hispanic voters tend to support the Asian candidates of choice. By bringing the Asian and Other share of total population to 33.3% and the non-white population to 79.0%, the Unity Map version of District 32 is an opportunity district for Asian residents in the mold of what the Revision Commission envisioned under the new 1989 Charter. -k

72. Drawing District 32 in this manner does not compromise neighboring opportunity districts drawn for other protected racial minorities. While ensuring fair and effective representation for Asian voters in District 32, the Unity Map maintains opportunity districts for Black voters in Districts 27, 28, and 31, and in fact bolsters District 28 from a Black plurality to a Black Majority district while maintaining the integrity of communities of interest like Jamaica and Rochdale Village.

73. On September 22, 2022, the Commission voted on whether to release the Revised Plan⁴⁴ as required by Section 51(e) of the Charter. The Commission rejected the Revised Plan.

74. The Commission then held two public mapping sessions for a total of 7.75 hours on September 29 and 30, 2022, attended by the Commission members, counsel, and mappers, which

⁴⁴ Exhibit R.

were the only portions of roughly 77 total hours of mapping sessions made available to the public.⁴⁵

75. During the September 29, 2022 mapping session, Commission member Uddin stated, the Commission “wanted originally [] Richmond Hill and South Ozone Park in one district. We could not do that.”⁴⁶ Instead, the Commission used Liberty Avenue, the community’s central throughfare to divide the Asian community of Richmond Hill/South Ozone Park.

76. During the September 30, 2022 mapping session, Commission member Uddin stated that many people from the Richmond Hill/South Ozone Park community testified regarding keeping their community intact.⁴⁷

77. On October 6, 2022, the Commission voted to submit its Updated Revised Plan⁴⁸ to the New York City Council as required by Section 51(f) of the Charter. Despite the significant amount of community testimony and the Unity Map, the Commission’s Updated Revised Plan continued to divide the Richmond Hill/South Ozone Park Asian community, placing portions into Districts 32, 29, and 28, and preserve a white plurality in District 32.

78. On October 27, 2022, the City Council sent a letter to Commission Chair Walcott stating the City Council did not object to the Updated Revised Plan.

79. On November 1, 2022, the Commission certified the Updated Revised Plan as the Final Certified Plan. The Final Certified Plan divided the Asian community of Richmond Hill/South Ozone Park into three city council districts: Districts 32, 28, and 29.⁴⁹ The border between

⁴⁵ A FOIL Request seeking the minutes or transcripts to these non-public sessions was made on by Ronak Patel, Legal Fellow at AALDEF, on February 1, 2022 and denied by the NYC Districting Commission on February 7, 2022.

⁴⁶ NYC Districting Commission, Public Meeting - September 29, 2022, YOUTUBE (Sep. 29, 2022), at 2:55:15–2:55:51, https://www.youtube.com/watch?v=Z6fRZr0Qi_0.

⁴⁷ NYC Districting Commission, Public Meeting - September 30, 2022, YOUTUBE (Sep. 30, 2022), at 00:09:10–00:10:28, <https://www.youtube.com/watch?v=f7GRPL4X48w&t=128s>.

⁴⁸ Exhibit S.

⁴⁹ See Exhibit C.

Districts 28 and 29 is drawn at Liberty Avenue, dividing the Asian community in half, right though its main throughfare. The western portion of the Community was cleaved off into District 32 at 100th Street below Atlantic Ave, and 99th Street above.

80. In the Final Certified Plan, District 32 is 38.2% white—higher than it was under the 2013–2022 Plan. District 32 is 36.0% Hispanic and 16.7% Asian and Other. District 28 is 44.5% Black, 25.4% Asian and Other (lower than it was under the 2013–2022 Plan), and 16.2% Hispanic.

81. This certification came in spite of the testimony of community members and organizations such as the Asian American Federation⁵⁰, South Queens Women’s March,⁵¹ the Hispanic & South Asian Alliance for Fair Redistricting in South Queens⁵², and the Caribbean Equality Project⁵³—all stating that the Richmond Hills/South Ozone Park Asian community was a geo-compact, protected racial group that must be protected by the Commission.

82. The Commission was informed through testimony that this districting scheme would specifically violate their legal obligation under § 52(1)(b) of the Charter. In testimony at public hearing, Jerry Vattamala (misspelled in the official transcript as Jerry Guatemala) testified

“What about Richmond Hill, South Ozone Park? That is a protected community of interest, it is an Asian-American community of interest. It is a group protected under the federal Voting Rights Act and you must first ensure that there is fair and effective representation for that community before you look at Howard Beach and Breezy Point and Broad Channel and those other areas that you’ve drawn and consolidated into District 32. What about Richmond Hill and South Ozone Park? You’ve lumped them together in 28 with Rochdale Village, where they have no opportunity to elect a candidate of their choice . . . Before you move on, after the three Black districts in 27, 28, and 31, you must then next look at Richmond Hill, South Ozone Park and make sure they have fair and effective representation.”⁵⁴

⁵⁰ Exhibit T.

⁵¹ Exhibit U.

⁵² Exhibit V.

⁵³ Exhibit W.

⁵⁴ Exhibit L, at 237-238.

83. The Commission was informed by a letter submitted by the Unity Map Coalition that failing to create an Asian opportunity district in Richmond Hill/South Ozone Park would violate the Commission's legal obligations under the Charter. The Coalition wrote:

The Asian American community of interest in Richmond Hill/South Ozone Park (Districts 28 and 32) - this protected group does not have fair and effective representation to the maximum extent practicable, without harming another racial minority group, as is required under the Charter. Liberty Avenue is a major thoroughfare in the community, and the commission's plan divides the community in half - in violation of the Charter. The neighboring communities in district 32, cannot be prioritized above the Asian American community in Richmond Hill/South Ozone Park. The Charter requires that the Asian American community in Richmond Hill/South Ozone Park first be given fair and effective representation to the maximum extent practicable, only after ensuring that requirement is satisfied, is the commission to look to other surrounding communities.⁵⁵

84. The Commission's Final Certified Plan did not create an opportunity district for the Richmond Hill/South Ozone Park Asian Community. Instead, the Final Certified Plan prioritized the preservation of a white community of interest in District 32, comprising the populations found in the Rockaways, Breezy Point, Broad Channel, and Howard Beach.

85. As seen in the 2021 District 32 general election, the Asian candidate of choice Felicia Singh (D-Ozone Park) lost in a landslide to the white candidate of choice, Joann Ariola (R-Howard Beach), 66% of the vote to 32%, and likewise in the most recent competitive primary in District 28, the Asian Candidate of choice, Richard David, was defeated by the Black candidate of choice, Adrienne E. Adams.

86. The Final Certified Plan's continued division of the Richmond Hill/South Ozone Park Asian Community continues to deny a protected racial minority's opportunity to elect candidates of choice in violation of the Charter.

⁵⁵ Exhibit X.

Claim for Relief

87. In an Article 78 proceeding, “judgment may grant the petitioner the relief to which he is entitled” and “if the proceeding was brought to review a determination, the judgment may annul or confirm the determination in whole or in part, or modify it, and may direct or prohibit specified action by the respondent.” CPLR § 7806. The court is “empowered to annul the determinations and fashion a proper remedy.” Matter of Garrett v. Coughlin, 128 A.D.2d 210, 212 (3d Dept. 1987; see also Bower Assocs. v. Planning Bd. of Town of Pleasant Valley, 289 A.D.2d 575, 575–76 (2nd Dept. 2001) (in which the court directs the respondent to perform a specific remedy following a determination by respondent that was arbitrary and capricious, rather than remit the decision to the respondent).

88. In light of the facts above, Petitioners respectfully requests that this Court enters judgement, pursuant to CPLR § 7806, and:

- a. Vacate the Final Certified Plan;
- b. Instruct the Districting Committee to certify an amended plan that correctly applies the criteria of § 52(1)(b) to the Richmond Hill/South Ozone Park Asian community as exemplified in the Unity Map;
- c. Grant temporary injunctive relief to Petitioners with a Temporary Restraining Order enjoining Respondents City BOE and State BOE from administering City Council elections in New York City until an amended plan that satisfies § 52(1)(b) is certified;
- d. Grant Petitioners such other and further relief as this Court deems necessary and equitable.

Dated: February 24, 2023

FILED: NEW YORK COUNTY CLERK 02/24/2023 02:36 PM

NYSCEF DOC. NO. 1

INDEX NO. 151762/2023

RECEIVED NYSCEF: 02/24/2023

Respectfully Submitted,



Jerry Vattamala
Director, Democracy Program
Asian American Legal Defense and Education
Fund
99 Hudson Street, 12th Floor
New York, NY 10013
(212) 966-5932
jvattamala@aaldef.org

ATTORNEY VERIFICATION

JERRY VATTAMALA, an attorney duly admitted to practice before the courts of this state, and associated with the Asian American Legal Defense and Education Fund, hereby affirms under penalty of perjury that I have read the annexed verified petition, know the contents thereof, and state that the same are true to my knowledge, except for those matters alleged to be upon information and belief, and as to those matters I believe them to be true.

New York, New York
February 23, 2023



Jerry Vattamala
Director, Democracy Program
Asian American Legal Defense and Education Fund
99 Hudson Street, 12th Floor
New York, NY 10013
(212) 966-5932
jvattamala@aaldef.org

State of New York, County of New York
Subscribed and Sworn to (or affirmed)
before me this 23 day of February
2023 by Jerry Vattamala



LILY ZHENG
Notary Public, State of New York
Reg. No. 01ZH6882341
Qualified in Queens County
Commission Expires 07/31/2025

Petitioners' Order to Show Cause and Temporary Restraining Order, dated February 27, 2023, with Notice of Entry [pp. 41 - 45]

FILED: NEW YORK COUNTY CLERK 02/28/2023 11:16 AM

NYSCEF DOC. NO. 16

INDEX NO. 151762/2023

RECEIVED NYSCEF: 02/28/2023

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK

In the Matter of the Application of

DESIS RISING UP AND MOVING, AARON FERNANDO, PAUL PERSAUD, SARWAN PERSAUD, NADIA PERSAUD, NADIRA PERSAUD, BISHAM PERSAUD, HARBHAJAN S. SURI, CHARANJIT S. SURI, DAVINDER S. SURI, SUKHVIR SINHG, SWARAN SINHG, LOVEDEEP MULTANI, PRINHPAL S. BAWA, KAMLESH TANEJA, RAJWINDER KAUR, INDERBIR SINGH, PARAMJIT KAUR, and RAJBIR SINGH

Petitioners,

- against -

NEW YORK CITY DISTRICTING COMMISSION, CHAIR DENNIS M. WALCOTT, HON. MARILYN D. GO, MARIA MATEO, JOSHUA SCHNEPS, LISA SORIN, MSGR. KEVIN SULLIVAN, KAI-KI WONG, MAF MISBAH UDDIN, MICHAEL SCHNALL, KRISTEN A. JOHNSON, YOVAN SAMUEL COLLADO, GREGORY W. KIRSCHENBAUM, MARC WURZEL, KEVIN JOHN HANRATTY, and DR. DARRIN K. PORCHER each in their capacity as members of the New York City Districting Commission, BOARD OF ELECTIONS IN THE CITY OF NEW YORK, NEW YORK STATE BOARD OF ELECTIONS, Respondents.,

Respondents.

NOTICE OF ENTRY OF DECISION AND ORDER

Index No.: 151762/2023

PLEASE TAKE NOTICE that the within is a true and complete copy of the

Decision and Order of the Court in the above-captioned proceeding, which was signed by the Hon. Leslie Stroth on February 27, 2023, and was duly entered and filed in the New York County Clerk's Office on February 28, 2023.

Dated: New York, New York

FILED: NEW YORK COUNTY CLERK 02/28/2023 10:40 AM

INDEX NO. 151762/2023

NYSCEF DOC. NO. 16

RECEIVED NYSCEF: 02/28/2023

At IAS Part 12 of the Supreme Court of the State of New York, held in and for the County of New York, at the Courthouse, 60 Centre Street, New York, New York 10007 on this 27th day of February 2023

PRESENT: **HON. LESLIE A. STROTH** JSC
STATE OF NEW YORK
SUPREME COURT, COUNTY OF NEW YORK

In the Matter of the Application of

Index No.: 151762/2023

DESIS RISING UP AND MOVING, AARON FERNANDO, PAUL PERSAUD, SARWAN PERSAUD, NADIA PERSAUD, NADIRA PERSAUD, BISHAM PERSAUD, HARBHAJAN S. SURI, CHARANJIT S. SURI, DAVINDER S. SURI, SUKHVIR SINGH, SWARAN SINGH, LOVEDEEP MULTANI, PRINTHPAL S. BAWA, KAMLESH TANEJA, RAJWINDER KAUR, INDERBIR SINGH, PARAMJIT KAUR, and RAJBIR SINGH

Petitioners,

For and Order Pursuant to Article 78 of the N.Y. C.L.P.R.

-against-

NEW YORK CITY DISTRICTING COMMISSION, CHAIR DENNIS M. WALCOTT, HON. MARILYN D. GO, MARIA MATEO, JOSHUA SCHNEPS, LISA SORIN, MSGR. KEVIN SULLIVAN, KAI-KI WONG, MAF MISBAH UDDIN, MICHAEL SCHNALL, KRISTEN A. JOHNSON, YOVAN SAMUEL COLLADO, GREGORY W. KIRSCHENBAUM, MARC WURZEL, KEVIN JOHN HANRATTY, and DR. DARRIN K. PORCHER each in their capacity as members of the New York City Districting Commission, BOARD OF ELECTIONS IN THE CITY OF NEW YORK, NEW YORK STATE BOARD OF ELECTIONS,

Respondents.

[PROPOSED]
ORDER TO SHOW CAUSE
AND
TEMPORARY
RESTRAINING ORDER

ms #1 : art 78

Upon the reading and filing of the Affirmation of Jerry Vattamala, dated February 24, 2023, the annexed Verified Petition, duly verified on February 23, 2023; the Exhibits, and Affirmations submitted herewith; and upon all papers and proceedings herein, ~~it is hereby:~~

~~ORDERED~~, ^{LET} that the Respondents named above show cause before this Court at Part 12 to be held by virtual conference, or at the New York County Supreme Court, located at the Courthouse located at ~~80~~ Centre St., ^{Room 328} New York, NY 1000~~2~~¹³, as this Court may direct the parties, on the 7TH of MARCH, at 10:00am on that day, or as soon thereafter as counsel may be heard, why an order and judgement should not be made pursuant to C.P.L.R §7801, §7806, and the laws set forth in the aforesaid and Verified Petition and supporting papers grant the following relief:

1. Declaring, pursuant to §52(1)(b) of the New York City Charter, that Respondents have arbitrarily failed to ensure the fair and effective representation of the racial and language minority groups in New York City by failing to create an opportunity district for Asian American voters in Richmond Hill/South Ozone Park, Queens.
2. Pursuant to CPLR §7806, annulling as arbitrary and capricious Respondents' certification of a New York City Council District Plan that fails to ensure fair and effective representation of the racial minority groups in New York City.
3. Directing Respondents to certify a new New York City Council District Plan that creates an opportunity district for Asian American Voters in Richmond Hill/South Ozone Park no later than two weeks from the date of this order.
4. Providing for such other further relief as the court deems just and proper.

~~AND IT APPEARING~~ that the cause of temporary injunctive relief exists under C.P.L.R. Art. 78, and that Respondents have arbitrarily and capriciously violated the New

~~York City Charter, which acts and practices will cause immediate and irreparable injury to members of the public unless Respondents are restrained before a hearing can be held;~~

It is hereby

~~ORDERED~~ that pending the hearing and determination of this action,

~~Respondents New York State Board of Elections and New York City Board of Elections are hereby enjoined from conducting any elections under the 2022 New York City Districting Commission's certified plan.~~

JSC


SUFFICIENT CAUSE ^{being alleged} ~~to me appearing~~ therefore,


ORDERED, that service of a copy of this Order and the papers upon which it is granted on Respondents by personal delivery or electronic delivery on or before

3/3/23, shall be deemed due and sufficient service hereof.

ENTER: February _____, 2023

ENTER:

Hon. 
HON. LESLIE A. STROTH

ORAL ARGUMENT
DIRECTED

J.S.C.
HON. LESLIE A. STROTH

Memorandum of Law in Support of Petitioners' Motion for a Temporary Restraining Order, dated February 24, 2023

[pp. 46 - 57]

FILED: NEW YORK COUNTY CLERK 02/24/2023 02:36 PM

NYSCEF DOC. NO. 2

INDEX NO. 151762/2023

RECEIVED NYSCEF: 02/24/2023

STATE OF NEW YORK
SUPREME COURT, COUNTY OF NEW YORK

In the Matter of the Application of

DESI RISING UP AND MOVING, AARON FERNANDO, PAUL PERSAUD, SARWAN PERSAUD, NADIA PERSAUD, NADIRA PERSAUD, BISHAM PERSAUD, HARBHAJAN S. SURI, CHARANJIT S. SURI, DAVINDER S. SURI, SUKHVIR SINGH, SWARAN SINGH, LOVEDEEP MULTANI, PRINHPAL S. BAWA, KAMLESH TANEJA, RAJWINDER KAUR, INDERBIR SINGH, PARAMJIT KAUR, and RAJBIR SINGH

Petitioners,

For and Order Pursuant to Article 78 of the N.Y. C.L.P.R.

-against-

NEW YORK CITY DISTRICTING COMMISSION, CHAIR DENNIS M. WALCOTT, HON. MARILYN D. GO, MARIA MATEO, JOSHUA SCHNEPS, LISA SORIN, MSGR. KEVIN SULLIVAN, KAI-KI WONG, MAF MISBAH UDDIN, MICHAEL SCHNALL, KRISTEN A. JOHNSON, YOVAN SAMUEL COLLADO, GREGORY W. KIRSCHENBAUM, MARC WURZEL, KEVIN JOHN HANRATTY, and DR. DARRIN K. PORCHER each in their capacity as members of the New York City Districting Commission, BOARD OF ELECTIONS IN THE CITY OF NEW YORK, NEW YORK STATE BOARD OF ELECTIONS,

Respondents.

Index No.: _____

MEMORANDUM OF LAW

Memorandum of Law in Support of Petition

Petitioners respectfully move the Court for a temporary restraining order (“TRO”) and to compel Respondents to certify an amended district plan for New York City Council that complies with the mandate of the New York City Charter to ensure fair and effective representation for the Asian community of Richmond Hill/South Ozone Park.

Along with this memorandum of law and the underlying verified petition, Petitioners submit the accompanying Affirmation of Jerry Vattamala, with exhibits referenced therein.

Argument

Standard of Review

1. After exhausting administrative remedies, petitioners may raise a question pursuant to Article 78 of the New York Civil Practice Law and Rules,¹ asking, among other questions, “whether a determination was . . . affected by an error of law or was arbitrary and capricious or an abuse of discretion.”² This proceeding “must be commenced within four months after the determination to be reviewed becomes final and binding upon the petitioner.”³
2. Petitioners have met the threshold for filing an Article 78 petition in New York Supreme Court. To begin, Petitioners have exhausted the administrative review process. The Districting Commission held sessions for public feedback at which petitioner DRUM’s Political Director, Jagpreet Singh, and Petitioner Aaron Fernando gave testimony on May 26, 2022, and June 27, 2022 respectively.⁴ The Districting Commission created a districting plan, finalized it, sent it to the City Council for review on October 6, 2022, and after the City Council did not object to the

¹ CPLR § 7801.

² CPLR § 7803(3).

³ N.Y. C.P.L. R. 217(1).

⁴ Exhibit .

map, certified it on November 1, 2022. Petitioners had no administrative remedies available to them that would allow them to challenge the map sent by the Commission to the City Council or to prevent the Commission from certifying the map on November 1, 2022, at which point it became final and binding. Petitioners filed this petition on February 22, 2023, less than four months after the Commission's decision became "final and binding."

3. When reviewing an Article 78 petition challenging a certified map by the Commission, courts have applied the "arbitrary and capricious" standard of review.⁵ Generally, this "involves an allegation that the agency improperly interpreted or applied a statute or regulation."⁶ Here, petitioners allege that the Commission violated the Charter by failing to apply the mandates of § 52(1)(b) requiring the Commission to ensure the fair and effective representation of the protected racial and language minority groups in New York City, to the maximum extent practicable. Courts previously found that judicial review is warranted for a challenge that seeks to enforce the mandates of § 52 in Brooklyn Heights Ass'n, Inc. v. Macchiarola, 82 N.Y.2d 101, 623 N.E.2d 1140 (1993).

4. For these reasons, judicial review of the Commission's determination is warranted.

The Commission Arbitrarily and Capriciously Failed to Apply the Mandates of N.Y. City Charter § 52(1)(b) By Splintering Richmond Hill/South Ozone Park into Several Districts

5. When creating a district map, the Commission is obligated by the Charter to follow a set of criteria that are to be "applied and given priority in the order in which they are listed" as set forth in § 52(1) "to the maximum extent practicable."⁷ After the first criteria of complying with one person-one vote, the Charter instructs the Commission to give greatest weight to ensuring

⁵ Brooklyn Heights Ass'n, Inc. v. Macchiarola, 82 N.Y.2d 101, 106 623 N.E.2d 1140 (1993).

⁶ Atlas Henrietta, LLC v. Town of Henrietta Zoning Bd. of Appeals, 995 N.Y.S.2d 659, 666 (Sup. Ct. 2013), aff'd, 992 N.Y.S.2d 667 (Mem.) (App. Div. 2014).

⁷ § 52(1).

“the fair and effective representation of the racial and language minority groups in New York City which are protected by the United States Voting Rights Act.”⁸ Only after prioritizing the representation of racial and language minority groups may the Commission consider drawing district lines that “keep intact neighborhoods and communities with established ties of common interests and association.”⁹ The Commission has a clear legal duty to prioritize fair and effective representation of protected racial and language minority groups over other communities of interest, but the Final Certified Plan failed to do so, elevating a white community over a racial minority group, and thus arbitrarily misapplying the Charter.

6. The districting criteria of § 52(1)(b) clearly and unambiguously compels the Commission to prioritize representation of racial and language minority groups. Courts have already recognized the importance of the § 52 criteria prioritization, and specifically that the second criteria must take precedence over the third. In Brooklyn Heights Ass'n, Inc. v. Macchiarola, 82 N.Y.2d 101, 623 N.E.2d 1140 (1993), the court wrote that in § 52 “the requirement of population equivalence among the districts takes precedence over the requirement of fair and effective representation of minority groups, *which takes precedence over the requirement of neighborhood integrity*, which takes precedence over the remaining criteria (emphasis added).” Brooklyn Heights Ass'n, Inc. v. Macchiarola, 82 N.Y.2d 101, 623 N.E.2d 1140 (1993) (overturned on other grounds). In an instance when the Commission may create an opportunity district that provides fair and effective representation for a protected racial or language minority group, even while deprioritizing neighborhood integrity or a non-minority community of interest, the Charter compels them to do so.

⁸ § 52(1)(b).

⁹ § 52(1)(c).

**The Richmond Hill/South Ozone Park Asian Community is Entitled to a Reasonable
Opportunity to Elect a Candidate of its Choice**

7. Asians are a racial minority group protected by the Voting Rights Act,¹⁰ and the community of Richmond Hill/South Ozone Park has a population of Asians that are entitled to protections under the Charter. Section 52(1)(b) provides that the Commission must prioritize “fair and effective representation” for racial minority groups, which includes the Richmond Hill/South Ozone Park Asian community.
8. The Commission’s Final Certified Plan dramatically limits the opportunity of the Richmond Hill/South Ozone Park Asian community to elect candidates of choice. By splitting the community into three councilmanic districts in which the community does not have a reasonable opportunity to elect a candidate of its choice, it has not ensured fair and effective representation to the maximum extent practicable.
9. While the Charter does not define “fair and effective representation,” legislative history paints a clear picture of how it was intended to apply. In its submission to the Department of Justice for preclearance of the revised charter, the Districting Commission noted that the Charter’s mandates and prioritization in § 52(1)(b) would establish a council district in Chinatown in which Asian Americans would have “a reasonable opportunity to elect council members of their choice.”¹¹ This “reasonable opportunity” was demonstrated with prototype districts drawn in Chinatown that reflect nearly identical demographic numbers to the Unity Map’s proposed District 32 in Richmond Hill/South Ozone Park. The prototype districts referenced by the Revision Commission had the Asian share of total population at 28.7% and

¹⁰ Voting Rights Act language “For the purposes of this section, the term “language minorities” or “language minority group” means persons who are American Indian, the American Indian, Asian American, Alaskan Natives, or of Spanish heritage. “52 U.S.C. § 10503(e).

¹¹ Exhibit E, at 21.

30.6%, respectively, and the total non-white share of population at 76.8% and 62.5%, respectively. The Unity Map's proposed District 32 contains an Asians/Other share of total population of 33.3% and a non-white population of 79.0%. These figures reflect the fact that proposed District 32 provides an even greater "reasonable opportunity" for Asian voters to elect a candidate of their choice than the example put forth by the drafters of the Charter provisions.

10. The Charter compels the Districting Commission to create a district similar to the Unity Map's proposed District 32, so that Asian voters in Richmond Hill/South Ozone Park have a reasonable opportunity to elect a candidate of their choice.

11. In the Final Certified Plan, however, the Richmond Hill/South Ozone Park Asian community does not have such a reasonable opportunity. As seen through the racial bloc voting analysis of the 2021 District 32 City Council general election and the 2017 District 28 City Council primary election, the white community and Black community both vote cohesively and in opposition to the Richmond Hill/South Ozone Park Asian community's candidates of choice.

12. In the 2021 District 32 City Council general election, the election was for an open seat in which a candidate of Punjabi and Guyanese decent, Felicia Singh, was the Asian candidate of choice. She was defeated by the white candidate of choice, Joann Ariola, despite the Asian community's preference and support from District 32's Hispanic community.

13. Likewise, racial bloc voting analysis shows that Asians do not have the opportunity to elect candidates of choice in District 28. In the last competitive primary for the City Council seat, in 2017, the Asian candidate of choice, Richard David, a Guyanese resident of Richmond Hill/South Ozone Park, was defeated by the Black community's candidate of choice, Adrienne E. Adams, now the Speaker of the City Council. District 28 drawn under the Final Certified Plan

has an even higher Black share of population and a lower Asian and Other share of population than existed under the 2013–2022 Plan.

14. The Commission’s own expert, Dr. Lisa Handley, stated, “if you have polarized voting, then you have to make sure that you create districts that give minority voters an opportunity to elect their candidates of choice.” Such an opportunity district, according to Dr. Handley, need not be greater than 50% minority residents or citizen; it must simply grant the minority community the opportunity to elect candidates of choice.

15. Such an opportunity should exist for Asian voters in Richmond Hill/South Ozone Park, but the District Commission’s decision to ignore the Charter’s legal requirements and dilute the community’s electoral power among three separate councilmanic districts denied the possibility of fair and effective representation. The Final Certified Plan’s denial of opportunity to the Richmond Hill/South Ozone Park Asian community does not ensure the fair and effective representation mandated by § 52(1)(b).

**Commission Abused Its Discretion in Failing to Ensure Fair and Effective Representation
to the “Maximum Extent Practicable”**

16. The Commission’s Final Certified Plan does not ensure fair and effective representation of the Richmond Hill/South Ozone Park Asian community, but instead splits the community into three councilmanic districts, denying an Asian opportunity district.¹² The Commission must seek to protect the rights of this group “to the maximum extent practicable,” but the Final Certified Plan dilutes the voting power of the community, despite the ability to draw an Asian opportunity district in which the Richmond Hill/South Ozone Park Asian community would have fair and

¹² Exhibit N, at 66-69.

effective representation without coming into conflict with other racial and language opportunity districts, as demonstrated by the Unity Map.¹³

17. The only valid reason for the Commission to fail to draw an opportunity district in Richmond Hill/South Ozone Park is if doing so would conflict with a higher or equally prioritized criteria. However, creating an opportunity district for the Richmond Hill/South Ozone Park Asian community would not conflict with the Commission's mandates under the Charter. As demonstrated in the Unity Map, proposed District 32 would not conflict with the one person-one vote requirements of § 52, nor would it dilute the fair and effective representation of other racial and language minority groups, as Districts 31, 28, and 27 would remain opportunity districts for the Black communities in the area.¹⁴ In fact, the Unity Map upgrades District 28 from a Black plurality district to a Black majority district, District 28, which currently is a plurality Black district.

18. As a lower priority criteria, a community of interest may be divided in order to create an opportunity district for a racial minority group such as the Richmond Hill/South Ozone Park Asian community. The Unity Map shows an Asian American opportunity district could be created in District 32 by dividing up some of the white population of the Rockaways and Breezy Point. While the population in those areas arguably comprise a community of interest as conceptualized by § 52(1)(c), the Charter is clear that such communities of interest are to be given a lower priority than racial and language minorities such as the Richmond Hills/South Ozone Park Asian community. Prioritizing a white community of interest over a protected racial and language minority group is a misapplication of the clear statutory language in § 52, and clear

¹³ Exhibit D.

¹⁴ *Id.*

evidence that the Commission did not apply the criteria set forth by the Charter “to the maximum extent practicable.”

19. There are no other duties imposed by the Charter that prevent the Commission from ensuring the fair and effective representation of the Richmond Hill/South Ozone Park racial minority group. In the only previous case on § 52(1)’s mandates, the court did find that the Districting Commission was justified in dividing a community of interest because doing so would incur conflict with another requirement of the Charter. In that case, the Commission could not draw the community into a single district without subdividing a census block, which the court found conflicted with another requirement of the Charter to use census data, and thus not subdivide census blocks.¹⁵ However, such a conflict is not present in this case, as neither the adopted map nor the Unity Map subdivides census blocks. Absent a compelling reason to fail to apply the criteria of § 52(1)(b), it is clear that the Commission’s determination was an arbitrary and capricious abuse of discretion.¹⁶

**The Commission’s Arbitrary and Capricious Determination to Violate the Charter Was
Not Supported by Evidence in the Record**

20. Despite clear testimony on the record alerting the Commission that dividing up Richmond Hill/South Ozone Park would violate the Charter, the Districting Commission still chose to do so. The Commission put no evidence on the record justifying why it could not keep Richmond Hill/South Ozone Park whole. The Commission’s expert Dr. Handley made no finding that such a district could not be drawn, and no analysis was presented by the Commission beyond Commission member Uddin’s rote statement that “we wanted to put Richmond Hill and

¹⁵ Brooklyn Heights Ass’n, Inc. v. Macchiarola 82 N.Y.2d 101, 106 (1993).

¹⁶ CPLR § 7803(3).

South Ozone Park in one district, but we could not do that.” Lack of substantial evidence on the record for an agency’s decision is an indication of an abuse of discretion even if such evidence does exist, as “the court is powerless to affirm the administrative action by substituting what it considers to be a more adequate or proper basis” Scherbyn v. Wayne-Finger Lakes Bd. of Cooper. Educ. Servs., 77 N.Y.2d 753, 573 N.E.2d 562 (1991) (quoting Sec. & Exch. Comm’n v. Chenery Corp., 332 U.S. 194, 67 S. Ct. 1575, 91 L. Ed. 1995 (1947) (See also In re Vargas, 18 A.D.3d 994, 795 N.Y.S.2d 144, 146 (2005) “While [Respondents] had the discretion to credit or reject any portion of [Petitioner’s] testimony, it could not draw an opposite conclusion for which there is no affirmative evidence in the record.”).

21. The submission of The Unity Map makes a factual demonstration on the record that fair and effective representation of the Asian community in Richmond Hill/South Ozone Park is possible and can be done in compliance with the Charter. In certifying a districting plan that fails to ensure the fair and effective representation of the Richmond Hill/South Ozone Park Asian community without any substantial evidence or rationale, in the face of demonstrable evidence that such a map is possible, respondents have failed to comply with a clear statutory mandate and committed an “arbitrary action” that was “without sound basis in reason” and “taken without regard to the facts.” Matter of Pell v. Board of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County, 34 N.Y.2d 222, 231, 356 N.Y.S.2d 833, 313 N.E.2d 321 [1974]. (See also People by James v. Schofield, 73 Misc. 3d 1209(A), 154 N.Y.S.3d 359 (N.Y. Sup. Ct.), aff’d, 199 A.D.3d 5 (N.Y. App. Div. 2021). “a court must set aside a determination that is based on vague information or contrary to the procedure required by law.”) Such an arbitrary action cannot be maintained by this court, and the defective district plan must

be corrected by the Commission so that the rights of the Asian community in Richmond Hill/South Ozone Park are preserved.

Claim for Relief

22. In an Article 78 proceeding, “judgment may grant the petitioner the relief to which he is entitled” and “if the proceeding was brought to review a determination, the judgment may annul or confirm the determination in whole or in part, or modify it, and may direct or prohibit specified action by the respondent.” CPLR § 7806. The court is “empowered to annul the determinations and fashion a proper remedy.” Matter of Garrett v. Coughlin, 128 A.D.2d 210, 212 (3d Dept. 1987; see also Bower Assocs. v. Planning Bd. of Town of Pleasant Valley, 289 A.D.2d 575, 575–76 (2nd Dept. 2001) (in which the court directs the respondent to perform a specific remedy following a determination by respondent that was arbitrary and capricious, rather than remit the decision to the respondent).

23. In light of the facts above, Petitioners respectfully requests that this Court enters judgement, pursuant to CPLR § 7806, and:

- a. Vacate the Final Certified Plan;
- b. Instruct the Districting Committee to certify an amended plan that correctly applies the criteria of § 52(1)(b) to the Richmond Hill/South Ozone Park Asian community as exemplified in the Unity Map;
- c. Grant temporary injunctive relief to Petitioners with a Temporary Restraining Order enjoining Respondents City BOE and State BOE from administering City Council elections in New York City until an amended plan that satisfies § 52(1)(b) is certified;

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- d. Grant Petitioners such other and further relief as this Court deems necessary and equitable.

Dated: February 24, 2023

Respectfully Submitted,



Jerry Vattamala
Director, Democracy Program
Asian American Legal Defense and Education
Fund
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New York, NY 10013
(212) 966-5932
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**Affirmation of Jerry Vattamala in Support of Petitioners' Motion
for a Temporary Restraining Order, dated February 24, 2023**

[pp. 58 - 60]

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STATE OF NEW YORK
SUPREME COURT, COUNTY OF NEW YORK

In the Matter of the Application of

DESIS RISING UP AND MOVING, AARON FERNANDO, PAUL PERSAUD, SARWAN PERSAUD, NADIA PERSAUD, NADIRA PERSAUD, BISHAM PERSAUD, HARBHAJAN S. SURI, CHARANJIT S. SURI, DAVINDER S. SURI, SUKHVIR SINGH, SWARAN SINGH, LOVEDEEP MULTANI, PRINHPAL S. BAWA, KAMLESH TANEJA, RAJWINDER KAUR, INDERBIR SINGH, PARAMJIT KAUR, and RAJBIR SINGH

Petitioners,

For and Order Pursuant to Article 78 of the N.Y. C.L.P.R.

-against-

NEW YORK CITY DISTRICTING COMMISSION, CHAIR DENNIS M. WALCOTT, HON. MARILYN D. GO, MARIA MATEO, JOSHUA SCHNEPS, LISA SORIN, MSGR. KEVIN SULLIVAN, KAI-KI WONG, MAF MISBAH UDDIN, MICHAEL SCHNALL, KRISTEN A. JOHNSON, YOVAN SAMUEL COLLADO, GREGORY W. KIRSCHENBAUM, MARC WURZEL, KEVIN JOHN HANRATTY, and DR. DARRIN K. PORCHER each in their capacity as members of the New York City Districting Commission, BOARD OF ELECTIONS IN THE CITY OF NEW YORK, NEW YORK STATE BOARD OF ELECTIONS,

Respondents.

Index No.: _____

ATTORNEY AFFIRMATION

**Affirmation of Attorney Jerry Vattamala in Support of a Temporary Restraining Order
and Permanent Relief**

Jerry Vattamala, being duly admitted to the practice of the law in the State of New York, affirms under penalty of perjury, pursuant to CPLR §2106, that:

I am an attorney for the Asian American Defense and Education Fund (AALDEF) and counsel in this action. I submit this Affirmation in support of Petitioner's request for relief. Attached to this Affirmation are true and correct copies of the following lettered exhibits:

- A. Community of Interest Expert Report – Tarry Hum
- B. Tarry Hum CV
- C. Final Certified Map
- D. Unity Map
- E. Jagpreet Singh Written Testimony May 26, 2022
- F. Submission under Section 5 of the Voting Rights Act for Preclearance of Proposed Amendments to the New York City Charter (August 11, 1989)
- G. Revision Committee Minutes Appendix V, Vol. VIII
- H. Exhibit 33 to the Submission under Section 5 of the Voting Rights Act for Preclearance of Proposed Amendments to the New York City Charter (August 11, 1989)
- I. New York Districting Commission, 1991 City Council Districting Plan Certification (June 7, 1991).
- J. Aaron Fernando Written Testimony June 27, 2022
- K. AALDEF Community of Interest Map for Richmond Hill South Ozone Park
- L. Districting Commission Public Hearing - Queens August 16, 2022
- M. Preliminary Plan

- N. NYC Districting Commission Public Meeting Transcript Extract August 11, 2022
- O. Racial Block Voting Analysis Report, Dr. Lisa Handley September 22, 2022
- P. Racial Block Voting Analysis Report, Dr. Lisa Handley October 6, 2022
- Q. Racially Polarized Voting (RPV) Analysis Expert Report - Matt Stevens
- R. Revised Plan
- S. Updated Revised Plan
- T. Asian American Federation Written Testimony August 22, 2022
- U. South Queens Women's March Written Testimony May 27, 2022
- V. The Hispanic & South Asian Alliance for Fair Redistricting in South Queens
Written Testimony May 30, 2022
- W. The Caribbean Equality Project Written Testimony May 26, 2022
- X. Unity Map Coalition Letter Oct. 6, 2022
- Y. AALDEF Community of Interest Overlaid Over Final Certified Map

Dated: February 24, 2023



/s/

Jerry Vattamala
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AND EDUCATION FUND
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**Exhibit A to Vattamala Affirmation-
Community of Interest Expert Report - Tarry Hum
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**Indo-Caribbean New Yorkers Demographic Profile:
Richmond Hill/South Ozone Park Community of Interest**

Prepared by Tarry Hum, PhD
Queens College and Graduate Center, City University of New York
February 21, 2023

Introduction

In the past decade, the NYC population grew by 629,415 or 7.7%. This growth was not evenly experienced across racial groups. Asian New Yorkers stand out as their population grew by 33.6%, a rate significantly higher than the city's 7.7% during the past decade. Asian New Yorkers now number approximately 1.4 million and represent 15.6% of New York City residents. For the past few decades, Asian Americans have been the fastest growing racial group in New York City. Indo-Caribbean New Yorkers are a sizable and growing share of the city's population. They are highly concentrated in the Richmond Hill/South Ozone Park neighborhoods with shared institutions including schools, community-based organizations, places of worship, transportation networks and hundreds of ethnic small businesses along a two-mile stretch of Liberty Avenue. Even though the Indo-Caribbean population and neighborhood qualities of Richmond Hill/South Ozone Park are well-established, this community of interest remains divided among numerous political jurisdictions. This study elaborates on the ways that Richmond Hill/South Ozone Park constitute a community of interest and should be united in a single political district.

Data and Methodology

The US Census does not include a category for the Indo-Caribbean population which creates challenges for community members in filling out government documents including the US Census and results in a population undercount. Ramdat Singh, Director of Civic Engagement at the Caribbean Equality Project, described the "complex history where some community members check off "Asian" while some others check off "Other" on government documents because they don't necessarily identify with the ethnic categories provided" (Outar 2022, 37). The data source for the profile of Indo-Caribbean New Yorkers is the CUNY Center for Urban Research American Community Survey 2016-2020 5-year estimates. I use the race and ancestry variables to identify Indo-Caribbeans. To arrive at an accurate account of the Indo-Caribbean population, those who identified their first ancestry as Guyanese, Trinidadian and Tobagonian, British West Indian, West Indian, Other West Indian, Grenadian, St. Lucia or St. Vincent Islander **and** identified their race as Asian or Other were grouped as Indo-Caribbean.

Indo-Caribbean Community in Richmond Hill/South Ozone Park

Indo-Caribbeans are referred to as "twice migrants" as the first migration was of Asian Indian indentured servants to Guyana, Trinidad and Tobago, and Suriname followed by a second migration of their descendants to the United States, many settling in the Richmond Hill area of Queens (Khandelwal 2002). Broad racial categories (e.g., Asian) does not capture the complex

racial identities and experiences of Indo-Caribbeans. For example, *dougl*a is a term which refers to the multi-layered, post-colonial racial identities of some in the Caribbean diaspora who are of both African and Indian descent (Barratt and Ranjitsingh 2021). Anlisa Outar, a Chhaya CDC staff member (and Queens College alumna), described the Indo-Caribbean and South Asian populations that concentrate in Richmond Hill/South Ozone Park as a “richly diverse yet cohesive diaspora” at the August 2022 NYC Districting Commission public hearing in Queens.

Indo Caribbean New Yorkers represent a long-standing community of interest in Richmond Hill/South Ozone Park. More than two decades ago at a Queens public hearing, community leaders testified on the sizable and growing Indo-Caribbean and Asian Indian populations in Richmond Hill/South Ozone Park which they described as constituting a community of interest (LATFOR 2001). In her 2001 book, CUNY Distinguished Professor Nancy Foner described Richmond Hill as a “distinctly Indo-Caribbean neighborhood” (p.17). She writes, “East Indian West Indians are a fascinating case since they typically attempt to establish an Asian identity as a way to avoid being labeled black and have developed *distinctly Indo-Caribbean neighborhoods, the Richmond Hill section of Queens being an especially popular area.*”(emphasis added, p. 17). The 2013 edition of the NYC Planning Department’s *Newest New Yorkers* notes:

South Ozone Park, with 45,700 foreign-born residents, and Richmond Hill, with 36,200 foreign-born residents, were the biggest immigrant neighborhoods in Southwest Queens and among the largest in all of Queens. In Richmond Hill, the Guyanese comprised nearly one-third of all immigrants (31 percent), followed by Indians (16 percent), and those born in Trinidad and Tobago (8 percent). Immigrants from Guyana and Trinidad and Tobago who have established a presence in this neighborhood were primarily of Asian Indian descent, living alongside Indian-born immigrants.

Two vibrant commercial corridors – Liberty Avenue and 101st Avenue -- anchor the Indo-Caribbean immigrant community in Richmond Hill/South Ozone Park. Since the 1990s, small businesses that served the consumer needs of “the twice-migrant identity of locals” (Outar 2022) grew rapidly and facilitated the transformation of the area’s commercial environment and identity. Kiran Baldeo’s 2020 CCNY master’s thesis notes how Sybil’s Bakery and Restaurant, a neighborhood institution serving Caribbean and Guyanese cuisine, catalyzed the ethnic succession of surrounding small businesses. She writes, “(S)tore fronts changed like wild fire. What was once Hamons Mini Market owned by Leodones Leony became Anjees Bridal in 1997; what was once C & C Bagels, owned by Angelo Casino became the Sari and Pooja Store in 1995, the one-stop shop for all things wedding. Dj’s Sari store likewise opened in 1995, along with J&B West Indian Grocery and Guyana Foods in 1994” (p. 24).

A recent NYC SBS commercial district needs assessment notes that the concentration of Indo-Caribbean residents, small businesses, and places of worship in Richmond Hill/South Ozone Park is evidenced by the area’s reference as “Little Guyana”. A two-mile stretch of Liberty

Avenue between Van Wyck Expressway and Woodhaven Blvd anchors the Little Guyana commercial district which includes 101st Avenue.

In recognition of the distinct ethnic identity of this vibrant commercial district, Liberty Avenue at the intersection of Lefferts Boulevard was renamed “Little Guyana Avenue” in May 2021. Outar (2022) recounts how prominent New York City politicians including Mayor Bill de Blasio and Speaker of the New York City Council Adrienne Adams were present for this historic occasion. She notes that de Blasio remarked, “I want to say I see you, I respect you, I appreciate you,” and “Guyana has done so much for New York City but represents such possibility. **People of different backgrounds, ethnicities, faiths coming together as one.** That is what New York City stands for as well” (emphasis added, p. 17-18).

Sikh New Yorkers are also concentrated in Richmond Hill and their community is anchored by several gurdwaras including the Sikh Cultural Society. This part of Richmond Hill is referred to as Little Punjab. In 2021, 101st Avenue between 111th and 123rd Streets was renamed Punjab Way and 97th Avenue between Lefferts Blvd and 117th Street was renamed Gurdwara Street to recognize a Sikh house of worship (Parrott 2021). In the aftermath of the 9/11 tragedies, the Sikh community and Sikh men (who grow beards and wear turbans as articles of their faith) were targets of anti-Muslim hate and violence. This past April, several members of Richmond Hill’s Sikh community were victims of hate crimes (Stack and Asma-Sadeque 2022).

Richmond Hill/South Ozone Park as a Community of Interest

Based on shared social and economic interests, immigration history, institutions and infrastructure such as public schools, transportation lines, and places of worship, and social ties and networks, community leaders and stakeholders have long testified that the Indo-Caribbean and Asian Indian populations in the Richmond Hill/South Ozone Park neighborhoods constitute a community of interest. A 2001 Asian American Legal Defense and Education Fund survey on Asian neighborhood boundaries and common interests found that respondents defined the Richmond Hill, Ozone Park, and South Ozone Park neighborhoods as an area with a sizable and concentrated population of Indo-Caribbean and Sikh New Yorkers (Hum 2002). The New York City Planning Department’s Newest New Yorkers noted, “**In the 1990s, the Guyanese enclave in Richmond Hill started expanding south, into South Ozone Park.** By 2007–2011, the Guyanese were the largest group here, accounting for nearly one-half (47 percent) of the foreign-born residents, making it the largest concentration of Guyanese immigrants anywhere in New York” (emphasis added, 2013 p. 59).

The Richmond Hill/South Ozone Park community of interest should be in a single district for effective and fair representation. Anlisa Outar’s 2022 Macaulay Honors College thesis, “Redistricting Richmond Hill: Indo-Guyanese Political Representation in Queens,” is a comprehensive study of community engagement in past and recent redistricting advocacy for an Indo-Caribbean community of interest. She notes her thesis “barely scratches the surface of decades of Indo-Caribbean New Yorkers championing political representation” (p. 41).

The consequences of being split into different political jurisdictions are especially stark during times of crisis such as the COVID 19 pandemic when the need for government resources and services is acute. Outar (2022) observes, “Because of its fractured political representation, though, the neighborhood went unserved: it had no government-sponsored testing sites or PPE distribution until after community members brought attention to the issue” (p.5). She also recounts the testimony of Aminta Kilwan-Narine, South Queens Women’s March founder and director, “We’re linked by strong ties: culinary, familial, religion, cultural, educational, economic, and more. We take the same trains and buses, we go to the same school and...**but we have a hard time advocating for ourselves.**” (emphasis added, p. 38).

Indo-Caribbean New Yorkers Demographic Profile

According to the ACS 2016-2020 5-year estimates, there are approximately 66,000 Indo-Caribbean New Yorkers of which 85% are of Guyanese ancestry followed by 10% Trinidadian/Tobagonian ancestry. Forty-eight percent (48%) identified as Other Race and 42% identified as Asian Indian. Indo-Caribbean New Yorkers are heavily concentrated in the borough of Queens. While one in two Asian New Yorkers resides in Queens, an overwhelming majority (82%) of Indo-Caribbean New Yorkers call Queens home. In light of the finding that nearly half (48%) of Indo-Caribbean New Yorkers chose Other as their race category in the American Community Survey, it is highly probable that the percent of Other Race population in Queens City Council Districts especially Districts 28 (10%), 29 (1.8%) and 32 (3.7%) are Indo-Caribbean. The high percentage (71.2%) of Indo-Caribbean New Yorkers who are immigrants in combination with the limitations of the US census racial categories contributes to an acute undercount of the Indo-Caribbean population especially in South Queens.

Table 1

Detailed Race and Ethnicity	Frequency	Percent
All other or combo races	31,878	48.3%
Indian	28,015	42.4%
Other Asian alone or combo	5,543	8.4%
Chinese	461	0.7%
Bangladeshi	88	0.1%
Japanese	49	0.1%
Total	66,034	100.0%
Foreign-Born	47,012	71.2%
Ancestry, first	Frequency	Percent
Guyanese	55,898	84.7%
Trinidadian/Tobagonian	6,429	9.7%
West Indian	3,196	4.8%
Other West Indian	240	0.4%
Grenadian	161	0.2%
British West Indian	58	0.1%
St Vincent Islander	52	0.1%
Total	66,034	100.0%

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County (FIPS code)	Frequency	Percent
Queens	54,125	82.0%
The Bronx	6,961	10.5%
Brooklyn	3,879	5.9%
Manhattan	706	1.1%
Staten Island	363	0.5%
Total	66,034	100.0%

Data Source: CUNY Center for Urban Research ACS 2016-2020 5 year estimates

The following table focuses on the Indo-Caribbean population in Queens. While Indo-Caribbeans are likely to be foreign-born, nearly two-thirds (64%) are voting age citizens. The median age of 41 is further evidenced by a majority (66%) working age population. The median household income is \$86,293 and homeownership among Indo-Caribbeans in Queens is relatively high at 64%. Nearly all Indo-Caribbeans in Queens speak English only. Educational attainment among Indo-Caribbean adults in Queens shows a significant (38%) population share who have not completed a high school level education.

Table 2

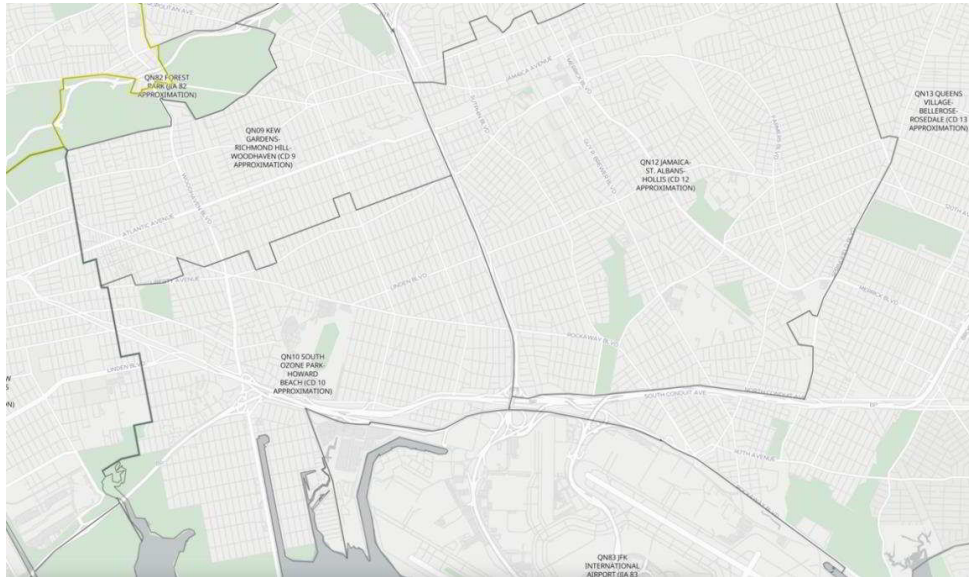
Median Household Income	\$86,293	
Homeownership Rate	64%	
Percent Foreign Born	73%	
Percent Voting Age Citizen	64%	
Percent Poor	11%	
PUMAs	Frequency	Percent
Howard Beach/So Ozone Pk	17,206	32%
Jamaica	14,929	27%
Kew Gardens/Woodhaven	8,685	16%
Bellerose/Rosedale	6,258	12%
Hillcrest/Fresh Meadows	3,597	7%
Rockaways	1,355	3%
Middle Village/Ridgewood	681	1%
Elmhurst/Corona	417	1%
Jackson Heights	227	0.4%
Bayside/Little Neck	208	0.4%
Flushing/Whitestone	203	0.4%
Astoria	188	0.3%
Forest Hills/Rego Park	113	0.2%
Sunnyside/Woodside	58	0.1%
Total	54,125	100%
Age Composition	Frequency	Percent
Youth (0-17 years)	9,744	18%
Working Age (18-64 Years)	35,764	66%
Senior (65 Years and older)	8,617	16%

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Ability to Speak English (Age 5+)	Frequency	Percent
Well	187	0.4%
Very Well	750	1%
English Only	50,0738	98%
Educational Attainment, 25 years and older	Frequency	Percent
No HSD	14932	38%
HSD	9922	25%
Some College	7751	20%
BA or More	6688	17%

Data Source: CUNY Center for Urban Research ACS 2016-2020 5 year estimates

In addition to their concentration in the borough of Queens, Indo-Caribbeans are also concentrated in a handful of PUMAs. PUMAs are equivalent to the NYC Department of City Planning's Community District Tabulation Areas (CDTAs) and are the smallest geographic area for ACS data analysis. CDTAs are approximations of NYC's 59 community districts. Indo-Caribbeans stand out for their residential concentration in four PUMAs which account for 87% of Queens residents who are Indo-Caribbean.



Source: New York City Department of City Planning, Population Factfinder.

Conclusion

New York City's growing Indo-Caribbean population has settled in and transformed the Richmond Hill/South Ozone Park neighborhoods into a vibrant and diverse cultural and ethnic community anchored by two commercial corridors. The social and economic fabric and identity of these two neighborhoods is defined by the sizable Indo-Caribbean and South Asian

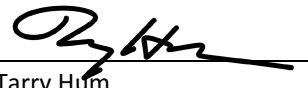
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populations. Richmond Hill/South Ozone Park is the epicenter for hundreds of small businesses, community-based organizations, places of worship, and public institutions such as schools that serve as key sites for Indo-Caribbean and South Asian community life and engagement. Based on current academic studies and census data, this report documents how Richmond Hill/South Ozone Park constitute an Asian community of interest and should be united into one political district.



Tarry Hum

February 21, 2023

Date

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References

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**Exhibit B to Vattamala Affirmation-
Tarry Hum CV
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EDUCATION

Ph.D., Urban Planning, UCLA Luskin School of Public Affairs, 1997
Dissertation: The Economics of Ethnic Solidarity: Immigrant Ethnic Economies and Labor Market Segmentation in Los Angeles.

Masters in City Planning, Department of Urban Studies and Planning, MIT, 1987
Thesis: Parcel to Parcel Linkage: Who Benefits From the Redistribution of Wealth?

B.A., Hampshire College, 1983
Thesis: Philanthropic Imperialism: The Ideology of American Professionalism and the Peking Union Medical College, 1921-1933.

EMPLOYMENT

Chair, Department of Urban Studies, Queens College, City University of New York, 2019-present

Professor, Department of Urban Studies, Queens College, City University of New York, 2013-present

Professor, Earth and Environmental Sciences Doctoral Program, Graduate Center, City University of New York, 2022-present

Professor, International Migration Studies MA, Graduate Center, City University of New York, 2018-present

Acting Chair, Department of Urban Studies, Queens College, City University of New York, 2017-2019

Professor, Environmental Psychology Doctoral Program, Graduate Center, City University of New York, 2013-present

Associate Professor, Environmental Psychology Doctoral Program, Graduate Center, City University of New York, 2010-2013

Associate Professor, Department of Urban Studies, Queens College, City University of New York, 2004-2013

Assistant Professor, Department of Urban Studies, Queens College, City University of New York, 1998-2004

Post-Doctoral Faculty Fellow, Asian/Pacific/American Studies Program, New York University, 1996-1998

HONORS AND AWARDS

CUNY Book Award. 2018. "The Asian Century": Chinese Transnational Capital and City Building in Immigrant New York." \$5,000.

Association of Collegiate Schools of Planning. 2015. Honorable Mention, Paul Davidoff Book Award. <http://www.acsp.org/page/AwardPaulDavidoff>

Hum profile in the New York Historical Society Museum and Library Exhibition, *Chinese American: Exclusion/Inclusion*, September 26, 2014 - April 19, 2015.

Queens College President's Award for Excellence in Teaching by Full-Time Faculty. 2013.

City University of New York "Salute to Scholars" Publication. Fall 2012. Hum profile titled "Engaging Immigrants in City Planning," pg. 27.

Queens College Asian/American Center. 2010. Awarded \$7,500 to develop a service-learning course on Planning the Future of Downtown Flushing.

Queens College Center for Undergraduate Teaching. 2009. Undergraduate Mentorship Research Award. Awarded \$500 to support undergraduate advisee's senior thesis research.

Queens College Provost. 2006. Awarded a \$4,000 grant to conduct a Spring 2007 research seminar on Rezoning and Economic Development in Jamaica, Queens.

CUNY Innovative Teaching Grant. 2005. Awarded a \$10,000 grant to develop and conduct a Spring 2005 class on Global Neighborhoods in Queens co-taught with Professor Madhulika Khandelwal.

City University of New York "Salute to Scholars". 2003 and 2000. Certificate of Recognition in honor of outstanding scholarly achievements and contributions to the creation and transmittal of knowledge.

GRANTS AND FELLOWSHIPS

CUNY Interdisciplinary Climate Change Research Grant. 2020. CUNY Queens Sustainability Consortium. \$10,000.

Hum, 2

PSC-CUNY Research Award. 2019. "Identifying Equity and Accountability Norms for Public Subsidy of Tech-Sector Economic Development," with CUNY Law Prof. Andrea McArdle, \$6,000.

CUNY Research Enhancement Award. 2011. "Unity Plans and Communities of Interest: A National Study of Asian American Engagement in Political Redistricting." \$6,200.

CUNY Diversity Projects Development Fund. 2010. "A Study of Asian American and Pacific Islander (AAPI) Faculty at CUNY." \$3,990.

William Diaz Fellowship. 2006-2007. Nonprofit Academic Centers Council. "Nonprofit Organizations and Community Building in Immigrant Global Neighborhoods." \$15,000.

PSC-CUNY Research Award. 2006. "The Role of Ethnic Banks in Immigrant Community Development." \$5,862.

Korean American Community Foundation. 2006. Inter-Community Collaborative Forums on Community Development, Youth Issues, and Race Relations. \$10,000.

Ford Foundation. 2003. "Global Neighborhoods in a Majority 'Minority' City: A Comparative Study of Four Neighborhoods." \$150,000.

CUNY Center for the Study of Philanthropy. 2002. "Responding to 9/11: The Role of Chinatown Nonprofit Organizations." \$7,500.

Ford Foundation. 2001. "Global Neighborhoods in a Majority 'Minority' City: Defining a Research Framework." \$35,000.

Henry Luce Foundation, New School for Social Research. 1999. "Immigrant Economies and Neighborhood Revitalization: A Case Study of Sunset Park, Brooklyn." \$10,000.

Ford Foundation, 2000. New York University's Asian/Pacific/American Studies Program. "Redistricting and the New Demographics: Defining 'Communities of Interests' in New York City." \$15,000.

Asian American Federation. 1999. "Asian Pacific American New Yorkers: Trends and Patterns into the 21st Century." \$15,000.

PSC-CUNY Research Award. 1999. "Mapping Global Production in New York: The Role of Sunset Park's Neighborhood Economy." \$4,500.

New York University. 1996-1998. Post-Doctoral Faculty Fellowship.

University of California, Los Angeles. 1995. Dissertation Fellowship.

University of California, Los Angeles. 1992. Hortense Fishbaugh Memorial Scholarship.

Hum, 3

University of California, Los Angeles. 1991. Distinguished Scholars Award.

University of California, Los Angeles. 1991. Graduate School of Architecture and Urban Planning Alumni Fund Recipient.

University of California, Los Angeles. 1991. Institute of American Cultures Fellowship Award.

SELECTED MEDIA

Mayor Adams Receives Report from Social Justice Commission, New York City Hall, February 7, 2022. <https://www1.nyc.gov/office-of-the-mayor/news/064-22/mayor-adams-receives-report-social-justice-commission#/0>

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Hum Interview in "The People vs. Big Development," *New York Times*, February 7. <https://www.nytimes.com/2020/02/07/realestate/the-people-vs-big-development.html>

Hum featured in "Queens College gives educational tour of luxury developments in Flushing," *QNS*, October 22, 2019. <https://qns.com/2019/10/queens-college-professor-gives-a-luxury-development-tour-of-flushing/>

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Hum Interview in "Should Industry City be Rezoned?" *Brooklyn Daily Eagle*, May 9, 2019. <https://brooklyneagle.com/articles/2019/05/09/should-industry-city-be-rezoned/>

Hum Interview in "After 20 years in real estate, this Chinatown resident is turning to art to reclaim the neighborhood," *NBCNews*, December 4, 2018. <https://www.nbcnews.com/news/asian-america/after-20-years-real-estate-chinatown-resident-turning-art-reclaim-n941696>

Hum Interview in "With Change Bubbling, San Francisco's Chinatown Strives to Stay Authentic." *New York Times*, October 16, 2018.

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Hum Interview in “The Life and Imminent Death of a Latin Jazz Club in Queens,” *New York Times*, January 27, 2017.

Hum Interview in “Urban Studies Department at Queens College to Have First Minority Woman Chair,” *World Journal*, March 30, 2017. <https://voicesofny.org/2017/03/urban-studies-dept-at-queens-college-to-have-first-minority-woman-chair/>

Hum Interview in Sunset Park: The Blue-Sky Line. NYC Department of Records & Information Services, <http://www.archives.nyc/blog/2017/3/2/sunset-park-the-blue-sky-line>.

Hum Presentation, Brooklyn Book Festival, September 17, 2017, It's Personal, Not Just Policy. <https://www.c-span.org/video/?433414-9/panel-discussion-immigrants>.

Hum, Tarry. 2014. CUNY Bookbeat Podcast. <http://www1.cuny.edu/mu/podcasts/2014/11/07/the-rise-of-sunset-park>

Hum, Tarry. 2014. Interview by Brian Lehrer on WNYC’s The Brian Lehrer Show, August 6. <http://www.wnyc.org/story/globallocal-sunset-park/>

Opinion Essays

Hum, Tarry. 2020. [Letter to the Editor: Flushing Waterfront Follies](#). *Gotham Gazette: The Place for New York Policy and Politics*, November 20.

Hum, Tarry. 2020. [A Flushing Tragedy Underscores Acute Affordable Housing Crisis](#). *Gotham Gazette: The Place for New York Policy and Politics*, November 11.

Hum, Tarry. 2020. [Special Flushing Waterfront District rezoning appeal is grounded in misinformation](#). *Queens Daily Eagle*, September 15.

Hum, Tarry. 2020. [Busting Industry City Rezoning Myths](#). *Gotham Gazette: The Place for New York Policy and Politics*, September 14.

Hum, Tarry. 2020. [Special Flushing Waterfront District: A Massive Giveaway?](#) *Gotham Gazette: The Place for New York Policy and Politics*, January 31.

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Hum, Tarry. 2016. [Illegal Conversions and South Brooklyn's Affordable Housing Crisis](#). *Gotham Gazette: The Place for New York Policy and Politics*, September 19.

Hum, Tarry. 2016. [Protecting Flushing's Soul and Beyond](#). *Gotham Gazette: The Place for New York Policy and Politics*, June 23.

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Hum, Tarry. 2015. [There is Nothing Innovative about Displacement](#). *Gotham Gazette: The Place for New York Policy and Politics*, October 21.

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Hum, Tarry and Carl Hum. 2015. [Moving Forward in Sunset Park](#). *Gotham Gazette: The Place for New York Policy and Politics*.

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WORKS IN PROGRESS

Hum, Tarry. Book Monograph titled, *Global China: Transnational Capital, Growth Coalitions, and City Building in Immigrant New York*.

PUBLICATIONS

Hum, Tarry. 2022. [When Elites Hide Behind Populist Rhetoric: The Case of "Flushing United"](#) *Progressive City*.

Hum, Tarry. 2022. Brooklyn Metropolitan Detention Center and Sunset Park, p. 272-275. *A People's Guide to New York City*, eds., Carolina Bank Munoz, Penny Lewis, Emily Tumpson Molina, Berkeley, CA: University of California Press.

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Hum, Tarry. 2021. [Black Dispossession and the Making of Downtown Flushing](#). *Progressive City*.

Hum, Tarry, Ron Hayduk, Francois Pierre-Louis, Michael Krasner, co-editors. 2021. [Immigrant Crossroads: Globalization, Incorporation, and Placemaking in Queens, NY](#). Philadelphia, PA: Temple University Press.
Reviewed in *Journal of Urban Affairs, Ethnic and Racial Studies, Metropolitics, Progressive City*.

Hum, Tarry. 2021. [Introduction: Immigrant Crossroads](#), p.1-23. *Immigrant Crossroads: Globalization, Incorporation, and Placemaking in Queens, NY*. Philadelphia, PA: Temple University Press.

Stein, Samuel and Tarry Hum. 2021. Chapter 12: "The Politics of a 'New Deal' for Roosevelt Avenue: Business Improvement Districts, Placemaking, and Community Resistance," pp. 299-322. *Immigrant Crossroads: Globalization, Incorporation, and Placemaking in Queens, NY*. Philadelphia, PA: Temple University Press.

Hum, Tarry. 2020. Chapter 10: "Flushing – the bigger, better and downright sexier Chinatown of New York': Transnational Growth Coalitions and Immigrant Economies," pps. 215-242, *Immigrant Entrepreneurship in Cities: Global Perspectives*, ed., Cathy Yang Liu, Springer Publishing.

Hum, Tarry and Dwayne Baker. 2020. Disrupt Disparities in Gentrification: Older Adults in Gentrifying New York, [DISRUPT DISPARITIES 2.0, AARP](#), pps. 26-34.

Hum, Tarry. 2020. [The Fallacy of 'Industry City, Our Way'](#). *Progressive City*.

Hum, Tarry. 2019. "[Made in NY? Innovation Economies and Immigrant Precarity](#)." *Gotham Center Blog*.

Hum, Tarry. 2018. "[Minority Banks, Homeownership, and Prospects for New York City's Multi-Racial Immigrant Neighborhoods](#)", pp. 140-155 in *A Shared Future: Fostering Communities of Inclusion in an Era of Inequality*, eds., Christopher Herbert, Jonathan Spader, Jennifer Molinsky, and Shannon Rieger. Cambridge, MA: Joint Center for Housing Studies of Harvard University.

Hum, Tarry and Samuel Stein. 2017. "Gentrification and the Future of Work in New York City's 'Chinatowns'," pp. 207-216. *Asian American Matters: A New York Anthology*.

Hum, Tarry. 2017. "[Get Ready Sunset Park, 'Brooklyn' is Coming': The Real Estate Imperatives of an Innovation Ecosystem](#)." *Progressive City*.

Hum, Tarry. 2016. "[The Hollowing Out of New York City's Industrial Zones](#)." *Metropolitics*. February 16.

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- Hum, Tarry. 2014. [*Making a Global Immigrant Neighborhood: Brooklyn's Sunset Park*](#). Philadelphia, PA: Temple University Press.
Reviewed in *Progressive Planning Magazine*, *Choice*, *Urban Studies*, *American Journal of Sociology*, *International Migration Review*, *Journal of American Ethnic History*.
- Hum, Tarry. 2014. "[How Eighth Avenue Became Chinese](#)." *Open City*, Asian American Writers Workshop.
- Hum, Tarry. 2013. "'From Dump to Glory': Flushing River and Downtown Transformation." *CUNY Forum*, 1, 1:58-66.
- Hum, Tarry. 2013. Invited entry on Asian and Minority Banks. *Encyclopedia of Global Human Migration*, Volume II, pp. 603-608. ed. Immanuel Ness. Wiley-Blackwell Publishing Ltd.
- Hum, Tarry and Paul Ong. 2012. Editors' Introduction. Special Issue of *AAPI Nexus: Policy, Practice and Community*. Asian Americans in Global Cities: Los Angeles-New York Connections and Comparisons, 10, 2: v-ix.
- Hum, Tarry. 2012. "Chinatown and the Decline of Immigrant Garment Clusters in the Fashion Capital of the World." *Progressive Planning Magazine*. Winter 190: 31-34.
- Hum, Tarry. 2011. "The Changing Landscape of Asian Entrepreneurship, Minority-Owned Banks and Community Development." *AAPI Nexus: Policy, Practice and Community*, Special Issue on Forging the Future: The Role of New Research, Data, & Policies for Asian Americans, Native Hawaiians, and Pacific Islanders, 9, 1-2: 78-91.
- Hum, Tarry. 2011. "Minority-Owned Banks in New York City: Is the Community Reinvestment Act Relevant?" *Journal of Civil Rights and Economic Development*, Symposium Issue: The Fall of the Economy, How New York Can Rise to the Challenge, St. John's University School of Law, Spring, 25, 3:501-524.
- Hum, Tarry. 2011. "Persistent Polarization in the New York Workforce: New Findings of Labor Market Segmentation." *Regional Labor Review*, Center for the Study of Labor and Democracy, Hofstra University, Spring-Summer, 13: 22-29.
- Hum, Tarry. 2010. "Planning in Neighborhoods with Multiple Publics: Opportunities and Challenges for Community-Based Nonprofit Organizations." *Journal of Planning and Education Research*, 29, 4: 461-477.
- Hum, Tarry. 2009. "A Racist Rezoning? Gentrification and New York City's Historic Immigrant Neighborhoods." *Progressive Planning Magazine*, Spring 179: 18-23.

Hum, Tarry. 2008. "Defending Neighborhoods with Multiple Publics: Opportunities and Challenges for Community-Based Nonprofit Organizations." Baruch College Center for Nonprofit Strategy and Management Working Paper Series, School of Public Affairs.

Hum, Tarry and Jerome Kruse. 2007. "Immigrant Global Neighborhoods: Perspectives from Italy and the United States," in *Ethnic Landscapes in an Urban World*, edited by Ray Hutchison, Research in Urban Sociology, Volume Eight, Elsevier Press.

Hum, Tarry. 2006. "New York City's Asian Immigrant Economies: Community Development Needs and Challenges," in *Jobs and Economic Development in Minority Communities: Realities, Challenges and Innovation*, edited by Paul Ong and Anastasia Loukaitou-Sideris, Temple University Press.

Hum, Tarry. 2005. "Immigration Grows to Half of New York's Labor Force," *Regional Labor Review*, Center for the Study of Labor and Democracy, Hofstra University, Spring/Summer, 20-24

Hum, Tarry. 2005. Entries in *The Encyclopedia of Racism*, edited by Pyong Gap Min. Westwood, CT: Greenwood Publishing Group.

Hum, Tarry. 2004. "Immigrant Global Neighborhoods in New York City," in *Race and Ethnicity in New York City*, edited by Jerome Kruse and Ray Hutchison, Research in Urban Sociology, Volume Seven, Elsevier Publishers.

Hum, Tarry. 2004. "Asian Immigrant Settlements in New York City: Defining 'Communities of Interest'." *AAPJ Nexus: Policy, Practice and Community*, 2, 2: 20-48.

Hum, Tarry. 2003. "Mapping Global Production in New York City's Garment Industry: The Role of Sunset Park, Brooklyn's Immigrant Economy." *Economic Development Quarterly*, 17, 3: 294-309.

Hum, Tarry. 2003. "Asian New Yorkers in a Majority 'Minority' City," in *The New Faces of Asian Pacific America: Numbers, Diversity, and Change in the 21st Century*, A Joint Publication of AsianWeek, National Coalition for Asian Pacific American Community Development, and the UCLA Asian American Studies Center.

Hum, Tarry. 2002. "Asian and Latino Immigration and the Revitalization of Sunset Park, Brooklyn," in *Intersections and Divergences: Contemporary Asian Pacific American Communities*, edited by Linda Vo and Rick Bonus, Philadelphia, PA: Temple University Press.

Hum, Tarry. 2002. "Immigrant Economies and Neighborhood Revitalization: A Case Study of Sunset Park," New School University ICMEC Working Papers, Project on Immigrants and New York City at the Turn of the Century: Essays on Employment, Education, Health and Public Policy.

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Hum, Tarry. 2000. "The Promises and Dilemmas of Immigrant Ethnic Economies," in *Asian and Latino Immigrants in a Restructuring Economy: The Metamorphosis of Southern California*, edited by Marta Lopez-Garza and David R. Diaz, Palo Alto, CA: Stanford University Press.

Hum, Tarry. 2000. "A 'Protected Niche'?: Immigrant Ethnic Economies and Labor Market Segmentation," in *Prismatic Metropolis: Inequality in Los Angeles*, edited by Lawrence Bobo, James H. Johnson, Melvin L. Oliver, and Abel Valenzuela, New York, NY: Russell Sage Foundation.

Hum, Tarry and Michela Zonta. 2000. "Residential Patterns of Asian Americans," in *The State of Asian Pacific America: Transforming Race Relations*, edited by Paul Ong, Los Angeles, CA: LEAP Asian Pacific American Public Policy Institute and UCLA Asian American Studies Center.

Hum, Tarry, Paul Ong, Dennis Arguelles, et al. 1999. *Beyond Asian American Poverty: Community Economic Development Policies and Strategies*. Los Angeles, CA: LEAP Asian Pacific American Public Policy Institute and UCLA Asian American Studies Center. 2nd Printing.

Hum, Tarry. 1999. "Immigrant Economies and New York City's Garment Industry: New Community Development Challenges," in *Planners Network Newsletter*, June/July.

Hum, Tarry. 1997. "The 'New' Immigration: Implications for Asian Pacific American Studies," in *Asian Pacific Americans and the U.S. Southwest*, edited by Thomas K. Nakayama and Carlton F. Yoshioka, Tempe, AZ: Arizona State University.

BOOK REVIEWS

Book Review of *Chromatic Homes: The Joy of Color in Historic Places* by John I. "Hans" Gilderbloom, *American Journal of Sociology*, January 2020, 125, 4.

Book Review of *Immigrant and Minority Entrepreneurship: The Continuous Rebirth of American Communities*, eds., John Sibley Butler and George Kozmetsky, *Journal of American Ethnic History*, 2006, Winter/Spring, 24, 2-3: 302-303.

Book Review of *Chinatown: Most Time, Hard Time* by Chalsa M. Loo, *Amerasia Journal*, 1995, 21, 1-2: 194-196.

Review Essay of *Chinatown: The Socioeconomic Potential of an Urban Enclave* by Min Zhou, *Chinatown No More: Taiwan Immigrants in Contemporary New York* by Hsiang-shui Chen, and *Chinatown: A Portrait of a Closed Society* by Gwen Kinkead, *Oral History Review*, 1995, 21, 1: 115-121.

RESEARCH AND PLANNING REPORTS

Hum, 10

[Social Justice Recommendations for Mayor-Elect Eric Adams](#), December 2021. New Yorkers for Social Justice: A Citizens' Commission Making Recommendations to Eric Adams.

[CUNY Asian American Full-Time Faculty: A Preliminary Study of Rank and Discipline](#), July 2012. Report to CUNY Diversity Projects Development Fund.

[Solar Flushing](#), June 2012. Faculty supervisor for a report prepared by Spring 2012 QC Urban Studies 373 and 760 classes. Prepared for community stakeholders including John Choe One Flushing, City Councilmember Peter Koo and Assemblywoman Grace Meng.

[Planning the Future of Flushing's Waterfront](#), January 2012. Faculty supervisor for a collaboration between Spring 2011 QC Urban Studies 220 and 760.1 classes and the MinKwon Center for Community Action on a community survey study.

[Chinatown Gentrification: A Multi-City Study](#), Fall 2011. Faculty supervisor for a collaboration between Fall 2011 QC Urban Studies 320 and 760.1 classes and the Asian American Legal Defense and Education Fund on a multi-city study of gentrification in New York City, Philadelphia, and Boston Chinatowns.

[Flushing Commons: Creating Public Space for Multiple Publics](#), Summer 2010. Faculty supervisor for a report prepared by Spring 2010 QC Urban Studies 220 and 760.1 classes on Planning the Future of Downtown Flushing. Prepared for community stakeholders including Queens Community Board 7, TDC Development LLC, NYC Economic Development Corporation, and City Councilmember Peter Koo.

[Final Report on Inter-Community Collaborative Forums, 2006-2007](#), May 2008. Synthesis of Ford Foundation sponsored inter-community forums on the state of race relations in New York City. Prepared for the Korean American Community Foundation, Program to Advance Inter-Community Relationships.

[Redistricting and the New Demographics: Defining 'Communities of Interest' in New York City](#), 2002. Summary proceedings of a conference organized by NYU A/P/A Studies and Queens College Department of Urban Studies.

[Asian Neighborhoods in New York City: Locating Boundaries and Common Interests](#), February 2002. Prepared for the Asian American Legal Defense and Education Fund.

[Sunset Park, Brooklyn's Neighborhood Economy: Firm Survey Findings and Policy Implications](#), 2002. Report to Congresswoman Nydia Velazquez, City Councilor Angel Rodriguez, Chang Xie, Director of the Chinese American Planning Council, Renee Giordano, Executive Director of Sunset Park Business Improvement District, and Teresa Williams, Executive Director of Southwest Brooklyn Industrial Development Corporation.

Global Neighborhoods in a Majority 'Minority' City: Defining a Research Framework. 2002. Report to the Ford Foundation.

Asian Pacific American New Yorkers: Trends and Patterns into the 21st Century. 2000. Prepared for the Asian American Federation New York.

SELECTED PRESENTATIONS

New York City Racial Justice Commission. July 27, 2021. Testimony on [Achieving Racial Equity in Housing and Land Justice](#) Panel.

Queens Museum. December 9, 2020. Panelist on "Gentrification and the Pandemic: The Fight for Flushing," presented in conjunction with artist Betty Yu's installation [Resistance in Progress](#).

5th Annual Robert Fitch Memorial Lecture. October 28, 2019. "Chinese Transnational Capital and City Building in Immigrant New York." LaGuardia Community College Little Theater.

CUNY Law's Community and Economic Development Clinic. Panelist on "Investor Invasion of the Small Homes Market in Queens." October 10, 2019. CUNY School of Law.

American Sociological Association. 114th Annual Conference. Panelist: People's Guide to New York City. August 10, 2019, New York City.

Columbia University. Lecture in Urban Planning Series. April 30, 2019. Invited Presentation, Made in NY: Innovation Economies, Waterfront Rezoning, and Post-Industrial Gentrification.

Urban Affairs Association. 49th Annual Conference, April 24-27, 2019. Panelist, Mayor de Blasio and the Political and Limits of "Progressive" Municipal Governments. UCLA.

Urban Affairs Association. 49th Annual Conference, April 24-27, 2019. Presentation, Revisiting "Strategic Self-Orientalism": Immigrant Growth Coalitions and the Brooklyn Friendship Archway. UCLA.

American Historical Association. 134th Annual Conference. Panelist: Historically Informed Present-Day Activism in the City. January 3, 2019

Mellon Conference. Understanding Diverse and Inclusive Communities. Presentation, Manufacturing Innovation: A Study of Garment Production in Brooklyn's Sunset Park, November 12, 2018.

Brooklyn Community Board 7. Town Hall. October 1, 2018. Invited Presentation, Industry City Rezoning: Economic Effects on Sunset Park.

New York City Economic Development Corporation, October 7, 2017. Invited Presentation, Making a Global Neighborhood: Brooklyn's Sunset Park.

Brooklyn Book Festival, September 17, 2017. Invited Presentation, [It's Personal, Not Just Policy](https://www.c-span.org/video/?433414-9/panel-discussion-immigrants).
<https://www.c-span.org/video/?433414-9/panel-discussion-immigrants>.

Brooklyn Public Library, May 6, 2017. Invited Presentation, Sunset Park: Then and Now.

Harvard Joint Center for Housing Studies, A Shared Future: Fostering Communities of Inclusion in an Era of Inequality, April 19, 2017. Invited Presentation, Minority Banks and Homeownership: Prospects for New York City's Multi-Racial Immigrant Neighborhoods.

Joseph S. Murphy Institute for Worker Education and Labor Studies, March 5, 2017. Invited Presentation, Minority Banks and the American Dream: Prospects for New York City's Multi-Racial Immigrant Neighborhoods.

CUNY Graduate Center, November 9, 2016. Invited Presentation, Chinese Transnational Capital and Real Estate Financialization in NYC's "Chinatowns"

Brown University, John M. Nelson Center for Entrepreneurship, December 5, 2016. Invited Presentation, Immigrant Crossroads: The Contested Politics Of A Business Improvement District for Roosevelt Avenue.

MAANY Comparative Racialization and the Future of Asian American Studies in New York City, December 9, 2016. Invited Presentation, "Strategic Self-Orientalism" in Latino-Asian Sunset Park: The Politics of the Brooklyn Friendship Archway.

Hofstra University, October 14, 2015. Invited Presentation, Immigration and New York's Future: 50 Years After a Landmark Law.

CUNY Central Office of Recruitment and Diversity, May 18, 2015. Invited Presentation on "Making an Immigrant Global Neighborhood: Brooklyn's Sunset Park."

CUNY Mapping Asian American New York, Graduate Center's Center for Place, Politics, and Culture, April 29, 2015. Presentation on "Immigrant Growth Coalitions and the Financialization of Community Development: The Role of Ethnic and Transnational Banks."

CUNY Master of Arts in Liberal Studies, Fashion Studies and The Center for the Study of Women & Society Graduate Center, April 13, 2015. Invited Presentation on "Made in New York City? The Decline of Immigrant Garment Clusters in the Fashion Capital of the World."

Urban Studies Initiative, School of Humanities and Social Sciences, Brooklyn College, March 30, 2015. Invited Presentation on "Making an Immigrant Global Neighborhood: Brooklyn's Sunset Park."

Hum, 13

Protest and Resistance in the Tourist City: An International Symposium, Center for Metropolitan Studies, Berlin University of Technology, November 27-30, 2014. Invited Presentation on “Beyond the Tourist Safety Zone’: The Politics of a New Deal for Roosevelt Avenue.”

CUNY Graduate Center Public Talks, November 19, 2014. Invited panelist on Gentrification and Inequality.

University of Pennsylvania, November 11, 2014. Invited presentation on “Beyond Ethnic Banks: Chinese Transnational Capital and the Financialization of Community Development.”

Association of Collegiate Schools of Planning. Big Ideas, Global Impacts, October 30-November 2, 2014. Presentation on “Immigrant Growth Coalitions and The Financialization of Community Development: The Role of Transnational and Ethnic Banks.”

Brooklyn Waterfront Research Center, October 24, 2014. Invited presentation on “Powerplants, Sex Shops, Industrial Zones and Open Space: The Politics of a Sustainable Working Waterfront.”

Barnard College, Whose City? Change, Race and Culture Workshop, October 17, 2014. Invited presentation on “Gentrifying Sunset Park: The Role of Transnational Capital and Immigrant Growth Coalitions.”

AAPI Policy Research Consortium, Expanding the Asian American & Pacific Islander Voice in National Policy, April 11, 2012. Participated on future directions panel. National Educational Association, Washington DC.

Association of Asian American Studies, Expanding the Political: Power, Poetics, Practices, April 11-14, 2012. Organized panel on Immigrant Political Incorporation: Lessons for Theory and Practice, and presented “‘Synergy in Diversity’: The Maturation of New York City’s Asian American Electorate in 2009”.

The Center for American Progress and UCLA Asian American Studies Center, October 28, 2011. Invited participation on Role of New Research, Data, Policies for Asian Americans, Native Hawaiians, and Pacific Islanders.

The New American Leaders Project. Asian American Communities Building Political Power, May 6, 2011. Invited presentation on “2009 New York City Council District 19 and 20 Races: Implications for Asian American Political Representation”.

NYC Asian American Students Conference @ New York University, April 16, 2011. Invited presentation on “PROJECT Community: Out of the Classroom into the Streets”.

Hum, 14

New York University Triangle Shirtwaist Factory Fire Conference. The Triangle Fire 100 Years Later, March 23, 2011. Invited presentation on “Contemporary NYC Sweatshops: Manhattan Chinatown and Brooklyn’s Sunset Park.”

The White House Initiative for Asian Americans and Pacific Islanders. Research and Data Convening, December 10-11, 2010. Invited presentation on “The Changing Landscape of Asian Entrepreneurship, Ethnic Banks, and Community Economic Development.”

Asian Americans for Equality. Flushing Now, Flushing Tomorrow: A Symposium on the Neighborhood’s Transformation, December 3, 2010. Invited presentation on “Neighborhood Planning and Community-University Partnerships.”

Queens College Asian/American Center Summer Institute. Studying the Global in the Local, July 30, 2010. Invited presentation on “Economic Development and Community Sustainability in Downtown Flushing.”

New York Community Media Alliance. Effective Messaging on Women’s Issues Conference, CUNY Graduate School of Journalism, June 25, 2010. Invited presentation on “New York City Women’s Labor Market and Economic Profile.”

Columbia University, Graduate School of Architecture and Urban Planning. Invited Guest Critic. The Power Studio II: New York Energy [Buffalo + Brooklyn], December 12, 2009.

Columbia University, School of Journalism. New York Times Reporter and Professor Samuel Freedman’s Graduate Reporting Class. Invited guest speaker on the Queens Economy, July 28, 2009.

Initiative for Regional and Community Transformation, Bloustein School of Planning and Public Policy, Rutgers University. Dialogue on People and Place Development Policy, June 3, 2009. Invited presentation on “Workforce Development in New York City’s Chinatowns.”

ARNOVA. The Global Pursuit of Social Justice: Challenges to Nonprofits and Civil Society, November 15-17, 2007. Presentation on “Defending Neighborhoods with Multiple Publics: Opportunities and Challenges for Community-Based Nonprofit Organizations.”

Asian Americans For Equality. Asian American Community Development Conference. October 26, 2007. Invited presentation on “The State of Asian New Yorkers: 2007 and Beyond.”

Urban Affairs Association. Cities and Migration: Opportunities and Challenges, April 25-28, 2007. Presentation on “Ethnic Banks and Immigrant Neighborhood Development.”

Association of Asian American Studies. Crosstown Connections: Asian American Urbanism and Interracial Encounters, April 5-7, 2007. Presentation on “Transforming Urban Spaces: The Role of Ethnic Banks in Immigrant Neighborhoods.”

Hum, 15

Eastern Sociological Society. New Diversity: Persistent Inequality, March 15-18, 2007. Presentation on "Ethnic Banks and Immigrant Neighborhood Development: A Case Study of Brooklyn's Sunset Park."

NYC Museums Educators Roundtable. Forum on Museum Education and Immigrant Communities, October 18, 2006. Invited presentation on "Why Museums are Relevant to Immigrant Communities: Insights from the Queens Museum of Art Surveys."

New York City Bar Association. Symposium on Immigration Reform: National Challenges and Local Responses, May 23, 2006. Invited presentation on Immigration and Changing Neighborhoods.

Latin American Studies Association, XXVI International Congress, March 15, 2006. Presentation on "Immigrant Global Neighborhoods in New York City."

Harvard Law School. Controversy: The 12th Annual National APA Conference on Law and Public Policy, March 3, 2006. Invited presentation on "Future of the APA Electorate: Insights from New York City."

Queens Museum of Art. World Premiere Screening of *On Calloway Street* on the 40th Anniversary of the Hart-Celler Act, October 2, 2005. Invited presentation on "The Transformative Impact of the 1965 Hart-Celler Act."

American Planning Association New York Metro Chapter. Panel Discussion on Immigration and Planning, March 10, 2005. Invited presentation on Planning in Multi-Ethnic Immigrant Neighborhoods.

CUNY Conference for High School Counselors. Panel presentation on Research Activities at CUNY. April 12, 2005.

Queens College and Five Borough Institute. Working in New York: Looking Back, Looking Ahead, September 28, 2004. Presentation on "Immigrant Work in New York City".

Queens College Faculty Group on Global Migration/Immigration, Urbanism and the Contemporary University. Presentation on "The Digital Politics of Neighborhood Turf: Internet Cafes and Youth Relations." October 29, 2003.

Queens College Asian/American Center. Symposium on "Bridging Communities and Scholars," February 25, 2003. Presentation on "Asian Diversity and Growth: Defining Community Studies and Research."

Asian Pacific Americans in Higher Education Conference. "Campus Communities: Promises and Prospects of Asians and Pacific Islanders in Higher Education," November 1-2, 2002. Columbia

Hum, 16

University, NY. Presentation on "Responding to 9/11: The Role of Chinatown Nonprofit Organizations."

Harvard University Civil Rights Project. Roundtable Conference on "Emerging Civil Rights Issues in the Asian American Community," October 4-5, 2002. Invited presentation on Housing and Community Development Issues.

Asian American/Asian Research Institute. Asian American Leadership Conference: Healing and Rebuilding New York, May 10, 2002. Baruch College, CUNY. Presentation on "Challenges in Data Collection for Community Studies."

Asian American/Asian Research Institute. Invited Lecture Series, April 18, 2002. Presentation on "Asian Growth and Diversity in NYC: Towards a Community Research and Policy Agenda." Summary available on <http://www.aaari.org>

Urban Affairs Association. What's Right About Cities and an Urban Way of Life, March 20-23, 2002. Boston, MA. Presentation on "Global Neighborhoods in New York City: Defining Boundaries and Common Interests."

Columbia University Urban Issues Workshop. Invited presentation on "Asian Neighborhoods in New York City: Locating Boundaries and Common Interests." February 19, 2002.

UCLA Minority Economic Development Seminar. Ralph and Goldy Lewis Center for Regional Policy Studies and Department of Urban Planning, March 11, 2002. Invited presentation on "Economic Development in Asian American Communities."

New York Voting Rights Consortium Community Forum. January 26, 2002. "Drawing Democracy for New York's New Majority," Community Service Society, NY. Presentation on "Asian New Yorkers: Demographic and Settlement Patterns."

New York Voting Rights Consortium. September 26, 2001. New York, NY. Presentation on "Preliminary Findings from the Asian American Legal Defense and Education Fund's Community Survey Project."

International Network on Immigrant Entrepreneurship. Third Conference on "Public Policy and the Institutional Context of Immigrant Businesses" sponsored by the Targeted Socio-Economic Research (TSER) Programme of the European Commission DG XII, the SCSS Exploratory Grant Scheme, European Science Foundation (ESF) and co-sponsored by the Dutch Foundation for Scientific Research NOW, March 22-25, 2001. Liverpool, England. Presentation on "Mapping Global Production in New York City: The Role Sunset Park, Brooklyn's Immigrant Economy."

Brooklyn Historical Society. The Lion Dance: Celebrating the Chinese New Year in Brooklyn, January 28, 2001. Presentation on "New Immigration to Sunset Park."

Hum, 17

New School University. Concluding Conference for an ICMEC Project on "New Immigrants in New York: The Incorporation of Recent Immigrants," December 7 and 8, 2000. Presentations on "Pursuing a "High" or "Low" Road: Future Prospects for Immigrant Workers in New York's Garment Industry," and "Immigrant Economies and Neighborhood Revitalization: A Case Study of Sunset Park, Brooklyn."

Queens College Department of Urban Studies and NYU Asian/Pacific/American Studies Program. Defining 'Communities of Interest' Symposium, December 2-3, 2000. Presentation on NYC demographic trends and served as panel moderator.

President's Advisory Commission on Asian Americans and Pacific Islanders. Eastern Region Town Hall Meeting, September 18, 2000, New York University. Testimony on data and research needs in the Asian American community.

CUNY Graduate Center's Center for Urban Studies and University of Amsterdam Center for the Metropolitan Environment. Regional Change and Governance: The Social Construction and Regulation of Public Space, May 23-24, 2000. Discussant on "Social Exclusion/Spatial Stratification/Neighborhood Change."

Urban Affairs Association. Cities in the New Millennium: Separate Realities or Shared Fates?, May 3-6, 2000. Los Angeles, California. Presentation on "Pursuing the High or Low Road?: Future Prospects for Immigrant Workers in NYC's Garment Industry."

American Museum of Natural History. Senses of Home: Dialogue Within Communities, January 8, 2000. Presentation on "Sunset Park, Brooklyn: From Finntown to Chinatown."

CUNY Community and Labor Organizing Seminar. Workplace Organizing with Immigrants: Challenges in Making Labor/Community Connections, December 17, 1999. Hunter College School of Social Work. Presentation on Sunset Park's immigrant garment industry.

Association of Collegiate Schools of Planning Conference. Rebuilding Nature's Metropolis: Growth and Sustainability in the 21st Century, October 21-24, 1999. Chicago, Illinois. Presentation on "Mapping Global Production in New York City: The Role of Sunset Park, Brooklyn's Immigrant Ethnic Economy."

Association for Asian American Studies Conference. Origins and Crossings, March 31 - April 3, 1999. Philadelphia, Pennsylvania. Presentation on "'A Community of Interest': New York's Historic and Satellite Chinatowns," and roundtable participant on "Demystifying Community, Re-envisioning the Mission."

Planners Network Conference. Working for A Decent Living: Bridging the Gap Between Labor and Community, June 17-20, 1999. Lowell, Massachusetts. Presenter in "Organizing Against Sweatshops" workshop.

Hum, 18

National Coalition of 100 Black Women, Inc. Wealth, Markets, and Social Change, October 1, 1998. Rockefeller University. Moderator.

Chinatown Voter Education Alliance. Electing Our Representatives in the 21st Century, July 1, 1998. New York City Planning Commission, Spector Hall. Invited presentation on "Changing Demographics of Asian Americans in New York City."

"One America in the 21st Century" - The President's Initiative on Race. "Race and Poverty," February 11, 1998. San Jose, CA. Invited presentation on Asian Americans and Working Poverty.

East of California Conference. Rethinking Paradigms, Rethinking Strategies for Asian American Studies, November 14-15, 1997. The New School for Social Research. Presentation on "Neither 'Top Down' or 'Bottom Up': Urban Planning for Multiple Publics."

Association of Collegiate Schools of Planning Conference. Planning in the Americas, November 6-9, 1997. Ft. Lauderdale, Florida. Presentation on "Immigrant Ethnic Economies in World Cities: Implications for Urban Economic Development."

Chinese in the Americas Conference. "Where is Home?," October 10-12, 1997. New York University. Presentation on "The New Immigration in Sunset Park, Brooklyn: Ethnic Succession or Global Transformation?"

Association for Asian American Studies Conference. Defining the Asian Pacific Century: Nurturing Roots, April 17-19, 1997. Seattle, Washington. Presentation on "Gendering the Ethnic Economy."

Association for Asian American Studies Conference. Thinking Power, May 29-June 2, 1996. Washington, D.C. Presentation on "The Promises and Dilemmas of Immigrant Ethnic Economies."

Russell Sage Foundation. Searching for Work, Searching for Workers, September 28-29, 1995. Presentation on "Immigrant Ethnic Economies in Los Angeles: A Comparative Analysis of the Significance of Nativity, Ethnicity, and Space."

PROFESSIONAL AND COMMUNITY SERVICE

Urban Affairs Association. Best Book Award Selection Committee. 2020 and 2021.

Columbia University. GSAPP A6891 Contested Sights: Urban Design in the Wild, Reviewer, August 10, 2021.

Queens College Associate Provost Search Committee. Fall 2018.

Hum, 19

School of Professional Studies Urban Studies Curriculum Review Committee. January 2016

QC Urban Studies, Undergraduate Advisor, 2016 – 2017.

Advisor, Asian American Writers' Workshop, OPEN CITY: Blogging Urban Change, 2010 – Present.

Member of the Immigrants and Wealth Working Group, Closing the Racial Wealth Gap Initiative, Insight Center for Community Economic Development, 2009 – Present.

QC Urban Studies, Member of P & B Committee, 2006 - 2017.

Member of Editorial Board. *AAPI Nexus: Asian American & Pacific Islanders, Policy, Practice, and Community*. 2002 – Present.

Consultant, The Pratt Center/Collective Partnership, February 2013 – January 2014.

QC Urban Studies, Acting Environmental Studies Advisor, Spring 2013.

Project Participant. Making Midtown: A New Vision for a 21st Century Garment District in New York City. Design Trust for Public Space. 2012.

PSC-CUNY Research Award Applications Panel Member, Political Science, Law & Criminal Justice, Urban Studies Panel, Spring 2010 -2013.

Member of Board of Directors, Asian American Research Institute/CUNY, 2008 – 2010.

Expert Reviewer, Center for the Study of Brooklyn, Brooklyn Trends Report, 2008 - 2010.

Member of Advisory Board, Center for Social Inclusion, Race and Opportunity in the New York Region, 2008 – 2009.

Consultant to Queens Museum of Art on immigrant outreach and programming. 2006.

Panel Member for New York City Comptroller's Risk Management Award. 2006 and 2003.

Chair, Board of Directors, UPROSE – United Puerto Rican Organization of Sunset Park. 2000 – 2006.

Member of Rebuild Chinatown Initiative. Asian Americans for Equality. 2002 – 2003.

CUNY Honors College. Participated in faculty planning and curriculum development, and taught the Honors College seminar on the Peopling of New York. 2001-2007.

Hum, 20

Consultant to Asian American Legal Defense and Education Fund. Directed the community survey project, analyzed and prepared a report on survey findings. 2000 – 2002.

Member of Academic Advisory Board. US Dept. of Commerce, Economic Development Administration study on "Economic Needs of Asian Americans and Pacific Islanders in Distressed Areas." 2001 – 2002.

Consultant to Asian American Federation New York. Prepared application for CIC designation, consulted on census research, prepared maps and tables on Asian American population demographics for public outreach and educational use. 1999 – 2001.

Queens College Freshman Year Initiative (FYI). Participated in FYI and taught the Urban Studies class on Poverty and Affluence. 1999.

Consultant to Museum of the Chinese in the Americas. Research consultant for an exhibit on Sunset Park, Brooklyn, "A Good Place to Land One's Feet: Brooklyn's New Chinese Community." 1998 – 1999.

OTHER PROFESSIONAL EXPERIENCE

Executive Director, Asian Community Development Corporation, Boston, MA, 1988 – 1990

Executive Director, Chinatown-South Cove Neighborhood Council, Boston, MA, 1987 – 1988

BOOK MANUSCRIPT AND JOURNAL ARTICLE REVIEW

Housing Studies

Urban Affairs Review

Local Environment

Sociological Inquiry

Journal of Planning Education and Research

City and Society

International Journal of Urban and Regional Research

Journal of Ethnic and Migration Studies

Contemporary Sociology

Journal of Planning Literature

AAPI Nexus: Asian American & Pacific Islanders, Policy, Practice, and Community

Temple University Press

SUNY Albany Press

Rutgers University Press

Palgrave Macmillan

University of Massachusetts Press

GRANTS REVIEW

Hum, 21

Russell Sage Foundation
PSC CUNY Research Award Program, Political Science, Law & Criminal Justice, Urban Studies
Panel

MEMBERSHIP IN PROFESSIONAL SOCIETIES

Association of Collegiate Schools of Planning
Association of Asian American Studies
Planners Network
Eastern Sociological Society
Latin American Studies Association
Latinos and Planning, American Planning Association
Urban Affairs Association

Exhibit C to Vattamala Affirmation-
Final Certified Map

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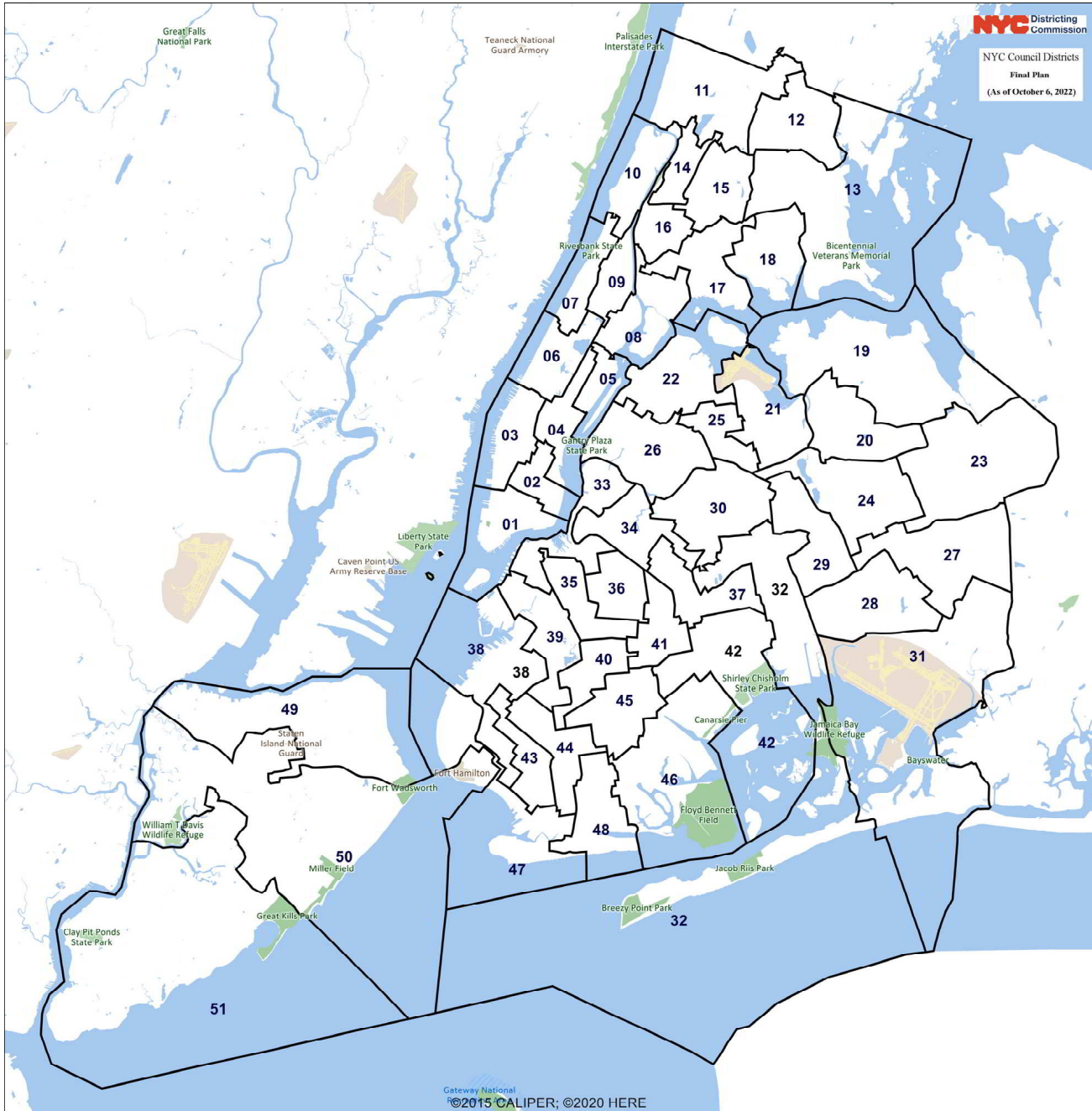


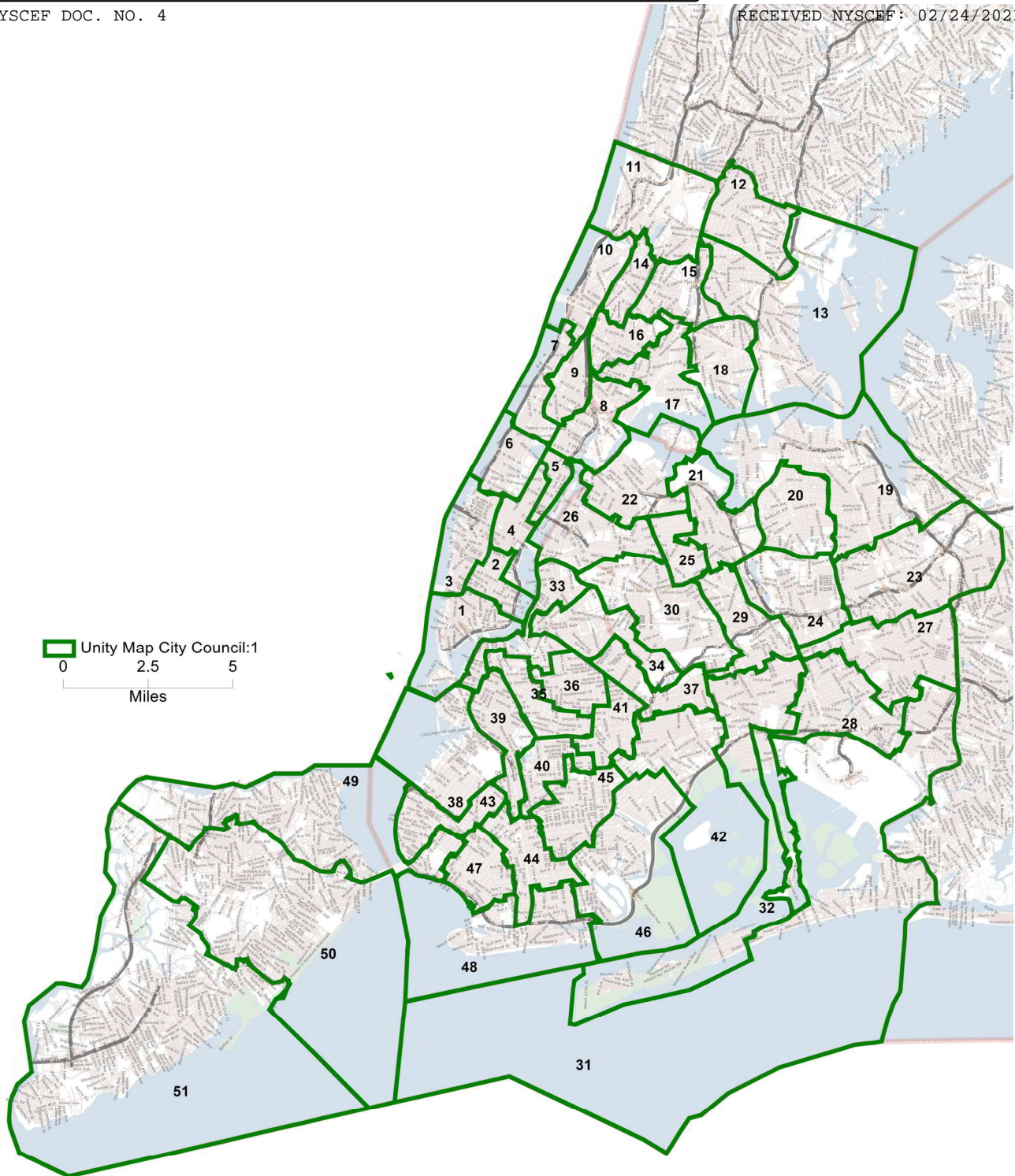
Exhibit D to Vattamala Affirmation-Unity Map

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**Exhibit E to Vattamala Affirmation-
Jagpreet Singh Written Testimony, May 26, 2022**

[pp. 93 - 94]

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NYSCEF DOC. NO. 4

RECEIVED NYSCEF: 02/24/2023

From: Jagpreet Singh <[REDACTED]>
Sent: Thursday, May 26, 2022 11:26 AM
To: Public Testimony
Subject: [EXTERNAL] Jagpreet Singh - Desis Rising Up and Moving Testimony

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Forward suspect email to phish@cyber.nyc.gov as an attachment (Click the More button, then forward as attachment).

Good Afternoon Commissioners,

My name is Jagpreet Singh. I am the Political Director for DRUM, Desis Rising up and Moving. We are a membership based grassroots organization that organizes with the working class South Asian and Indo-Caribbean communities across New York City around building power, immigration issues, and more. We are here as part of the APA Voice Redistricting Task Force to ensure our voices are not erased in this process. I want to thank you all for giving us the opportunity for public comment before the maps are drawn. I hope to see more public engagement after the maps are released, especially in the outer boroughs where most of New York City lives, and at times and dates that make it accessible to our working class communities.

I urge the commission to keep our communities of interest together. In speaking with our membership, we've identified a number of communities of interest which are core to the everyday lives of our members and the community at large.

In Queens the most prominent community of interest are South Asians, predominantly Punjabi, and Indo-Caribbean communities in Richmond Hill and South Ozone park. This community has decades old ties to this area, has built religious institutions, commercial hubs, and cultural centers, and is vital to the diverse fabric of our city. The other community of interest in Queens is the Bangladeshi and Indian communities that make up the Hillside corridor. I ask you to drive down this corridor from Jamaica to Glen Oaks and look for yourself what this community has done to build up this area. Finally we have a large base in West Queens, in the asian communities of interest of Woodside, Elmhurst, and western Jackson Heights. These communities have create an Asian hub in this part of queens synonymous with the cultural fabric and diversity of this city. The folks in these communities celebrate lunar new year together, eat and shop along similar commercial corridors, and worship together and deserve to be kept whole.

In the Bronx we urge the commission to ensure the Bangladeshi community in Parkchester is kept whole. They have been pivotal to the growth of population in Parkchester and have become a key part of the larger Parkchester community. They are currently in one district and we ask the commission to keep them there. In Brooklyn we urge the commission to ensure that the Bangladeshi community in and around McDonald and Church in Kensington are kept whole like they are currently. You can reference AALDEF's communities of interest maps for specifics of these communities.

The working class folks in these communities are the backbone of this city. They are the drivers, construction workers, mothers, custodians, vendors, and more who work all hours of the day to ensure that New York City is the city that never sleeps. They kept our city running before the pandemic, are risking their lives to run it during this pandemic, and will continue to ensure that our city thrives.

Commissioners, it's up to you to ensure that their ability to advocate for their issues and organize in their communities isn't being trampled. We've seen in past cycles and other redistrictings that there are times our communities are kept whole, but forced in districts with majority communities whose leverage makes it impossible for our communities to build power. Please ensure our communities of interest are kept whole and are able to build power.

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Jagpreet Singh Political Director

Desis Rising up and Moving - DRUM

Exhibit F to Vattamala Affirmation-
Submission under Section 5 of the Voting Rights Act for Preclearance
of Proposed Amendments to the New York City Charter (August 11, 1989)
[pp. 95 - 100]

NEW YORK CITY
CHARTER
COMMISSION

A. O. Schwarz, Jr.
Michel
Leventhal
Bezanos
Frendly
Gourdine
Cibez
Malloy
Murphy
Murray
Parades
Richard
Joseph M. Sullivan
Trager
Eric Lane
Council Executive Director

Municipal Reference and
Research Center
RECEIVED

AUG 15 1989

CHAMBERS STREET
NEW YORK CITY

copy

TO: David Hunter. Esq., Civil Rights
Division
FROM: Eric Lane
RE: Errors, August 11, 1989 letter
DATE: August 14, 1989

-
1. Page 6. The quote, at the end of the paragraph, should read "all deliberate speed" and not "all due speed." 647 F. Supp. at 1479
 2. Page 34. First word, second line from the bottom, "Court" should read "Council."

Suite 1616
11 Park Place
New York, NY 10007
(212) 766-2200

Barry H. Weinberg, Esq.
Acting Chief, Voting Section
Civil Rights Division
United States Department
of Justice
Washington, DC 20530

August 11, 1989

Re: SUBMISSION UNDER SECTION 5 OF
THE VOTING RIGHTS ACT FOR
PRECLEARANCE OF PROPOSED
AMENDMENTS TO THE NEW YORK CITY
CHARTER

Dear Mr. Weinberg:

This is a submission pursuant to Section 5 of the Voting Rights Act (42 U.S.C. 1973c) for preclearance of proposed amendments to the New York City Charter. The amendments will be submitted to the voters at a referendum to be held on November 7, 1989, the date of the city's next general election. This submission is timely under 28 CFR 51.22, which governs consideration of changes prior to final enactment, since the proposed charter amendments are not subject to alteration in the final approving action (the referendum), and all other actions necessary for approval have been taken. This submission consists of this letter, exhibits and appendices.

The submitting authority is the New York City Charter Revision Commission, which voted final approval of the amendments during its July 31, August 1, and August 2, 1989 meetings. The jurisdiction responsible for implementation of the amendments is the City of New

with more than 80% minority population from 25.7% on the present council (9 of 35 districts) to 35.3% (18 of 51 districts), and districts with 75-79% minority population from none on the present council to 5.9% (three additional districts). The proportion of districts with 70-74% minority population would decrease from 8.6% on the present council (3 of 35 districts, none of which have elected minority group council members) to 2% (1 of 51 districts). (Neither the old nor the prototype 51-district council have any districts with 65-69% minority population.) (Exhibit 28)

Even if only the 18 districts with 80% or more minority population elected minority council members, the Commission's plan would double the number of such council members from nine to 18--a 100% expansion of minority representation on a council expanded in size by 45.7% (from 35 to 51). The result would necessarily be a vast increase in the power of the council's minority representation.

The Commission's prototype of a 51-district system, as set forth in data and maps in Exhibit 28, is based upon 1980 Census data. The Commission is not seeking preclearance of these particular districts. They are presented for informational purposes only and are not being proposed for adoption. The actual districts will be drawn by a districting commission (page 22, *infra*) on the basis of the 1990 Census. This prototype districting plan is presented only to establish that even under the 1980 Census, a 51-member council would significantly enhance minority group opportunities. Such opportunities will be further enhanced by the use of 1990 Census data.

There has been some controversy over the Commission's proposal to enlarge the size of the council and over the particular size it has chosen. Initially some council members, including minority members, argued that an enlargement of the council would not result in an increase in the proportion of districts in which members of minority groups would have the opportunity to elect council members of their choice. However, the overwhelming view of other representatives of the minority communities has been in favor of increasing the size of the council, in order to increase minority opportunities (Exhibit 29).

Some of these individuals and groups have, however, argued in favor of a larger council than that recommended by the Commission. Principal among them, at one time, was Dr. Luther Blake of the Coalition of African American and Latinos for a Just City Government. He testified in favor of a 59-district council at the June 1, 1989 hearing (Exhibit 30). As noted above, the Commission spent considerable time reviewing the issue of council size and at its June 27, 1989 meeting decided again to adopt the 51-district council as part of its preliminary proposals (Exhibit 31). Subsequently, at the July 21, 1989 hearing, Dr. Blake expressed support for the Commission's plan (Exhibit 32).

In addition, some representatives of several Asian American organizations in lower Manhattan and Flushing, Queens testified that a 59-district council would provide their communities with a better chance to elect representatives of their choice than a 51-district council. If, however, the demographic estimates and projections

presented to the Commission by these organizations are reasonably accurate, the Districting Commission should, as part of a 51-district plan based on the results of the 1990 census, be able to establish a council district in each of these areas in which Asian Americans would have a reasonable opportunity to elect council members of their choice. For these two communities, the difference between the size of the districts in 51 and 59 district plans is much less important than the need to concentrate each of these two communities into single council districts (Exhibit 33). (As noted on page 22, infra, the proposed charter requires the Districting Commission to accord very high priority to this need.)

In considering the options available for structuring the city government, the Commission also evaluated the possibility of creating a bicameral city council with a nineteen-member upper house. However, that plan was offered only on the condition that, before it could be discussed from a policy perspective, it must be shown to enhance the opportunities of minority voters to participate in and influence the political process (Exhibit 34). The commission heard considerable opposition to this proposal (Exhibit 35), and its own analysis found that the smaller second legislative body might, in fact, dilute minority representation (Exhibit 36). The Commission also briefly considered adding the borough presidents to the enlarged council, but abandoned the idea out of the concern that boroughwide elected council member (i.e. borough presidents) would dominate the council and diminish the power of the district members (Exhibit 37).

2. Districting Commission and Criteria

To ensure that council district lines are drawn to maximize the electoral opportunities of racial and language minority groups, the Commission has provided a meticulously crafted districting system. The Districting Commission established by the existing Charter would be expanded in size and appointed by more diverse sources. More importantly, the new charter would require that the Districting Commission include members of protected minority groups in proportion, as close as practicable, to their population in the city. The various appointing officials would be required to establish a joint screening and selection process for ensuring compliance with this requirement. (proposed section 50)

Furthermore, the proposed charter explicitly requires the Districting Commission to accord extremely high priority to fair and effective representation of racial and language minority groups protected by the Voting Rights Act. Only the requirement of population equality (one person, one vote) is accorded higher priority on the list of criteria to be followed by the Commission. All other criteria (community and neighborhood integrity, compactness and borough integrity) are to be given less weight than fair and effective representation of minorities (proposed section 52).

Exhibit G to Vattamala Affirmation-
Revision Committee Minutes Appendix V, Vol. VIII
[pp. 101 - 104]

6-22-89
THE CHAIRMAN: The meeting can come to
order. 2

Would the signing person see if anybody
needs signing assistance?

Apparently there is nobody.

Okay. The order in which we're going to go
is, to do the Districting Commission first, then
the chapter on the Council and then the other
items that are on our agenda today, which includes
franchising and, I think, access to information.

Let me try and lead the way on the
Districting Commission and you have the -- we
received last Friday, a chapter, and there are
some technical changes, but it's substantively the
same as the prior one, but it's Chapter 2A and --
which, as I say, you got last Friday, but you also
have the clean version of it this morning.

This, obviously, is very important, because
how the district lines are drawn is the way in
which to deliver on the expectation and design of
enhancing representation for underrepresented
groups in the Council.

We have made a number of changes from the
current system, both, in the substance of the

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criteria for districting which, as when you go through that, you'll see stresses the importance of the fair and effective representation of racial and language groups covered by the Voting Rights Act.

We've made changes in the appointment of the Commissioners. If you remember the dialogue we had on that, we looked at the current system which was done in a reaction to the mistakes made in 1981, where the Council had redistricted itself and it fell afoul of the Voting Rights Act and the whole plan was thrown out, and in reaction to that, the Charter Revision Commission in 1983, recommended a districting plan that, basically, gave the Mayor the appointment of everybody on the Districting Commission, and comments were made, including by the Council as an institution, that that was, from a separation of powers point of view, not appropriate; that it gave the Mayor too much power, that the Mayor could use the potential power of the Districting Commission to coerce members of the Council to work the will of the Mayoralty.

So, pursuant to the discussion we had on

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6-15-89

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Rights Act of slightly enlarging the Council.
Redistricting, I think you can just read
what's in here. It's terribly important. There
is great anxiety among, particularly, racial and
language groups protected by the Voting Rights
Act, that for all our good intentions it won't
work well. We've already done the single most
important thing, which was the criteria for
redistricting we passed, but here there are
proposed some other procedural suggestions that
will help make the public confident that our
objectives will be met.

And on the appointments to the body that
the 1983 Charter, in reaction to the failure by
the Council in 1981 to redistrict properly, went
too far in giving too many appointments to the
Mayor, there should be greater variety in the
appointments, the methodology is set out here.

20 Land use -- have we handed out the longer
21 paper? Gretchen, have we handled out to the
22 members the longer paper? We should --

23 MS. TOOLE: No, it's on its way.

24 THE CHAIRMAN: It's on its way, okay.

25 Just do try and summarize the land use, and

5-6-89 127
questions, and then just open it for discussion.

Conceptually -- I mean, our interest here is in seeing if a change in the size of the City Council -- that is, an enlargement in the size of the City Council, would enhance the opportunities for minorities to be elected.

Then we need to also look at the questions of the effectiveness of the body. We need to consider the size of the districts in an enlarged body, and whether there are other implications having to do with responsiveness to communities that arise from a change in size.

But, the principal issue that we want to look at is, whether expansion of the Council would add to opportunities for minorities to get elected to the Council.

There are, very broadly speaking, a number of variables which can answer that question in the future, one of which is size. But I want to start with another variable, and make a couple of comments about the other variable before we get to size.

Obviously, another variable is the way in which the lines are drawn, because you can -- you know, there are almost an infinite number of lines

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**Exhibit H to Vattamala Affirmation-
Exhibit 33 to the Submission under Section 5 of the Voting
Rights Act for Preclearance of Proposed Amendments to the
New York City Charter (August 11, 1989)
[pp. 105 - 116]**

35-a

The Asian-American population of New York City has been increasing at a rapid rate. While there is evidence of this growth throughout the city and the emergence of a number of smaller population concentrations, the two major concentrations of Asian-Americans in New York City are in Lower Manhattan (Chinatown) and Flushing, Queens. The first two tables of this exhibit present the demographic characteristics of the current Assembly and Council districts which encompass these two areas.

- Chinatown is covered by the 61st and 62nd Assembly Districts with approximately three-fourths of the population of this area in the 62nd and the remainder in the 61st. This area is included entirely in the 2nd Council District.
- Flushing is split among four Assembly Districts, (the 24th, 25th, 26th and 27th) with the bulk of the area's population in the latter two districts. The overwhelming majority of Flushing's population is located in the 19th Council District with a small portion in the 18th.

While both areas are, for the most part, included in single Council Districts, the size of the two districts involved, (211,401 and 212,401) results in the effective submergence of these areas.

The first two tables also present the demographic characteristics of the relevant districts from two of the Commission's prototype districting plans (see Exhibit 28 for a fuller discussion of these plans) -- Version 1 (a 50 district proposal) and Version 5* (a 51 district proposal) -- as well as various modifications intended to maximize the total number of Asian-Americans in districts of either approximately 120,000 people (59-60 districts total) or 140,000 people (50-51 districts total). By including all of Chinatown in an Assembly-District-sized district, the Asian-American population is increased by 23.4%. Similarly, by including all of the Asian-American community of Flushing in one district, their population percentage is increased by 53.9%. While the implications of these changes on the overall make up of the two districts is limited (from 27.68% to 34.26% in Chinatown; and from 8.82% to 13.66% in Flushing) when working with the 1980 data, they are particularly important when examining the impact of estimates of the current Asian-American population and projections of the 1990 Asian-American population.

* For Chinatown, the relevant district in Version 5A, an attempt to create a district with an Asian-American plurality, is included in the analysis.

The Chinatown Voter Education Alliance in testimony presented at the Commission's July 18, 1989 hearing provided the Commission

with population projections for the Asian-American community in 1990. In addition, the Korean-American Association of Flushing provided the Commission with estimates of the 1988 Asian American population prepared by the Asian-American Center of Queens College. These projections are incorporated into the final table of this exhibit. A discussion of the methodology used by these two groups follows.

METHOD 1

The Chinatown Voter Education Alliance (CVEA) projected that the Asian-American community in New York will have grown by 119% from 1980 to 1990. They applied that figure to the 1980 Asian population of current Assembly Districts to arrive at projections for 1990. However, the existing Assembly districting, as indicated above, splits Chinatown between two districts, the 61st and 62nd. When the CVEA's methodology is applied to a district of the same size as the assembly districts which does not split Chinatown, results are quite different. In fact, using this methodology, one is able to create an overwhelmingly Asian district in Chinatown. Moreover, when this methodology is applied to a district of approximately 140,000 (i.e. 1/51 rather than 1/60 of the total population), the results are quite similar.

METHOD 2

The Asian-American Center of Queens College estimated that the Asian American population of Queens has nearly tripled between 1980 and 1987 and that 125,000 Asian-Americans currently live in Flushing, Queens. In its FY 1989 Community District Needs Statement, the Community Board of Community District 7, which is comprised of Whitestone, College Point, Flushing, Queensboro Heights and Bay Terrace estimates that the population of that area is 270,000. These estimates reflect two trends since 1980: that the total population of this area has increased significantly (205,000 to 270,000), and that the percentage of total population represented by Asian-Americans has grown even more rapidly. The 1980 Census reported only 17,404 Asian-Americans in all of Community District 7. In 1980, Flushing accounted for 68% of the Community District's total population. If this relationship still holds true, Flushing's total population would currently be about 187,000. The 125,000 Asian-American residents would thus represent approximately two-thirds of Flushing's total population. This substantial growth of the Asian-American population could not have occurred unless there was a concomitant expansion of the geographic area of significant Asian-American settlement. Expert opinion is that these settlement patterns are expanding eastward from Flushing Meadow Park and that a district should be drawn not only to reflect current (i.e. 1990 census) patterns but to capture anticipated growth as well.

If the assumption that Asian-Americans represent two-thirds of the 187,000 person area is accurate, then districts of either 120,000 or 140,000 are unlikely to differ substantially in terms

of their Asian-American population percentage. For the converse to be true, there would have to be, within this 187,000 person area, a geographic subarea with a total population of 120,000 and a significant concentration of Asian-Americans surrounded completely by areas of low Asian-American concentration. Based on the population estimates and other demographic information available, this does not appear to be the case. Moreover, it must be noted that this analysis is based on estimates of the population as of 1988 and that all knowledgeable observers expect the rapid growth rates of the 1980-1987 period to continue.

CHITAT 33-B

DISTRICT SIZE SCENARIOS
CHINATOWN

LOCATION	TOTAL POPULATION	ASIAN POPULATION	ASIAN PERCENTAGE	HISPANIC POPULATION	HISPANIC PERCENTAGE	WHITE POPULATION	WHITE PERCENTAGE	AFRO-AMERICAN POPULATION	AFRO-AMERICAN PERCENTAGE
CHINATOWN	211,401	44,422	21.01%	61,137	28.92%	86,370	40.86%	17,295	8.18%
ASS'Y DIST 62	118,951	32,926	27.68%	47,485	39.92%	25,823	21.71%	11,855	9.97%
ASS'Y DIST 61	118,950	10,459	8.79%	9,733	8.18%	92,657	77.90%	4,848	4.08%
CHINATOWN	118,602	40,632	34.26%	31,800	26.81%	37,133	31.31%	8,516	7.18%
CHINATOWN	120,034	40,906	34.08%	31,008	25.83%	39,097	32.57%	8,524	7.10%
CHINATOWN	139,921	39,882	28.50%	51,765	37.00%	34,118	24.38%	13,110	9.37%
CHINATOWN	139,208	39,951	28.70%	43,234	31.06%	32,272	23.18%	13,238	9.51%
CHINATOWN	137,805	42,183	30.61%	33,819	24.54%	51,716	37.53%	9,504	6.90%
CHINATOWN	140,992	42,200	29.93%	37,829	26.83%	49,844	35.35%	10,528	7.47%
CHINATOWN	140,009	42,298	30.21%	34,028	24.30%	53,450	38.18%	9,640	6.89%

DISTRICT SIZE SCENARIOS
FLUSHING

COUNCIL	LOCATION	TOTAL POPULATION		ASIAN		HISPANIC		HISPANIC		WHITE		AFRO-AMERICAN	
		POPULATION	PERCENTAGE	POPULATION	PERCENTAGE	POPULATION	PERCENTAGE	POPULATION	PERCENTAGE	POPULATION	PERCENTAGE	POPULATION	PERCENTAGE
ARRANT COUNCIL	FLUSHING	212,491	7.98%	31,092	14.63%	146,241	68.82%	16,167	7.61%				
ARRANT ASSEMBLY	DIST 26	118,198	8.82%	12,515	10.59%	86,983	73.59%	7,084	5.99%				
	DIST 27	118,201	8.39%	12,620	10.68%	85,983	72.74%	8,251	6.98%				
POSSIBLE CONFIGURATIONS	FLUSHING	117,483	13.66%	18,371	15.64%	70,326	59.86%	12,224	10.40%				
	FLUSHING	120,090	13.01%	16,054	13.37%	79,520	66.22%	8,317	6.93%				
	FLUSHING	118,772	13.14%	15,950	13.43%	78,329	65.95%	8,317	7.00%				
VERSION 1 DISTRICT REPOSAL	FLUSHING	141,324	10.37%	21,005	14.86%	88,780	62.82%	14,714	10.41%				
	FLUSHING	140,192	11.84%	21,643	15.44%	86,078	61.40%	15,318	10.93%				
VERSION 5 DISTRICT REPOSAL	FLUSHING	140,048	12.14%	16,714	11.93%	97,223	69.42%	8,538	6.10%				
	FLUSHING	139,322	11.85%	16,853	12.10%	97,013	69.63%	8,346	5.99%				

ASIAN-AMERICAN POPULATION PROJECTIONS
APPLIED TO CRC DISTRICT SCENARIOS

LOCATION	DISTRICT SIZE	CURRENT		METHOD 1		METHOD 1	
		ASIAN POPULATION	ASIAN PERCENTAGE	ASIAN POPULATION PROJECTION	ASIAN PERCENTAGE PROJECTION		
RENT SEMI- SSIBLE DIF- TIONS	ASS'Y DIST 62 ASS'Y DIST 61 CHINA/TOWN CHINA/TOWN	118,951 118,950 118,602 120,034	32,926 10,459 40,632 40,906	27.68% 8.79% 34.26% 34.08%	72,108 22,905 88,984 89,584	60.62% 19.26% 75.03% 74.63%	
REGION 1 DISTRICT DIPSAH	CHINA/TOWN	139,921	39,882	28.50%	87,342	62.42%	
REGION 5 DISTRICT DIPSAH	CHINA/TOWN	139,208	39,951	28.70%	87,493	62.85%	
REGION 5A DISTRICT DIPSAH	CHINA/TOWN	137,805	42,183	30.61%	92,381	67.04%	
SSIBLE DIF- TIONS	CHINA/TOWN CHINA/TOWN	140,992 140,009	42,200 42,298	29.93% 30.21%	92,418 92,633	65.55% 66.16%	

ASIAN-AMERICAN POPULATION PROJECTIONS
APPLIED TO CRC DISTRICT SCENARIOS

CURRENT ASSEMBLY	LOCATION	DISTRICT SIZE	CURRENT ASIAN POPULATION	CURRENT ASIAN PERCENTAGE	METHOD 2		METHOD 2 ASIAN PERCENTAGE PROJECTION
					ASIAN POPULATION PROJECTION	ASIAN PERCENTAGE PROJECTION	
	ASS'Y DIST 26	118,198	10,429	8.82%	67,597	57.19%	57.19%
	ASS'Y DIST 27	118,201	9,918	8.39%	67,599	57.19%	57.19%
POSSIBLE MODIFI- CATIONS	FLUSHING	117,483	16,052	13.66%	78,361	66.70%	66.70%
	FLUSHING	120,090	15,622	13.01%	80,100	66.70%	66.70%
	FLUSHING	118,772	15,611	13.14%	79,221	66.70%	66.70%
VERSION 1 50 DISTRICT PROPOSAL	FLUSHING	141,324	14,655	10.37%	94,263	66.70%	66.70%
VERSION 5 51 DISTRICT PROPOSAL	FLUSHING	140,192	16,593	11.84%	93,508	66.70%	66.70%
POSSIBLE MODIFI- CATIONS	FLUSHING	140,048	16,996	12.14%	93,412	66.70%	66.70%
	FLUSHING	139,322	16,515	11.85%	92,928	66.70%	66.70%

- ASSUMPTIONS:
1. Total population of Flushing is 187,000
 2. Asian-American population of Flushing is 125,000
 3. Asian-American population is evenly distributed throughout Flushing

E. 33-c



Asian/American Center

1980 Census Data

	New York City	in Queens	% in Queens
Chinese	124,764	39,135	31%
Indians	40,945	21,736	53%
Filipinos	23,810	11,196	47%
Koreans	23,257	14,486	62%
Japanese	13,730	5,487	40%
Vietnamese	3,283	1,418	43%

>>> Between 1970 and 1980 the Asian population of Queens increased by 417%

>>> in 1980, about 40% of New York City's Asian population lived in Queens, about 93,000 of 230,000 [uncorrected for undercount]

>>> between 1980 and 1985, the U.S. Asian population increased by 48.5%

>>> between 1980 and 1987, the Queens Asian population nearly tripled, from 5% of the borough to 14% [to c.300,000]

>>> Queens in 1987 is 14% Asian, 16% Hispanic, 21% Black, and 49% White

Estimates, 1988

New York City Chinese population: c.310,000
 Manhattan c.150,000
 Queens c.100,000 [Flushing: 60,000]
 Brooklyn c. 60,000

New York City Korean population: c.200,000
 Queens c.110,000 [Flushing: 65,000]

In 1988, we estimate at least 600,000 Asians in New York City, and half live in Queens.

Roger Sanjek, Acting Director
 22 March 1988

The City University of New York · 65-30 Kissena Boulevard
 Flushing, New York 11367-0904 · Telephone (718) 670-4226

紐約華埠選民教育聯會
 CHINATOWN VOTER EDUCATION ALLIANCE
 18 Bowery, MCC #797 New York, N.Y. 10013
 Telephone: (212) 571-1699

TESTIMONY OF GAIL M. KONG before the NEW YORK CITY CHARTER
 REVISION COMMISSION, July 18, 1989

Mr. Chairman, Commission members and staff, my name is Gail Kong. I am the Asian member of the Voter Assistance Commission and the Vice President of the Chinatown Voter Education Alliance. Representing a Citywide working group of Asian organizations, we appreciate this second opportunity to present testimony. There are three main points I will put on the record today.

First, individual efforts notwithstanding, we believe the total body of the Commission's work will not hold up well when tested for protection of Asians as a minority group covered by the Federal Voting Rights Act. Analysis of data and policy discussions have relied upon consideration of voting patterns and positions of African Americans and Latinos. There has been almost no consideration of Asians in this work.

It might be argued that efforts have been made to involve Asian community agencies, and we are not evaluating those efforts here. We think the test of your work should be turned, instead, on the data analysis itself. It is this analysis on which you have based your position regarding the number of Council Districts which should be created in order to increase the representation of minorities in the City Council. We believe a great deal depends upon the direction given to staff by Commission members. And we point out here that at that important policy level, there is no Asian Commissioner.

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Second, we ask again that you reconsider the number of City Council districts, because there is a very significant difference for Asians between 51 and 59 districts. There are three important flaws in your current thinking.

We disagree strongly with the Commission's assumption that a district must have at least 80% minority voters before a minority might be elected; at least, it does not necessarily apply to Asians. This year 3 Asians were elected as community school board members in Queens County districts that could not possibly be 80% Asian and 2 Asian Civil Court Judges (out of 9) were elected in Manhattan Countywide elections last year. These points can be tested through analysis of those election results.

The second flaw is your reasoning regarding the number of Council districts and its impact on Asians is that our dynamic population growth since the 1980 Census must be taken into account.

To further support our recommendation for 59 districts we offer this comparison, which illustrates the third flaw in your reasoning. We have looked at the Asian population difference between 51 and 59 districts in key districts in Manhattan and Queens. The result, particularly in Manhattan, is striking.

The City Planning Commission in a study limited to immigration under green cards, that is, excluding new births,

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migrations, and other sources of population change, found that the Asian population in New York City will expand 119% between the 1980 and 1990 Census. Extrapolating that information to key Assembly Districts (which by most accounts is not the optimal approach to maximizing minority representation) is nevertheless instructive.

We estimate that in 1990 the Asian population in the 62nd AD in Manhattan will be 68,128. Fifty percent of the population in 51 districts, would be 71,080; while the same percentage in 59 districts would be only 61,442 (assuming we find 7,250,000 people during the 1990 Census). The difference, for us, is really significant. Applying the same methodology in the 30th AD in Queens would yield a district with 42,088 Asians.

The argument that a larger Council is unwieldy is germane when discussing the difference between 22 and 130. But we believe it is much less persuasive when comparing 51 to 59 districts. Moreover, we believe the specific obligation to increase the likelihood of Asian representation is overriding and, in fact, might argue for a slightly larger Council, up to 61 or 65 districts, for example.

The third point of our testimony today is to thank Commission members and express strong support for the recommendations you have made to expand the size of the Districting Commission, to ensure the representation on the Commission of those protected by

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the Voting Rights Act, and especially the changes in the criteria for drawing City Council District lines. We refer here to Chapter 2-A, Section 50a.7.b.1. and Section 52b. and c. of the draft language dated June 29, 1989. For the record, I do want to point out again, that regarding your proposed sixth criteria, Section 52.f., coincidence with existing community district boundaries will likely be in conflict with consolidated representation of Chinatown. Chinatown is now split into 3 community boards, and it would continue to dilute our representation if community district boundaries were used in the first instance in drawing City Council district boundaries.

Thank you.

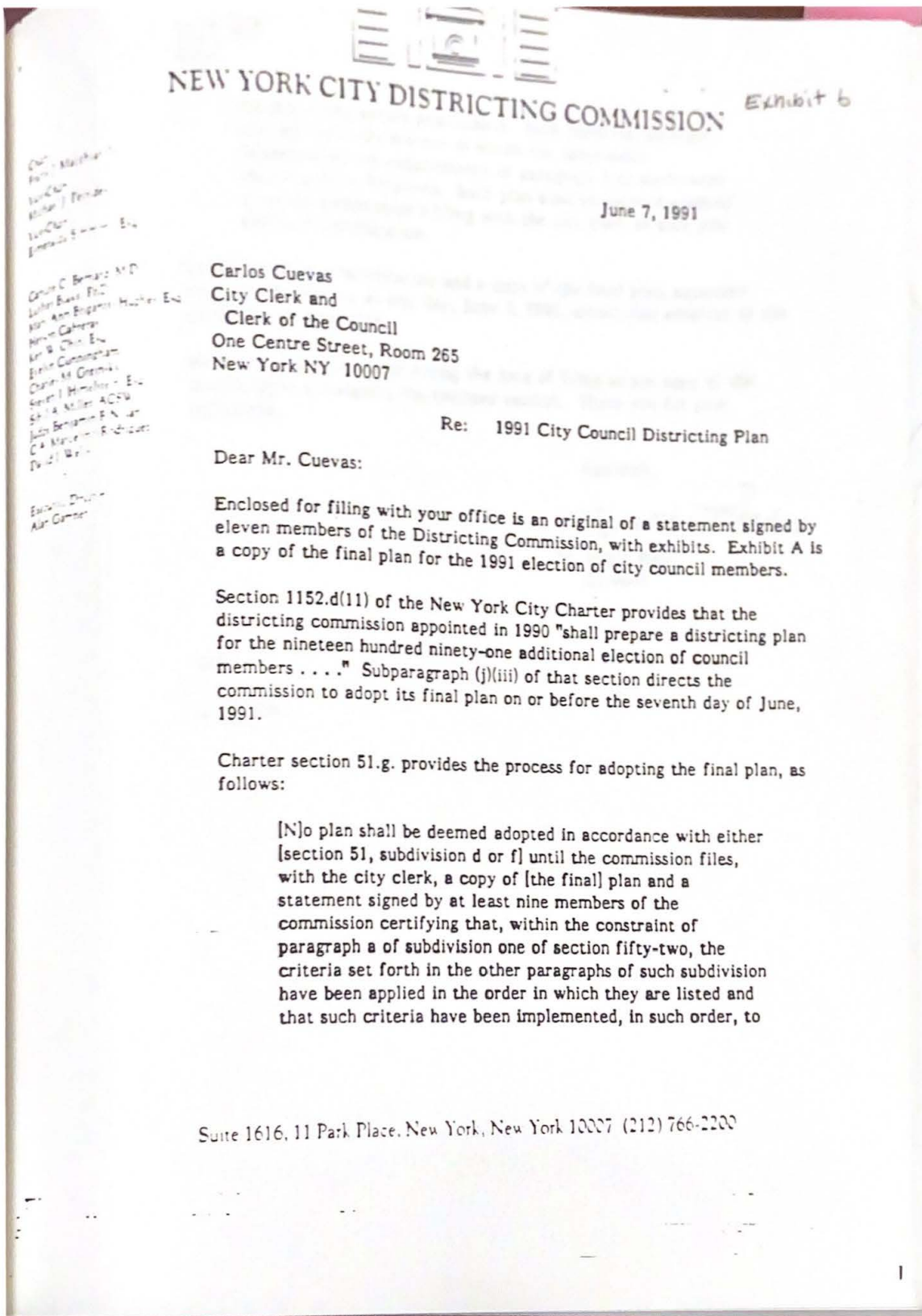
Exhibit I to Vattamala Affirmation-
New York Districting Commission, 1991 City Council Districting
Plan Certification (June 7, 1991)
[pp. 117 - 122]

FILED: NEW YORK COUNTY CLERK 02/24/2023 02:36 PM

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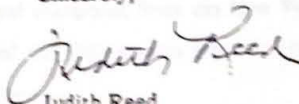
Carlos Cuevas
June 7, 1991
Page 2

the maximum extent practicable. Such certification shall also set forth the manner in which the commission implemented the requirements of paragraph b of subdivision one of section fifty-two. Such plan shall be deemed adopted upon the commission's filing with the city clerk of such plan and such certification.

The filing of this certification and a copy of the final plan, appended hereto as Exhibit A, on this day, June 7, 1991, constitutes adoption of the commission's final plan.

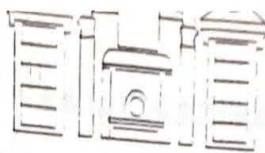
We would appreciate your noting the date of filing on our copy of the certification and signing the enclosed receipt. Thank you for your assistance.

Sincerely,


Judith Reed
Counsel

/lm

enclosure



NEW YORK CITY DISTRICTING COMMISSION

Chair
 Paul J. Markowitz
 Vice-Chair
 Michael J. Ferriter
 Vice-Chair
 Emerald Simmons, Esq.

Charles C. Bernard, M.D.
 Luther B. Baker, Ph.D.
 Mary Ann Brennan, Huber, Esq.
 Hiram Cabrera
 Ann W. Chin, Esq.
 Brian Cunningham
 Charles M. Greene
 Steven J. Himmelfarb, Esq.
 Sheila A. Miller, ACSW
 Judge Benjamin F. Nolan
 CA Marceline R. Resques
 David J. Wells

Executive Director
 Alan Garner

I, Carlos Cuevas, on behalf of the office of the City Clerk and Clerk of the Council, hereby acknowledge receipt, on this 7th day of June 1991, of the original signed statement from the New York City Districting Commission and a copy of the 1991 district plan for city council, as required by charter section 51.g.

Carlos Cuevas

Suite 1616, 11 Park Place, New York, New York 10007 (212) 766-2200

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CERTIFICATION

1. Section 1152.d(11) of the Charter of the City of New York, as amended in November 1989, (hereinafter the "charter") provides that the districting commission appointed in 1990 "shall prepare a districting plan for the nineteen hundred ninety-one additional election of council members in accordance with the provisions of this paragraph and in accordance with the provisions of chapter two-A," In so doing, "the commission shall be guided by the criteria set forth in section fifty-two." (Section 51.a.)

2. Subparagraph (j)(iii) of section 1152.d(11) directs that the commission shall adopt its final plan on or before the seventh day of June, 1991, in accordance with subdivision g of section 51. The filing of this certification signed by eleven members of the commission together with a copy of the final plan, appended to this certification as Exhibit A, on this day, June 7, 1991, constitutes adoption of the commission's final plan.

3. The undersigned members of the New York City Districting Commission (hereinafter the "commission"), in accordance with charter chapter 2A section 51.g and chapter 52 section 1152.d(11)(j)(iii), do hereby certify that, within the constraint of paragraph a of subdivision one of section 52, the criteria set forth in the other paragraphs of such subdivision have been applied in the order in which they are listed and that such criteria have been implemented in such order, to the maximum extent practicable.

4. The undersigned members of the commission, in accordance with charter chapter 2A section 51.g and chapter 52 section 1152.d(11)(j)(iii), do hereby further certify that the commission has implemented the requirements of paragraph b of subdivision one of section 52 ("such districting plan shall be established in a manner

New York City Districting Commission
Certification
June 7, 1991
Page 2

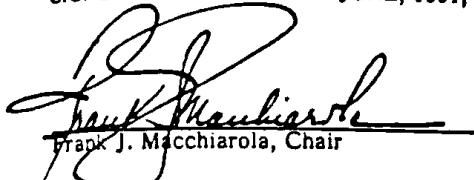
that ensures the fair and effective representation of the racial and language minority groups in New York city which are protected by the United States voting rights act of nineteen hundred sixty-five, as amended") in the following manner:

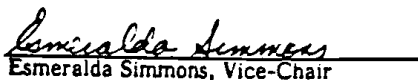
The commission (a) determined the geographical location of racial and language minority groups in New York city which are protected by the voting rights act (hereinafter "protected racial and language minority groups"); (b) held numerous public hearings, at which a number of persons testified who were members of protected racial and language minority groups; (c) conducted targeted outreach through mailings, meetings, and advertising in minority media and non-English language publications to assure meaningful participation on the part of protected racial and language minority groups in the commission's determination; (d) reviewed analyses of voter registration rates, prior participation rates, and voting behavior; (e) drew district lines to enhance the opportunities of protected racial and language minority groups to participate in the political process and elect candidates of their choice, to the greatest extent feasible.

The results of this process are as follows: there are 27 districts in which combined protected racial and language minority groups represent a majority (50% or greater) of the total population in a district. There are 25 districts with combined protected racial and language minority group populations of 60% or greater, 23 districts with combined protected racial and language minority group populations of 70% or greater, and 21 districts with combined protected racial and language minority group populations of 80% or greater. See Exhibit B to this certification.

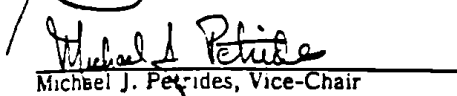
New York City Districting Commission
Certification
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Page 3

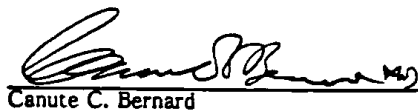
SIGNED THIS 7th DAY OF JUNE, 1991,


Frank J. Macchiarola, Chair

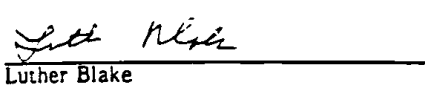

Esmeralda Simmons, Vice-Chair

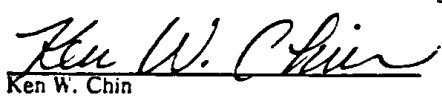
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Michael J. Petrides, Vice-Chair

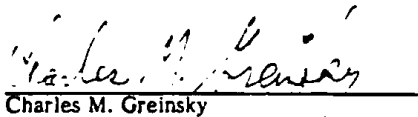

Canute C. Bernard

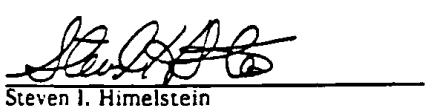
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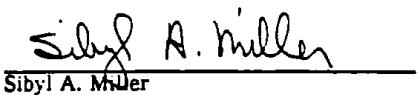

Luther Blake


Ken W. Chin


Evelyn Cunningham


Charles M. Greinsky


Steven I. Himmelstein


Sibyl A. Miller


Camelia A. Marcelino-Rodriguez

**Exhibit J to Vattamala Affirmation-
Aaron Fernando Written Testimony, June 27, 2022
[pp. 123 - 124]**

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DeCillis, Michael

From: Aaron F. <[REDACTED]>
Sent: Monday, June 27, 2022 6:09 PM
To: Public Testimony
Subject: [EXTERNAL] Testimony from today's Queens hearing
Attachments: map-image (4).png

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Forward suspect email to phish@cyber.nyc.gov as an attachment (Click the More button, then forward as attachment).

Good afternoon Commissioners and staff. My name is Aaron Fernando and I am a lifelong resident of Richmond Hill, Queens. And last year, I was the field director for a city council campaign along the Hillside Avenue corridor. Today, I want to speak about both of these communities and why they should be kept whole under this year's redistricting maps.

Richmond Hill and South Ozone Park have formed a single immigrant community community of interest for decades. They are defined by rows of single and two family homes that have increasingly been inhabited by Indo-Caribbean and Punjabi-Americans. The area's borders are approximately Hillside Avenue and Forest Park to the north, Woodhaven Blvd to the west, the Belt Parkway to the south, and the Van Wyck Expressway to the east.

Unfortunately, for the last decade this community has been divided into three council districts: 28, 29, and 32. While the bulk of this community of interest is in District 28, the district crosses the Van Wyck to connect to Jamaica and Rochdale Village. The Van Wyck is a clear geographic boundary that should not be crossed in redistricting as much as possible. Meanwhile, various parts of Richmond Hill and South Ozone Park are connected to neighborhoods as far flung as Breezy Point and Forest Hills, neighborhoods that share almost nothing in common with one another.

Meanwhile, the Hillside Corridor refers to the immigrant communities that fall along Hillside Avenue in Eastern Queens. Anyone who has drove along Hillside or sat down at a restaurant there understands the rich Bangladeshi, Indian, Punjabi, and Guyanese-American communities that have settled there. The area's borders are approximately the Grand Central Parkway to the north, the Van Wyck to the west, Jamaica Ave to the south, and the Nassau County border to the east, although these borders are not exact. The neighborhoods and portions of neighborhoods included are Briarwood, Jamaica Hills, Hollis, Queens Village, Bellerose, Glen Oaks, and Floral Park.

Currently, the Hillside Corridor is also split between 3 council districts, 23, 24, and 27. South Asians are split in two at 188th St; District 23 connects Punjabi voters to Bayside and Douglaston, District 24 connects Bangladeshi voters to Kew Gardens Hills, and District 27 connects Indo-Caribbean voters to St. Albans. South Asian neighborhoods should be kept within a single district, not split into 3.

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I have submitted a citywide council map to the commission that keeps these South Asian communities together. My proposed District 32 encompasses all of Richmond Hill, South Ozone Park, and Bangladeshi areas of Ozone Park. It is 35% Asian, a plurality. In addition, my proposed District 19 encompasses the entirety of the Hillside Corridor. It is 45% Asian, a near majority.

Both these districts keep neighborhoods whole as well as South Asian communities of interest, allowing them to finally elect the candidates of their choice. I would be happy to take any other questions and further explain the details of my proposed map.

----- Forwarded message -----

From: Aaron F. <[REDACTED]>
Date: Fri, Jun 3, 2022 at 6:49 PM
Subject: Proposal citywide council redistricting map
To: <PublicTestimony@redistricting.nyc.gov>, <NYCRedistricting@redistricting.nyc.gov>

Good evening,

Apologies for my late submission, but I've been working on my Council map proposal for the entire city. I believe it effectively preserves communities of interests, better matches the city's diversifying demographics, and unites divided neighborhoods.

An image of the proposal is attached.

Dave's Redistricting: <https://davesredistricting.org/maps#viewmap::92ad4ff2-68fa-4fe5-bfe4-c54bef6781c3>

Spreadsheet data: https://docs.google.com/spreadsheets/d/1viB6rK-2ikzJqRgrnL6Ms8_D9PTJ5kUyospwN8xFKIGs/edit#gid=0

Written summary: <https://docs.google.com/document/d/1hVgs72XR72tdAGYaplG5Ri8Ufufif3EW7YWSAkGDMvXk/edit>

Thank you for your consideration, and please let me know if you have any questions. Good luck with your round of maps!

Best,
Aaron

**Exhibit K to Vattamala Affirmation-
AALDEF Community of Interest Map for Richmond Hill South
Ozone Park**

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Richmond Hill/South Ozone Park

This map was created at [Representable.org](https://representable.org)

View this community at:

<https://www.representable.org/submission/da8a3b80-facd-4549-97b7-2cceb0e6bff>

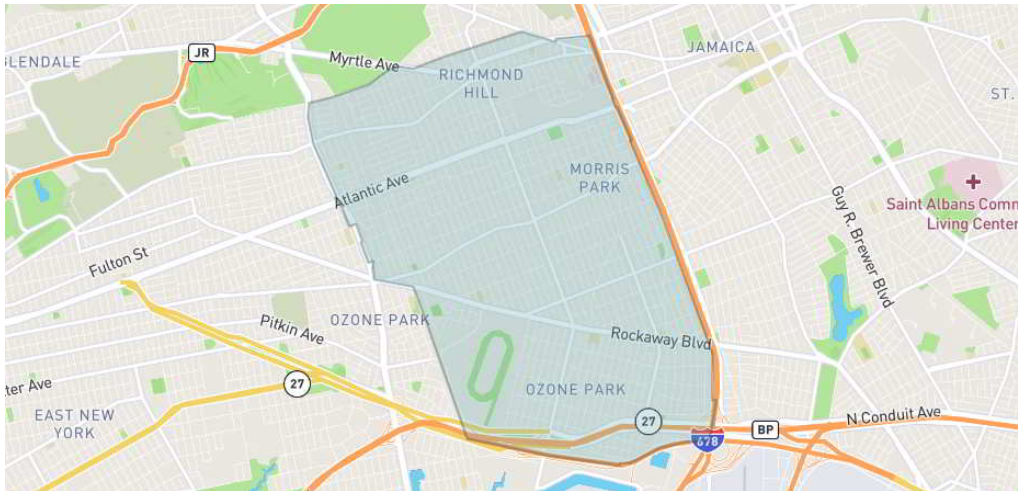


Exhibit L to Vattamala Affirmation-
Districting Commission Public Hearing - Queens, August 16, 2022
[pp. 126 - 161]

FILED: NEW YORK COUNTY CLERK 02/24/2023 02:36 PM

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NYSCEF Docket No. City of New York 2022-2023 Districting Commission Queens 02/24/2023

Second Round Public Hearing
August 16, 2022

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CITY OF NEW YORK 2022-2023 DISTRICTING COMMISSION
QUEENS PUBLIC HEARING
-----X

36-01 35th Avenue
Astoria, New York

DATE: August 16, 2022
TIME: 5:32 P.M.

PUBLIC HEARING in the above-referenced
matter, held at the above-mentioned time and
location, before Makeda Edwards, a Notary Public
of the State of New York.

LH REPORTING SERVICES, INC.
Computer-Aided Transcription
(718) 526-7100

Second Round Public Hearing
August 16, 2022

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A P P E A R A N C E S :

COMMISSIONERS:

DENNIS M. WALCOTT, Chair

YOVAN SAMUEL COLLADO

HON. MARILYN D. GO

KEVIN JOHN HANRATTY

MARIA MATEO

LISA SORIN

MONSIGNOR KEVIN SULLIVAN

MAF MISBAH UDDIN

KRISTEN JOHNSON

MARC WURZEL

DR. JOHN FLATEAU, Executive Director

Second Round Public Hearing

August 16, 2022

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CHAIR WALCOTT: Thank you for your testimony. Next, we're going virtual. Albert Baldeo and Joane Yu and then Bill Perkins.

ALBERT BALDEO: Hello, Commissioners, good evening. This is, like you said, a rodeo. In thirty years, this is my third testimonial in three decades currently with this Commission.

I think you've done a very favorable job with the maps, but I believe it needs some tweaking. You cannot put Rochdale Village with Ozone Park, South Ozone Park with Richmond Hill. They have no commonality whatsoever. As a matter of a fact, you're going against the laws of census and redistricting and courts have been upholding this -- as you saw the last redistricting process.

As a matter of a fact, the republicans and democrats who -- well, they didn't agree on anything, but they agreed to one thing and that one thing

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2 was that in Richmond Hill, Ozone Park
3 and South Ozone Park must be kept
4 together and that must give you a lot of
5 food for thought because if the
6 democrats and republicans, who agree on
7 nothing else, can agree that these three
8 communities are so integrated that you
9 must keep them together, that it
10 behooves you to listen to that, sort of,
11 analysis that they did and to, sort of
12 invoke -- and you've done it to a very
13 large extent.

14 The only thing is that you've
15 dragged the lines -- I think you should
16 start with 32. 32 is more favorably
17 disposed to include us together; that is
18 to the Van Wyck Expressway, the city
19 line just at Woodhaven and from Forest
20 Parkway and to the Conduit. And I've
21 submitted a map to that effect.

22 In fact, I believe that the Unity
23 Map also reflects something similar.
24 There you have a mass and a base of
25 folks who have the same historical

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1
2 heritage, the same ancestry, the same
3 customs, they worship at the same
4 schools and churches and they play
5 together and work together. There's
6 also essential workers who deserve some
7 consideration and they have been the
8 backbone of this local economy in New
9 York City. So it behooves you to at
10 least give them justice.

11 That justice is very simple, that
12 you keep them together. They live in
13 one and two-family homes and therefore
14 their mortgages and so forth, property
15 taxes are issues that must be tackled
16 together. That is why putting them
17 together would be good.

18 My good friend, I. Daneek Miller,
19 former City Councilman, he also talked
20 about keeping Rochdale Village together.
21 I agree with that, but not at the
22 expense of other communities and also
23 not dividing Richmond Hill, Ozone Park
24 and South Ozone Park with Howard beach
25 because they are disparate communities,

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1
2 they're separate. They have nothing in
3 common and it only creates tension and
4 it's the wrong thing to do. But you
5 have enough mass, you have enough
6 critical mass of folks to put them
7 together in one city council district;
8 in Richmond Hill, South Ozone Park and
9 Ozone Park.

10 And that is what I would advise you
11 strongly to do and we would ask you to
12 do that because it satisfies all the
13 legal criteria for redistricting, it is
14 a purposeful approach to this issue and
15 it's also one that we must embrace as a
16 matter of both law, reality, morality
17 and conscience, so I would ask you to do
18 that.

19 Now, why do I say this --

20 CHAIR WALCOTT: I'm sorry to
21 interrupt, but it sounds like you're
22 going to go into another major theme and
23 we have other people who are --

24 ALBERT BALDEO: Oh, no. I was just
25 twice-elected in District 38, which is

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1
2 Woodhaven and Richmond Hill and also in
3 24. So my point to you is that it
4 already shows the commonality of
5 electing one person, of being together
6 and of doing that, we respectfully ask
7 that you keep Richmond Hill, Ozone Park
8 with South Ozone Park together, the
9 Forest Hill, the Forest Parkway,
10 Woodhaven, our city line to the Conduit
11 and to the Van Wyck Expressway and not
12 divide Rochdale Village or not use us as
13 filler for any other district. That's
14 all I ask -- or that's all we ask
15 because I'm an elected district leader
16 and I speak for this community. So
17 thank you very much, Commissioners, and
18 we hope you do the right thing.

19 CHAIR WALCOTT: Thank you for your
20 testimony, Joanne Yu.

21 Joanne Yu.

22 Next would be Bill Perkins.

23 Bill Perkins: Thank you,
24 Commissioner. As a way of background,
25 my name is Bill Perkins. I live in

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1
2 in our community. Until today, most of
3 the Nepalese community doesn't have --
4 get any one single penny from the city
5 and state. We donating the money. We
6 making the own house, we building our
7 community better.

8 Now all communities divided, this is
9 very painful for us. Please save our
10 community together. We want to sit
11 together, not divided. That's why we
12 all are strongly oppose this proposed
13 map of the District 25 and 26, strongly
14 oppose them. We do believe all elected
15 members, Commissioner and all these
16 staff you all hear us (sic) pain today.

17 Thank you so much.

18 CHAIR WALCOTT: Thank you for your
19 testimony.

20 Next, we'll go back to our virtual
21 testimony.

22 And Faye D. Hill, Ambika Persaud and
23 Amanda Debrah.

24 Faye D. Hill.

25 If not, Ambika Persaud.

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Amanda --

AMBIKA PERSAUD: Good evening.

CHAIR WALCOTT: I'm sorry.

Do I hear voices?

AMBIKA PERSAUD: Hi. This is Ambika Persaud.

CHAIR WALCOTT: Hi, how are you. You're up.

MS. PERSAUD: Okay. Good evening. Thank you to the New York City Districting Commission for convening this hearing today.

My name is Ambika Persaud. I'm an active member and a summer organizer at South Queens Women's March, a local gender justice organization. I've also lived in the Queens neighborhoods, in Richmond Hill and South Ozone Park for most of my life. As a professionally trained Indian classical dancer in the public dance forum, I've shared my art with so many cultural programs and festive occasions in this community, all spread across district lines that are

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not intuitive and fracture us at our very core.

A little bit about South Queens Women's March, founded right before the pandemic hit, South Queens Women's March amplifies the voices of South Queens, diverse woman and gender expansive people. We are a multi-generational, intersectional platform working to foster women's empowerment. We take our sisterhood to the streets to unify women and gender expansive people and connect them to the tools and resources necessary to empower their own lives and thrive, through mutual aid, healing and art and wellness, youth and professional development and civic engagement, all while meeting people where they are, which is what brought us to become a proud member of the APA Voice Redistricting Task Force.

Much of our work has been based in Richmond Hill and South Ozone Park, home to vibrant and widespread Asian-American

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1
2 populations, specifically South Asians,
3 mainly consisting of Punjabi and
4 Indo-Caribbeans. I want to note that
5 the Asian population in Queens has grown
6 larger than any other racial group the
7 last census by 29 percent, an increase,
8 many local CBOs, including ours, put so
9 much energy into capturing.

10 These communities have been
11 gerrymandered for far too long. They've
12 been disenfranchised. When the pandemic
13 hit, many of our grassroots
14 organizations had to pivot and meet the
15 needs of our community, a community that
16 was number one for COVID incidents and
17 struggling for resources. We want to
18 finally be able to elect candidates of
19 our choice in the place we called home.
20 We can't accept our votes being diluted
21 any longer. Our community of interest
22 is bordered by Woodhaven Boulevard to
23 the west, Jamaica Avenue to the north,
24 the Van Wyck Expressway to the east, and
25 Conduit Avenue to the south.

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The map the Districting Commission recently released further divides our community, splitting us up even more across District 28, 29 and 32, instead of keeping us together.

We are opposed to this map. Currently, we're supporting the Unity Map, as it would create a plurality APA District in City Council District 32.

We remain open to any option that will keep us together. Over the last few weeks, we put in the work to have meetings with some of you to advocate to keep Richmond Hill and South Ozone Park whole. We've also met with elected officials, including Speaker Adrian Adams and Selvena Brooks-Powers.

We have additional meetings with elected officials lined up in the coming days. We remain hopeful that you will all hear our voices. As you go to the drawing board and consider these maps, we ask that you please do not divide us. Keep Richmond Hill and South Ozone Park

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whole. Thank you.

CHAIR WALCOTT: Thank you for your testimony.

Is that Amanda Debrah and Mahtab Khan and then Dan Miller.

Amanda Debrah.

Okay, Mahtab Khan.

MAHTAB KHAN: Hi, good evening. My name is Mahtab Khan. I'm a South Asian activist from Jamaica, Queens. It's my hometown and I've lived here all of my life.

I'm here to speak in opposition of the map draft released by the Commission for City Council District 24. This is the district that I reside in and I disagree with it. Unfortunately, the map draft released by the Commission is very similar to the past District 24 map and I believe it violates the Voting Rights Act of 1965 by not acknowledging the South Asian community's growth or contributions, especially from the new census data that was recently collected.

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1
2 cycles, which have pitted our
3 communities against one another and
4 cause us all to suffer.

5 Simply put, these changes not only
6 exacerbate existing issues, but disturb
7 deep organizing connections within these
8 communities. Once again, I urge for the
9 full adoption of the Unity Map. And I
10 thank you for your time.

11 CHAIR WALCOTT: Thank you.

12 JERRY GUATAMALA: Good evening, my
13 name is Jerry Guatamala. I'm the
14 director of the Democracy Program at the
15 Asian-American Legal Defense and
16 Education Fund, ALDEF. We are a member
17 of the Asian-American AAPA Voice
18 Redistricting Task Force, as well as a
19 member of the Unity Map Coalition, which
20 submitted the Unity Map to you.

21 Some comments on the Commission's
22 draft map, as mentioned by my colleague,
23 Caesar, it is problematic to start with
24 Staten Island. You should not be
25 starting with Staten Island. Staten

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1
2 Island should not be dictating the rest
3 of the map, the other 48 districts.

4 (Applause.)

5 The City Charter gives you a
6 prioritized list that you must follow.
7 Number two on that list is making sure
8 there's fair and effective
9 representation for language and racial
10 minority groups protected under the
11 Federal Voting Rights Acts. That means
12 Black, Latino and Asian communities.
13 You have to start there before you look
14 at places like Staten Island and other
15 communities of interest. What's
16 problematic also, as mentioned,
17 performing coalition districts are
18 protected by the Federal Voting Rights
19 Act. You cannot dismantle those
20 performing coalition districts, meaning
21 the Asian and Latino populations when
22 combined that are over 50 percent, that
23 are electing people of color, you cannot
24 dismantle that and replace that with
25 plurality white districts, especially

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1
2 when the white population in Queens
3 decreased by 30 percent. This does not
4 make sense. You should be looking at
5 the census data and these new lines
6 should be reflecting the census data,
7 not turning them on their heads, not
8 dismantling performing coalition
9 districts; one of them that elected the
10 first Korean-American to City Council
11 and replacing it with a white plurality
12 district in the face of the City Charter
13 and the population demographic from the
14 last census.

15 Also, I would say, with District 32,
16 27, 28, 31, we know those are performing
17 Black districts. The Unity Map turns 28
18 into a majority Black district. So then
19 you would have three majority Black
20 districts -- well then, what about
21 Richmond Hill, South Ozone Park? That
22 is a protected community of interest,
23 it's Asian-American community of
24 interest. It is a group protected under
25 the Federal Voting Rights Act and you

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1
2 must first ensure that there is fair and
3 effective representation for that
4 community before you look at Howard
5 Beach and Breezy Point and Broad Channel
6 and those other areas that you've drawn
7 and consolidated into District 32.

8 What about Richmond Hill and South
9 Ozone Park? You've lumped them together
10 in 28 with Rochdale Village, where they
11 have no opportunity to elect a candidate
12 of their choice. Again, I would argue
13 that's a violation of the Charter.

14 Before you move on, after the three
15 Black districts in 27, 28, and 31, you
16 must then next look at Richmond Hill,
17 South Ozone Park and make sure they have
18 fair and effective representation. What
19 does that look like? That's the Unity
20 Map District 32. It allows them for the
21 first time to have an opportunity to
22 elect a candidate of their choice.

23 We also make sure that Woodside was
24 kept whole in City Council District 26;
25 you heard a lot about that.

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(Applause.)

We submitted our --

(Applause.)

-- communities of interest to you.

16 Asian-American communities of
interest. You have the boundaries. You
know what we're talking about when we're
talking about these neighborhoods. At
the top of our list when we were doing
the Unity Map, Woodside, we wanted to
make sure they were kept whole; Richmond
Hill, South Ozone Park, they have an
opportunity to elect a candidate of
their choice and to keep Bensonhurst
whole -- we'll talk about that more at
the Brooklyn hearing. But we want to
see a map that complies with the Federal
Voting Rights Act and the City Charter
and is the most equitable for the
communities of color that are protected
under the Federal Voting Rights Act,
that is the Unity Map. I ask you adopt
that in full, thank you.

CHAIR WALCOTT: Thank you for your

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testimony.

Next, we're going back to virtual.

Is it Salima Ashraf Islam?

SALIMA ISLAM: Hello. My name is Salima Ashraf Islam and I am one of the founding member and director of cultural organization called Bangladesh Institute of Performing Arts, short -- known to everybody BIPA. And I have been serving this organization for 30 years and through this organization I'm serving those area mostly Astoria, LIC, Sunnyside, Woodside, those are the area mostly for the Bangladeshi young generation. We teach them culture and everything and we perform a lot of culture shows. Not only in our community, we do that to spread in different libraries and different mainstream shows. And we have been working together as a powerful community. But during this redistricting this area, it's really concern me and I don't think this is a

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Map keeps the APA communities of interest whole in Brooklyn and in Manhattan. Thank you very much.

CHAIR WALCOTT: Thank you for your testimony.

Mohammed Ahmed.

MOHAMMED AHMED: Hi. Good afternoon, Commissioners. I first want to start by echoing the Liz's sentiments around Staten Island. It is important for us to have equity in this redistricting process and we are not having that with Staten Island.

My name is Mohammed Ahmed. I am a proud, Indo-Caribbean queer Muslim and Southeast Queens resident, a homeowner, organizer and community member of Richmond Hill. I'm also the founder and executive director of the Caribbean Equality Project, a community-based organization that advocates for and represents Black and brown Caribbean LGBTQ immigrants in New York City.

For the past decade, I have

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1
2 witnessed the growth and development of
3 my community, little Guyana in Richmond
4 Hill and Little Punjab in South Ozone
5 Park, are home to New York City's
6 thriving South Asian and Indo-Caribbean
7 communities in Queens.

8 Currently, these communities of
9 interest are unjustifiably divided into
10 three City Council Districts, 28, 29,
11 and 32. These district lines have
12 diluted our political power, vote and
13 voice for decades. The progress in
14 these neighborhoods began in the 60s and
15 70s with migration of people from
16 Guyana, Trinidad and Tobago, India,
17 Pakistan and Bangladesh; to just name a
18 few countries.

19 Today, you can buy your bread from
20 Sybil's at Liberty Avenue and 132nd
21 Street, go to Jum'ah prayers on Fridays
22 at Masjid Al-Abidin, shop for cultural
23 groceries, clothing and religious items
24 along Liberty Avenue and 101st Avenue,
25 play Holi at Smokey Park, the Sikh

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1
2 community can safely worship at a
3 Gurdwara located on 113th Street playing
4 and 101st Avenue, and the Hindu
5 community can attend prayers you
6 (unintelligible) Mandir located at 101st
7 Street and 97th Avenue.

8 These historical locations are all
9 within fifteen minutes drive of each
10 other and within the natural boundaries
11 of Richmond Hill and South Ozone Park,
12 which are Woodhaven Boulevard to the
13 west, Jamaica Avenue to the north, the
14 Van Wyck Expressway to the east and the
15 South Conduit to the South.

16 What you won't find in these South
17 Asian and Indo-Caribbean neighborhoods,
18 is single City Council District office.
19 These neighborhoods are also home to
20 Richmond Hill and John Adams High
21 School, hundreds of thriving small
22 businesses and thousands of residential
23 houses that deserves an equitable
24 political representation.

25 The Commission's proposed map for

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1
2 Richmond Hill and South Ozone Park
3 further divide my community into five
4 City Council Districts. If you look at
5 your map, you will see that Richmond
6 Hill and South Ozone Park are divided
7 amongst City Council District 27, 28,
8 29, 31 and 32. This is not what many of
9 us have testified in-person and
10 virtually asked for. We boldly ask for
11 our community of interest to be kept
12 whole in a single, compact district.

13 Redistricting is a racial justice of
14 human rights and a quality of life
15 issue.

16 Each new City Council District you
17 create, should reflect the population
18 growth of these neighborhoods. There
19 should be equity in your process. What
20 you have collectively proposed for
21 Richmond Hill and South Ozone Park, is
22 the definition of political
23 disenfranchisement and racial
24 gerrymandering.

25 Our diverse and intersectional

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communities can no longer be ignored, underfunded and underresourced, not by this Commission or any other sitting elected official.

Today I am calling on the New York City Redistricting Commission to hear our voices and bring justice to Richmond Hill. We deserve equity in the New York City Redistricting process; we deserve to be kept whole and protected under the Voting Rights Act. We deserve fair and equitable maps, we deserve to be united and not divided.

You have the political power to end decades of gerrymandering and political violence in Southeast Queens. Give us a fighting chance to emerge from the COVID 19 pandemic, a more politically resilient community. Thank you.

CHAIR WALCOTT: Thank you.

Feronza Linzer.

After Feronza Linzer, Lisa Ahtar.
(Phonetic).

LISA AHTAR: I'm Lisa. I'm actually

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going to go first. Feronza and I are part of the same organization.

CHAIR WALCOTT: Okay.

LISA AHTAR: My name is Lisa Ahtar. I'm a longtime resident and voter in Richmond Hill Council District 28. I work at Chhaya CDC, a member organization of APA Voice Redistricting Task Force. Chhaya is a 22 year-old community organization located in Jackson Heights and Richmond Hill serving the Indo-Caribbean and South Asian communities across Queens; including Elmhurst, Woodside, Jackson Heights, Richmond Hill and South Ozone Park. Bangladeshis, Guyanese, Nepalis and Tibetans, Punjabis and other Indians, Trinidadians and more, make up this richly diverse yet, cohesive diaspora. Chhaya works to build housing stability, economic well-being and the power of South Asian and Indo-Caribbean communities by providing housing counseling for tenants and homeowners,

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financial counseling, free tax prep and immigration services.

Over the last two decades, this community has been and continues to be severely underserved while facing some of the hardest housing and economic issues in New York City. Chhaya believes the following district lines will allow for our communities to be whole. For Richmond Hill and South Ozone Park, the natural lines are Woodhaven Boulevard to the west, Jamaica Avenue to the north, Van Wyck Expressway to the east and Conduit Avenue to the south, which keep the communities of interest together.

In Woodside, we oppose the Commission's draft map for Woodside as it divides the Asian Community into many districts and puts the significantly Asian part of Woodside in District 30. This includes the Filipino, Nepalese, Tibetan and Bangladeshi communities.

The APA community in Woodside has

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1
2 little to no commonalities with District
3 30. We would like to see Woodside
4 remain whole in District 26 and we
5 support the Unity Map for Woodside, as
6 it does this.

7 In Elmhurst, we appreciate and
8 commend the Commission in keeping
9 Elmhurst whole in District 25. We hope
10 this part of the map is maintained.

11 The South Asian and Indo-Caribbean
12 communities share deep cultural,
13 commercial, religious and linguistic
14 connections in Council Districts 25, 28
15 and 32. In these districts, over the
16 last two decades, deep ties were
17 strengthened within the South Asian and
18 Indo-Caribbean communities.

19 During the post-911 backlash, when
20 our Muslim and city community members
21 were targeted, our entire communities
22 came together to support each other.
23 During the pandemic when mutual aid
24 groups comprised of Bangladeshi, Punjabi
25 and Indo-Caribbean members came together

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1
2 to address food insecurities and the
3 need for PPE and testing sites. And
4 recently, census outreach is another
5 example of our communities coming
6 together. Guyanese, Bangladeshis,
7 Indians and Nepalis, all working
8 together to ensure our communities were
9 counted.

10 We urge the Redistricting Commission
11 to ensure that the South Asians and
12 Indo-Caribbeans in these key
13 neighborhoods are no longer fractured,
14 as they have been historically and
15 finally have the opportunity to elect a
16 candidate who truly represents their
17 voices and needs. Our communities can
18 no longer be invisible and divided,
19 thank you.

20 CHAIR WALCOTT: Thank you for your
21 testimony.

22 FERONZA LINZER: My name is Feronza
23 Linzer and I work at Chhaya CDC. I am a
24 longtime resident, worker and voter in
25 Council District 25. My family and I

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1
2 middle of the afternoon so that people
3 can actually get the opportunity to
4 speak and you could hear them. Thank
5 you.

6 COUNSEL PYUN: Rosalba Almazan.
7 Vishnu Maha Mahidol (phonetic).
8 Vishnu Maha Mahidol.
9 Muhammad Ahmed. He already
10 testified.

11 Nalima Ahmed.
12 NALIMA AHMED: It's been a long day.
13 Thank you all. I want to start
14 there first.

15 My script said good afternoon but
16 it's actually good evening now. I do
17 want to say thank you for the
18 opportunity to testify. Thank you for
19 still being here. It's really important
20 to have these conversations and I
21 appreciate all of your time.

22 My name is Nalima Ahmed and I use
23 she/her pronouns. I'm an immigrant from
24 Guyana who has called Richmond Hill home
25 the majority of my life. I'm also a

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1
2 volunteer with the Caribbean Equality
3 Project, a Queens-based community LGBTQ
4 immigrant right based organization.

5 Richmond Hill and South Ozone Park
6 are home to the largest South Asian and
7 Indo-Caribbean communities in Queens,
8 one of the fastest immigrant populations
9 in New York City. Currently, my
10 neighborhood is unjustly divided into
11 three city council districts, 28, 29 and
12 32. These district lines have
13 deliberately gerrymandered our political
14 power for decades.

15 The Commission's proposed map for
16 Richmond Hill and South Ozone Park
17 fracture my community even further into
18 five city council districts, 27, 28, 29,
19 31, and now 32 -- and 32.

20 From my understanding of the New
21 York City Council redistricting process,
22 which is very limited, I do want to say,
23 the goal of the Commission is to create
24 a compact district that reflects the
25 growth of the general population from

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1
2 the 2020 census, including Asians, which
3 consist of a population increase of
4 345,000 people in New York City.

5 During the COVID 19 pandemic, I
6 joined Caribbean Equality Project to do
7 census outreach to count my
8 underrepresented community of interest.
9 We jeopardize our safety and lives to
10 count the underserved and underfunded
11 communities of Little Guyana in Richmond
12 Hill and Little Punjab and South Ozone
13 Park.

14 After dominating multiple hearings,
15 the Commission's draft maps failed to
16 keep Richmond Hill and South Ozone Park
17 into a single district. That's
18 unacceptable at this point, especially
19 with all the data that has been
20 collected from the census.

21 We are more than numbers but this
22 Commission should not ignore many
23 contributions of South Queens. The
24 South Asian and Indo-Caribbean community
25 share similar language diversity,

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1
2 migration history, cultural and
3 religious tradition and historical
4 faith-based institutions that deserve to
5 be united and not divided.

6 The natural boundaries of Richmond
7 Hill and South Ozone Park are Woodhaven
8 Boulevard to the west, Jamaica Avenue to
9 the north, the Van Wyck Expressway to
10 the east and the South Conduit Avenue to
11 the south.

12 You have the power to end
13 gerrymandering in South Queens. And
14 today I'm calling on all of you, even
15 those that are not here still, to stand
16 with us to undo decades of political
17 harm. I hope you will hear our
18 collective voice and not contribute to
19 the growing trend of racial
20 gerrymandering and political oppression.
21 Thank you for your time.

22 CHAIRMAN WALCOTT: Right on time.
23 Thank you very much.

24 So I need to have us take a five
25 minute break because our stenographer is

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Islam?

So, Mr. David.

RICHARD DAVID: Okay. Good night, Commissioner Walcott and other commissioners here tonight. My name is Richard David. I'm a district leader in Assembly District 31 in Southeast Queens. I'm also a board member of the Indo-Caribbean Alliance, who you heard from earlier tonight.

I'm here to recommend improvements to the proposed map for Richmond Hill and South Ozone Park. I moved to the United States from Guyana and have lived in Southeast Queens for 27 years. This is where I landed and continue to live with my mom, my brothers and their kids. This is actually really common to live with extended family members in this part of Queens.

I was surprised to see that in this part of Queens and in New York City, there are actually more Guyanese than even the country of Guyana. And

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2 actually, we are the second largest
3 foreign-born population in Queens after
4 the Chinese community. This is nothing
5 new. It's actually been like this for
6 decades.

7 Trinidadians who also live in our
8 neighborhood are in the top ten
9 foreign-born population groups as well,
10 and that's nothing new. And so we use
11 the term Indo-Caribbean to represent the
12 ethnic communities of the Southern
13 Caribbean that we all share a common
14 culture, language and heritage to bring
15 us together and mobilize and advocate
16 for our common interest here in New
17 York.

18 One thing that has not changed
19 though, are the political -- the city
20 council lines representing this area,
21 and that's reflected in the city
22 council, where we have never been able
23 to elect a city councilmember from any
24 of these communities, although they are
25 such large populations here in New York

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2 city. And so, in this geographic area,
3 you also have no political offices at
4 the city council level. So we lack
5 basic access to senior services,
6 education resources, sanitation, the
7 main corridor in our neighborhood
8 doesn't even have garbage cans, and
9 immigration resources. So this
10 Commission has this important task to
11 correct decades of undoing. So it's not
12 one night of staying here late to fix
13 forty years of being overlooked.

14 The current map you've proposed for
15 Richmond Hill and South Ozone Park, it
16 goes far but it doesn't go far enough.
17 It must include Smokey Park, which is
18 where we have all of our outdoor
19 festivals; every single one of them.
20 It's along 125th Street and Atlantic
21 Avenue.

22 There are also about six blocks that
23 is cut out of South Ozone Park and put
24 into the Rockaways. There's no way for
25 those residents to get representation in

LH REPORTING SERVICES, INC. 718-526-7100

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2 the Rockaways if they live in South
3 Ozone Park. And so I'm requesting that
4 this Commission use the boundaries of
5 Jamaica Avenue to the north, the Conduit
6 Expressway to the south, Woodhaven
7 Boulevard to the west, and the Van Wyck
8 Expressway to the east.

9 These are the same lines we asked
10 for at the federal and state levels and
11 we're asking here, tonight, to have
12 these lines in the city council.

13 Thank you all for being here and for
14 giving us the opportunity to testify
15 before you. I appreciate it.

16 CHAIR WALCOTT: And thank you for
17 your testimony, sir.

18 I just want to double check.

19 Deepok.

20 John Cho.

21 Serrani Islam.

22 Iris Chang.

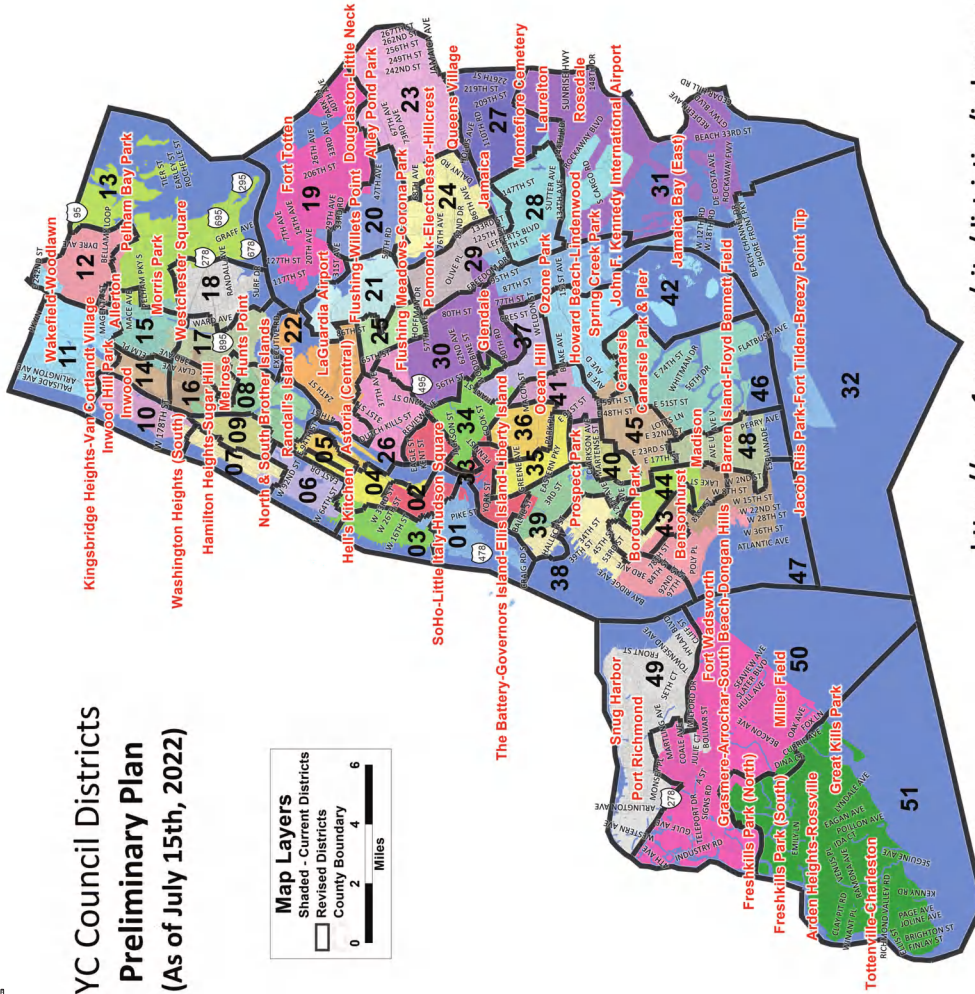
23 I think Tenzin was earlier and is it
24 Elvis Davis Johnson?

25 Roger Rodriguez.

Exhibit M to Vattamala Affirmation- Preliminary Plan



NYC Council Districts Preliminary Plan (As of July 15th, 2022)



District	Total Population	Deviation	% Deviation	VAP	% VAP	Poibly Popper Compactness	Reock Compactness
1	173,428	546	0.31%	148,493	85.62%	116,080	66.93%
2	173,338	476	0.28%	157,535	90.87%	130,583	75.33%
3	173,586	704	0.41%	157,715	90.86%	120,518	69.43%
4	173,732	850	0.49%	155,393	89.44%	115,785	66.63%
5	173,051	169	0.10%	148,820	86.00%	121,495	70.21%
6	173,359	477	0.28%	147,655	85.17%	116,904	68.59%
7	173,431	500	0.29%	148,431	85.62%	116,080	66.93%
8	173,491	560	0.32%	148,491	85.62%	116,080	66.93%
9	173,559	677	0.39%	141,477	81.52%	122,029	70.31%
10	173,134	252	0.15%	145,304	83.93%	128,405	74.17%

District	Total Population	Deviation	% Deviation	VAP	% VAP	Poibly Popper Compactness	Reock Compactness
11	173,650	898	0.51%	137,311	78.00%	119,409	68.92%
12	173,586	704	0.41%	157,715	90.87%	130,583	75.33%
13	173,445	263	0.15%	129,844	74.99%	85,343	49.29%
14	173,815	933	0.54%	130,808	75.26%	95,092	54.71%
15	173,794	912	0.53%	128,898	74.17%	93,916	54.04%
16	173,001	1,159	0.67%	127,720	73.89%	93,445	53.99%
17	174,027	1,125	0.65%	131,987	76.43%	102,505	59.31%

District	Total Population	Deviation	% Deviation	VAP	% VAP	Poibly Popper Compactness	Reock Compactness
18	173,948	1,066	0.62%	142,976	82.19%	109,744	63.09%
19	173,886	996	0.58%	143,971	83.76%	76,565	44.54%
20	173,395	713	0.41%	132,158	76.13%	63,876	36.90%
21	173,376	704	0.40%	142,855	82.42%	119,833	68.60%
22	173,794	912	0.53%	128,898	74.17%	93,916	54.04%
23	173,794	912	0.53%	128,898	74.17%	93,916	54.04%
24	173,909	1,027	0.59%	142,062	81.69%	79,359	45.63%
25	174,048	1,166	0.67%	149,894	86.12%	95,632	54.95%
26	173,502	867	0.50%	138,670	79.81%	108,965	62.48%
27	173,499	867	0.50%	138,670	79.81%	108,965	62.48%
28	173,499	867	0.50%	138,670	79.81%	108,965	62.48%
29	173,499	867	0.50%	138,670	79.81%	108,965	62.48%
30	174,027	1,125	0.65%	141,699	81.36%	101,500	57.75%
31	172,272	-610	-0.35%	131,862	76.54%	111,750	64.87%
32	174,009	1,127	0.65%	139,404	80.11%	115,971	66.65%

District	Total Population	Deviation	% Deviation	VAP	% VAP	Poibly Popper Compactness	Reock Compactness
33	173,428	546	0.31%	148,493	85.62%	116,080	66.93%
34	173,428	546	0.31%	148,493	85.62%	116,080	66.93%
35	172,658	-224	-0.13%	142,751	82.68%	120,274	69.66%
36	173,721	839	0.49%	143,139	82.40%	123,812	71.27%
37	173,138	256	0.15%	136,691	78.95%	102,213	59.04%
38	173,826	944	0.55%	135,286	77.83%	98,897	56.89%
39	173,117	235	0.14%	135,246	78.12%	118,961	68.72%
40	173,001	1,159	0.67%	127,720	73.89%	93,445	53.99%
41	171,004	-1,426	-0.84%	132,697	77.54%	101,296	59.31%
42	171,431	-1,451	-0.84%	132,526	77.31%	106,905	62.36%
43	172,595	-287	-0.17%	132,104	76.54%	72,975	42.28%
44	173,984	1,102	0.64%	141,833	81.54%	84,749	48.71%
45	172,311	-571	-0.33%	134,293	77.94%	107,444	62.33%
46	173,463	581	0.34%	137,341	79.18%	116,127	66.95%
47	173,987	1,105	0.64%	137,341	79.18%	107,444	66.95%
48	173,987	1,105	0.64%	137,341	79.18%	107,444	66.95%
49	173,987	1,105	0.64%	137,341	79.18%	107,444	66.95%

District	Total Population	Deviation	% Deviation	VAP	% VAP	Poibly Popper Compactness	Reock Compactness
50	165,470	-7,402	-4.48%	131,649	79.55%	113,003	68.29%
51	165,491	-7,391	-4.48%	132,111	79.83%	124,759	75.39%

<https://www1.nyc.gov/site/districting/index.page>

Exhibit N to Vattamala Affirmation-
NYC Districting Commission Public Meeting Transcript Extract, August 11, 2022
[pp. 163 - 174]

FILED: NEW YORK COUNTY CLERK 02/24/2023 02:36 PM

INDEX NO. 151762/2023

NYSCEF Docket No. City of NY Virtual Public Meeting for Training on Racial

Bloc Voting Analysis

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-----X
PUBLIC MEETING
CITY OF NEW YORK 2022-2023
DISTRICTING COMMISSION
-----X
August 11, 2022
10:04 a.m.
RACIAL BLOC VOTING SEMINAR
Held Virtually via Zoom
Court Reporter: STEPHANIE O'KEEFFE

Bloc Voting Analysis
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APPEARANCES:

- Dr. John Flateau, Executive Director
- Joseph Maligno, Deputy Executive Director
- Dennis Walcott, Chair
- Yovan Samuel Collado, Commissioner
- Hon. Marilyn Go, Commissioner
- Kevin Hanratty, Commissioner
- Msgr. Kevin Sullivan, Commissioner
- Maf Misbah Uddin, Commissioner
- Michael Schnall, Commissioner
- Kristen Johnson, Commissioner
- Marc Wurzel, Commissioner
- Darrin Porcher, Commissioner
- Lisa Sorin, Commissioner
- Marie Mateo, Commissioner

- Presenter
- Dr. Lisa Handley

Bloc Voting Analysis

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almost always true in the Democratic primary, that each of these groups prefer different voters -- different candidates.

What that means is, if you have polarized voting, then you have to make sure that you create districts that give minority voters an opportunity to elect their candidates of choice. And if they already exist, and you have quite a number of them here in New York City, they should be maintained so that they continue to allow minority voters to elect their candidates of choice.

Now, I look at each group individually, but in some areas, and in particular in general elections, you will find, for example, that blacks and Hispanics might vote similar. But each group is considered separately, and then, at the end of the process, you might consider whether you're going to draw what's

Bloc Voting Analysis

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2 called a coalition district or not.
3 But, typically, you have to show that,
4 let's say, a coalition district is
5 going to be a black and Hispanic
6 district. You have to show -- for it
7 to be required by the Voting Rights
8 Act, you have to show that black
9 voters and Hispanic voters typically
10 support the same candidates.

11 Okay. So in 2013, as I said,
12 voting was polarized and you did have
13 to create, or maintain, minority
14 districts. This was done. The plan
15 was submitted to the Department of
16 Justice. And it was precleared, and
17 you did not get sued. And you want to
18 do the same thing this time around, I
19 assume.

20 How do we tell if a district is
21 going to provide minority voters with
22 an opportunity to elect? The first
23 thing you can't do is say, "Okay. I'm
24 just going to create all these fifty
25 percent bloc voting age population

Bloc Voting Analysis

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2 districts" because sometimes you
3 don't -- well, first of all, it
4 violates the Constitution. In a case
5 in 2015, that was called racial
6 gerrymandering. You have to look at
7 each district individually, and you
8 have to look -- you have to do a
9 district-specific functional analysis
10 and actually look at voting patterns
11 in that district to determine if the
12 candidates choice of minority voter
13 should be elected. So, you're not
14 going to work with an arbitrary
15 demographic target like fifty percent
16 black voting age population.

17 And this is a good thing
18 because, it turns out, for example,
19 in -- in the state of Ohio, turns out
20 that if you're in northern Ohio, if
21 you're up near Cleveland, you don't
22 need a 50-percent district, you could
23 have a 45-percent district because you
24 have enough white voters who are
25 willing to vote for black candidates,

Bloc Voting Analysis

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2 that candidate will get elected. But
3 if you're in Southern Ohio, down near
4 Cincinnati, it turns out that you
5 would need a 50-percent.

6 And sometimes, like in a case I
7 worked on in Arkansas, 50 percent is
8 not enough if black turnout is
9 depressed and virtually no whites will
10 vote for a black candidate, sometimes
11 you need 55 percent.

12 So, we want to take into account
13 things like turnout -- the relative
14 rates of turnout. And we want to look
15 at how much white crossover voting we
16 might expect, or how much voting of
17 any of the groups we might expect for
18 the candidates of choice.

19 So, what I've done through this
20 racial bloc voting analysis is, I have
21 identified what are called bellwether
22 elections. And these bellwether
23 elections will help us to determine if
24 the proposed districts will actually
25 elect minority-preferred candidate. A

Bloc Voting Analysis

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2 bellwether election is a racially
3 polarized election in which white
4 voters preferred a different candidate
5 than if we were looking at creating
6 black BAP districts and black voters
7 supported. And we're going to take
8 this previous election and we're going
9 to see what would happen in that
10 previous election -- in that previous
11 polarized election under the new
12 proposed district boundaries. We want
13 to see if the candidate preferred by
14 black voters or Hispanic voters
15 actually carries that district, and we
16 want to see that across a series of
17 elections. And if the black voters
18 are successful in electing their black
19 preferred candidate over time and over
20 these series of elections, we can
21 assume that we have a district that
22 will provide black voters with an
23 opportunity to elect their candidates
24 of choice.

25 And again, this doesn't

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necessarily mean that it's a black voting age population district of 50 percent, it might be less, it might be more.

Now, if you want to bring a section to suit, if a plaintiff group wants to sue, they have to show that they could draw an additional -- I'm going to use black voters as the example here, but a district that has at least a black voting age population of 50 percent. But you don't have to draw districts that are 50 percent. You just have to draw districts that are opportunity districts.

So with black voters, sometimes -- in fact, quite often, it doesn't have to be 50 percent. On the other hand, with Hispanic voters, it turns out, it quite often needs to be more than 50 percent.

So, that's what we're going to be doing here. That's what we've been doing. What I've been doing is doing

Bloc Voting Analysis

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2 I heard you mention a distinction
3 between black and Hispanic voters, and
4 I think some like to meet threshold
5 levels, are you talking about 50
6 percent or more than 50 percent?

7 Can you do a deeper dive into
8 that type of question? And also just
9 from your vantage point of what you
10 studied and what's part of your
11 purview, any type of definitions that
12 people may need to have, including,
13 say for example, me and maybe other
14 commissioners as well, in addition to
15 the public.

16 DR. HANDLEY: Okay. I'll start
17 with majority/minority districts. So
18 a majority district -- a
19 majority/minority district means
20 typically that you have a district
21 that's at least 50 percent black in
22 voting age population. Or, if you're
23 dealing with Hispanics, the courts,
24 for example, the 9th and the 5th
25 districts have said because the number

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2 of non-citizens is higher for this
3 group, we're actually going to not
4 look at voting age population, we're
5 going to look at citizen voting age
6 population. So, typically, when you
7 say majority black district, you're
8 talking about a district that's at
9 least 50 percent black in voting age
10 population, or 50 percent Hispanic in
11 citizen voting age population. So
12 that's one.

13 Now, it might be different than
14 a minority opportunity district. A
15 minority opportunity district might be
16 more than that or it might be less
17 than that, and it will depend on the
18 voting patterns of not just the
19 minority group, but, say the other
20 groups within the district. So a
21 black opportunity district, you have
22 more than one here in New York City,
23 that is clearly not majority black and
24 voting age population, but is
25 consisting electing the black

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2 preferred candidate. So that would be
3 a black opportunity district, that is
4 what the Voting Rights Act encourages
5 you the draw not -- but you have to
6 show that you -- if you're going to
7 challenge a plan, you have to show
8 that you can draw a black voting age
9 population district. But the remedy
10 might not be a 50 percent black voting
11 age population district, it might
12 actually be a 45 percent. So, that's
13 the -- they're not necessarily the
14 same, you've got a majority district,
15 you've got an opportunity district.

16 And the other thing I'm going to
17 talk about is the coalition district.
18 And this is a district that -- well,
19 you have a coalition district, at
20 least one that I can think of and that
21 in Staten Island, where no minority
22 group is predominant. It's only when
23 you combine all three groups that you
24 get a 50 percent plus district, but it
25 consistently elects a candidate this

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2 is supported by all three minority
3 groups, so it's a coalition district.

4 I never heard the term community
5 of interest district used, but
6 clearly, you want to take communities
7 of interest into account when you're
8 drawing districts, and it may be the
9 case that that community of interest
10 predominates in that group. So, I'm
11 thinking, for example, when we were
12 drawing districts in Michigan, there
13 was a big Arab American population
14 that's not protected by the Voting
15 Rights Act, but was large enough to
16 create a district and that became a
17 community of interest district drawn
18 for a group that was not protected by
19 the Voting Rights Act.

20 I think that covers you
21 questions.

22 CHAIR WALCOTT: Thank you.

23 Further questions from the
24 commissioners?

25 MR. UDDIN: Mr. Chair, I just

FILED: NEW YORK COUNTY CLERK 02/24/2023 02:36 PM

NYSCEF DOC. NO. 4

INDEX NO. 151762/2023

RECEIVED NYSCEF: 02/24/2023

VOTING RIGHTS ACT REVIEW OF REVISED PLAN

NEW YORK CITY DISTRICTING COMMISSION SEPTEMBER 22, 2022

Dr. Lisa Handley

Complying with the Voting Rights Act

- Voting in New York City is usually polarized between protected minority voters (Black, Hispanic, and Asian voters) and white voters, especially in Democratic primaries.
- Because voting is polarized, districts that offer minority voters an opportunity to elect their candidates of choice must be drawn or, if such districts already exist, as they do in NYC, they must be maintained in a manner that continues to provide minority voters with an opportunity to elect their preferred candidates.
- A district-specific, functional analysis is required to determine if proposed districts will provide minority voters with the ability to elect minority-preferred candidates to office. The analysis should not rest solely on the demographic composition of the district – a “functional” analysis requires an analysis of likely electoral outcomes.

Recompiled Election Results

- Because no elections have occurred under the proposed district boundaries, the election results from previous contests that included minority-preferred candidates are used.
- “Bellwether elections” are identified based on the racial bloc voting analysis. Bellwether elections are elections in which minority voters preferred a specific minority candidate and white voters may not have supported this candidate:
 - 2021 Democratic primary for Mayor:
 - Black voters supported Eric Adams
 - Asian voters supported Andrew Yang
 - Hispanic voters supported Eric Adams or Maya Wiley, depending on the borough
 - 2021 Democratic primary for Bronx Borough President:
 - Black voters supported Vanessa Gibson
 - Hispanic voters supported Fernando Cabrera
 - 2021 Democratic primary for Brooklyn Borough President:
 - Hispanic voters supported Antonio Reynoso
 - 2021 Democratic primary for Queens Borough President:
 - Black voters supported ~~Donovan~~ Richards

Identifying Minority Opportunity Districts

- Focus on all districts with a "significant" Black, Hispanic, or Asian population, considered separately. (Significant = one of the minority groups comprises a majority or plurality of the voting age population.)
- Establish if the district under the current plan constitutes an "opportunity district" by ascertaining if the minority group in question has been successful in electing their candidates of choice to city council.
- Determine if the proposed district in the revised plan will continue to provide minority voters with an opportunity to elect their candidates of choice by comparing (1) the demographic composition of the current and proposed district and (2) the recompiled election results for the bellwether elections.
- If the minority-preferred candidates in the bellwether elections perform approximately as well in the proposed district as they did in the current opportunity district, and the composition of the district did not change dramatically, the proposed district is very likely to remain a minority opportunity district.

Manhattan

Manhattan Districts with Significant Black Populations

- Revised Plan retains 1 majority Black district (**District 9**), equally effective in current plan and Revised Plan (based on votes for Adams). (Effective district = minority opportunity district)

District 9	BVAP (DOJ)	BVAP	BCVAP	Votes for Adams
Revised Plan	50.9	49.8	56.8	36.5
Current Plan	50.6	49.6	56.7	36.6

Manhattan Districts with Significant Hispanic Populations

- Revised Plan retains 2 majority Hispanic districts (Districts 8 and 10):
 - **District 8** HVAP decreased from 59.4 to 53.4 but remains majority HVAP and HCVAP and Hispanic-preferred candidate Adams still carries the district, so it remains effective.
 - **District 10** is equally or more effective in Revised Plan.

District 8	HVAP	HCVAP	Votes for Adams
Revised Plan	53.4	51.2	34.8
Current Plan	59.4	56.1	37.1
District 10	HVAP	HCVAP	Votes for Adams
Revised Plan	64.2	62.1	36.5
Current Plan	64.2	62.2	26.0

- **District 7** is plurality HVAP (39.6) in current plan and elected a Hispanic-preferred Hispanic candidate. It is plurality WVAP in Revised Plan (HVAP decreased to 32.8; WVAP increased from 29.4 to 36.9). However, voting was not polarized between Hispanics and whites in 2021 or 2017 Democratic primaries (both groups supported current Hispanic incumbent in 2021).

Bronx

Bronx Districts with Significant Black Populations

- Revised Plan retains 1 majority Black district (**District 12**), equally effective in current plan and Revised Plan (based on votes for Adams, Gibson).

District 12	BVAP (DOJ)	BVAP	BCVAP	Votes for Adams	Votes for Gibson
Revised Plan	64.7	63.9	65.5	58.1	57.2
Current Plan	66.2	65.5	67.1	58.4	57.8

Bronx Districts with Significant Hispanic Populations

- Retains 5 majority Hispanic districts:
 - Three are equally effective (**Districts 14, 15, 17**) in current plan and Revised Plan (based on vote for Cabrera).
 - **District 16** HVAP increased from 59.5 to 61.7 (HCVAP now 57.3). District is a Black opportunity district but the slight increase in HVAP, accompanied by a slight increase in votes for Cabrera (although Gibson still carries the district), indicates that this district may evolve into a Hispanic opportunity district.
 - **District 18** HVAP decreased from 54.3 to 51.8 but HCVAP is 53.8 and the vote for the Hispanic-preferred Hispanic candidate for Borough President (Cabrera) changes only minimally (from 29.1 to 28.9) between current plan and Revised Plan so it remains a Hispanic opportunity district.

District 14	HVAP	HCVAP	Votes for Cabrera
Revised Plan	71.8	69.0	55.8
Current Plan	72.4	69.6	56.6
District 15	HVAP	HCVAP	Votes for Cabrera
Revised Plan	64.4	62.9	43.2
Current Plan	62.5	59.7	42.9
District 16	HVAP	HCVAP	Votes for Cabrera
Revised Plan	61.7	57.3	27.8
Current Plan	59.5	57.0	25.2
District 17	HVAP	HCVAP	Votes for Cabrera
Revised Plan	65.4	64.4	32.6
Current Plan	64.3	63.2	33.2
District 18	HVAP	HCVAP	Votes for Cabrera
Revised Plan	51.8	53.8	28.9
Current Plan	54.3	56.2	29.1

Bronx Districts with Significant Hispanic Populations (cont.)

- Revised Plan retains two plurality Hispanic districts:
 - **District 11**, which is 42.6 HVAP in current plan is 40.4 HVAP in Revised Plan. It was not a Hispanic opportunity district – the white candidate elected was not preferred by Hispanic voters.
 - **District 13** changed only marginally from current plan. It is a Hispanic opportunity district in current plan – the Hispanic candidate elected was supported by Hispanic and white voters. It remains an effective district under Revised Plan (Cabrera easily carries the district).

District 11	HVAP	HCVAP	Votes for Cabrera
Revised Plan	40.4	37.2	32.1
Current Plan	42.6	39.6	32.7

District 13	HVAP	HCVAP	Votes for Cabrera
Revised Plan	42.8	44.4	37.0
Current Plan	42.1	43.8	36.7

Queens

Queens Districts with Significant Black Populations

- Revised Plan retains 2 majority Black districts (**Districts 27 and 31**), both of which are equally effective in current plan and Revised Plan (based on vote for Adams, Richards).

District 27	BVAP (DOJ)	BVAP	BCVAP	Votes for Adams	Votes for Richards
Revised Plan	62.5	61.9	75.3	65.2	71.9
Current Plan	64.5	63.9	77.2	65.1	72.0

District 31	BVAP (DOJ)	BVAP	BCVAP	Votes for Adams	Votes for Richards
Revised Plan	64.2	63.5	70.4	65.2	77.5
Current Plan	64.5	63.8	70.8	65.5	77.8

Queens Districts with Significant Black Populations (cont.)

- Revised Plan retains 1 plurality Black district (**District 28**). The BVAP increased from 37.8 to 45.6 in Revised Plan. Votes for Black-preferred candidates also increased (votes for Adams, Richards). This Black opportunity district is likely to be more effective as redrawn in Revised Plan.

District 28	BVAP (DOJ)	BVAP	BCVAP	Votes for Adams	Votes for Richards
Revised Plan	45.6	45.2	56.2	57.3	66.0
Current Plan	37.8	37.5	48.5	53.2	61.9

Queens Districts with Significant Hispanic Populations

- Revised Plan retains 1 majority Hispanic district (**District 21**), equally effective in current plan and Revised Plan (vote for Adams).

District 21	HVAP	HCVAP	Votes for Adams
Revised Plan	73.1	61.9	41.1
Current Plan	72.8	61.4	40.1

Queens Districts with Significant Asian Populations

- Revised Plan retains 1 majority Asian district (**District 20**), equally effective in current plan and Revised Plan.

District 20	AVAP (DOJ)	AVAP	ACVAP	Votes for Yang
Revised Plan	72.6	72.3	57.4	48.7
Current Plan	72.5	72.2	56.8	48.8

- Retains 4 plurality Asian districts:
 - **Districts 23, 24 and 26** retain comparable AVAP and votes for Yang. Districts 23, 24, and 26 are Asian opportunity districts – all three elected Asian voters’ preferred candidates (although District 24 elects a white candidate, he was preferred over other Asian candidates by Asian voters). They remain opportunity districts in Revised Plan.
 - Although **District 25** has a higher Asian VAP than Districts 24 and 26, Asian voters in this district were not able to elect their preferred candidate in 2021 – the Asian candidate elected is NOT the Asian-preferred Asian candidate. This district is not an Asian opportunity district. The AVAP decreased from 45.1 in current plan to 42.5 in Revised Plan; votes for Yang decreased from 26.3 to 22.9.

Queens Districts with Significant Asian Populations (cont.)

District 23	AVAP (DOJ)	AVAP	ACVAP	Votes for Yang
Revised Plan	44.2	43.7	40.3	23.4
Current Plan	44.0	43.6	39.6	22.9

District 24	AVAP (DOJ)	AVAP	ACVAP	Votes for Yang
Revised Plan	37.7	36.6	31.2	26.9
Current Plan	37.4	36.5	31.1	27.8

District 25	AVAP (DOJ)	AVAP	ACVAP	Votes for Yang
Revised Plan	42.5	42.1	39.2	22.9
Current Plan	45.1	44.7	41.6	26.3

District 26	AVAP (DOJ)	AVAP	ACVAP	Votes for Yang
Revised Plan	33.5	32.8	24.9	17.2
Current Plan	32.2	31.5	23.9	17.0

Brooklyn

Brooklyn Districts with Significant Black Populations

- Revised Plan retains 6 majority Black districts, and all remain effective (**Districts 36, 40, 41, 42, 45, 46**)
 - **District 36** has a BVAP of only 49.5 but the BCVAP is 57.0 in the Revised Plan
 - **District 46** decreased BVAP from 54.5 in current plan to 50.5 in Revised Plan but Adams still easily carries the district (55.5 in current plan and 54.2 in Revised Plan)

District 36	BVAP (DOJ)	BVAP	BCVAP	Votes for Adams
Revised Plan	49.5	48.3	57.0	37.4
Current Plan	50.2	49.1	58.0	38.6

District 40	BVAP (DOJ)	BVAP	BCVAP	Votes for Adams
Revised Plan	50.5	49.6	56.9	44.1
Current Plan	48.7	47.9	54.6	40.4

Brooklyn Districts with Significant Black Populations (cont.)

District 41	BVAP (DOJ)	BVAP	BCVAP	Votes for Adams
Revised Plan	71.9	70.9	77.6	67.8
Current Plan	71.9	70.9	77.9	68.2

District 42	BVAP (DOJ)	BVAP	BCVAP	Votes for Adams
Revised Plan	65.2	64.5	74.6	71.0
Current Plan	66.0	65.2	74.7	71.4

District 45	BVAP (DOJ)	BVAP	BCVAP	Votes for Adams
Revised Plan	60.3	59.6	64.8	63.6
Current Plan	61.7	61.0	66.7	65.0

District 46	BVAP (DOJ)	BVAP	BCVAP	Votes for Adams
Revised Plan	50.5	50.0	50.9	54.2
Current Plan	54.5	54.0	54.8	55.5

Brooklyn Districts with Significant Hispanic Populations

- Revised Plan retains 1 majority Hispanic district (**District 37**), which is a Hispanic opportunity district and may be more a slightly more effective one in the Revised Plan (based on votes for Reynoso).

District 37	HVAP	HCVAP	Votes for Reynoso
Revised Plan	50.3	45.5	33.1
Current Plan	50.3	45.0	30.5

Brooklyn Districts with Significant Asian Populations

- Revised Plan creates new majority Asian opportunity district. **District 43** is 55.0 AVAP and Yang carries the district easily with 50.6 % of the vote.

District 43	AVAP (DOJ)	AVAP	ACVAP	Votes for Yang
Revised Plan	55.0	53.9	48.5	50.6

- **District 38** is a plurality Asian district in current plan but elected a Hispanic-preferred Hispanic candidate (not supported by Asian voters). Revised Plan retains the same HVAP but decreased the AVAP and increased the WVAP. The current Hispanic incumbent was supported by both Hispanic and white voters in the 2021 Democratic primary. In 2017, the winning Hispanic candidate was also supported by Hispanic and white voters (but not by Asian voters).

District 38	AVAP (DOJ)	AVAP	HVAP	WVAP
Revised Plan	32.2	31.5	35.2	26.5
Current Plan	41.0	40.6	35.1	18.1

Staten Island

- Revised Plan retains 1 combined majority minority district with BVAP, HVAP, and AVAP percentages very close to current plan.

District 49	BVAP (DOJ)	BVAP	HVAP	AVAP (DOJ)	AVAP	WVAP
Revised Plan	24.0	23.3	30.1	11.7	11.3	31.5
Current Plan	23.8	23.1	29.9	12.3	11.9	31.4

Conclusion

In my expert opinion, the Revised Plan complies with the Voting Rights Act by maintaining the voting strength of **Black and Hispanic voters** at a comparable level to the current plan and increasing the number of districts that offer **Asian voters** – the fastest growing minority group in New York City – an opportunity to elect their candidates of choice.

**Exhibit P to Vattamala Affirmation-
Racial Block Voting Analysis Report, Dr. Lisa Handley, October 6, 2022
[pp. 196 - 203]**

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**New York City Districting Commission 2022-2023
Voting Rights Act Evaluation of NYC City Council Revised Plan (for October 6, 2022)**

By: Dr. Lisa Handley

In my expert opinion, the Revised Plan complies with the Voting Rights Act by maintaining the voting strength of **Black and Hispanic voters** at a comparable level to the current plan and increasing the number of districts that offer **Asian voters** – the fastest growing minority group in New York City – an opportunity to elect their candidates of choice.

Manhattan

Black Districts

Majority Black District:

Revised Plan retains 1 majority Black district (**District 9**), equally effective in current plan and Revised Plan (based on votes for Adams). (Effective district = minority opportunity district)

District 9	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams
Revised Plan	50.9	49.8	56.8	36.5
Current Plan	50.6	49.6	56.7	36.6

Hispanic Districts

Majority Hispanic Districts:

Revised Plan retains 2 majority Hispanic districts (Districts 8 and 10):

- **District 8** HVAP decreased from 59.4 to 53.4 but remains majority HVAP and HCVAP and Hispanic-preferred candidate Adams still carries the district, so it remains effective.
- **District 10** is equally or more effective in Revised Plan.

District 8	HVAP	HCVAP	Vote for Adams
Revised Plan	53.4	51.2	34.8
Current Plan	59.4	56.1	37.1

District 10	HVAP	HCVAP	Vote for Adams
Revised Plan	64.2	62.0	27.3
Current Plan	64.2	62.2	26.0

Plurality Hispanic District in current plan that is plurality white in the Revised Plan:

- **District 7** is plurality HVAP (39.6) in current plan and elected a Hispanic-preferred Hispanic candidate. It is plurality WVAP in Revised Plan (HVAP decreased to 33.4; WVAP

increased from 29.4 to 36.3). However, voting was not polarized between Hispanics and whites in 2021 or 2017 Democratic primaries (both groups supported current Hispanic incumbent in 2021).

District 7	HVAP	HCVAP	WVAP
Revised Plan	33.4	33.4	36.3
Current Plan	39.6	38.6	29.4

Bronx

Black Districts

Majority Black District:

Revised Plan retains 1 majority Black district (**District 12**), equally effective in current plan and Revised Plan (based on votes for Adams, Gibson).

District 12	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams	Vote for Gibson
Revised Plan	64.7	63.9	65.5	58.1	57.2
Current Plan	66.2	65.5	67.1	58.4	57.8

Hispanic Districts

Majority Hispanic Districts:

Revised Plan retains 5 majority Hispanic districts (**Districts 14, 15, 16, 17, and 18**):

- Three are equally effective (**Districts 14, 15, 17**) in current plan and Revised Plan (based on vote for Cabrera).

District 14	HVAP	HCVAP	Vote for Cabrera
Revised Plan	71.8	69.0	55.8
Current Plan	72.4	69.6	56.6

District 15	HVAP	HCVAP	Vote for Cabrera
Revised Plan	64.6	62.4	43.4
Current Plan	62.5	59.7	42.9

District 17	HVAP	HCVAP	Vote for Cabrera
Revised Plan	65.2	64.9	32.3
Current Plan	64.3	63.2	33.2

- **District 18** HVAP decreased from 54.3 to 51.8 but HCVAP is 53.8 and the vote for the Hispanic-preferred Hispanic candidate for Borough President (Cabrera) changes only minimally (from 29.1 to 29.0) between current plan and Revised Plan so it remains a Hispanic opportunity district.

District 18	HVAP	HCVAP	Vote for Cabrera
Revised Plan	51.8	53.8	29.0
Current Plan	54.3	56.2	29.1

- **District 16** HVAP increased from 59.5 to 61.8 (HCVAP now 57.2). District is a Black opportunity district but the slight increase in HVAP, accompanied by a slight increase in votes for Cabrera (although Gibson still easily carries the district), indicates that this district may eventually evolve into a Hispanic opportunity district.

District 16	HVAP	HCVAP	Vote for Cabrera	Vote for Gibson
Revised Plan	61.8	57.2	27.9	56.8
Current Plan	59.5	57.0	25.2	59.7

Plurality Hispanic Districts:

Revised Plan retains two plurality Hispanic districts (**Districts 11 and 13**):

- **District 13** changed only marginally from current plan. It is a Hispanic opportunity district in current plan – the Hispanic candidate elected was supported by Hispanic and white voters. It remains an effective district under Revised Plan (Cabrera easily carries the district).

District 13	HVAP	HCVAP	Vote for Cabrera
Revised Plan	42.8	44.4	37.0
Current Plan	42.1	43.8	36.7

- **District 11**, which is 42.6 HVAP in current plan is 40.4 HVAP in Revised Plan. It was not a Hispanic opportunity district – the white candidate elected was not preferred by Hispanic voters.

District 11	HVAP	HCVAP	Vote for Cabrera
Revised Plan	40.4	37.2	32.1

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Current Plan	42.6	39.6	32.7
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Queens

Black Districts

Majority Black Districts:

Revised Plan retains 2 majority Black districts (**Districts 27 and 31**), both of which are equally effective in current plan and Revised Plan (based on vote for Adams, Richards).

District 27	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams	Vote for Richards
Revised Plan	62.5	61.9	75.3	65.2	71.9
Current Plan	64.5	63.9	77.2	65.1	72.0

District 31	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams	Vote for Richards
Revised Plan	64.2	63.5	70.4	65.1	77.4
Current Plan	64.5	63.8	70.8	65.5	77.8

Plurality Black District

Revised Plan retains 1 plurality Black district (**District 28**). The BVAP increased from 37.8 to 45.6 in Revised Plan. Votes for Black-preferred candidates also increased (votes for Adams, Richards). Black voting strength was increased in this Black opportunity district.

District 28	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams	Vote for Richards
Revised Plan	45.6	45.2	56.2	57.3	66.0
Current Plan	37.8	37.5	48.5	53.2	61.9

Hispanic Districts

Majority Hispanic District:

Revised Plan retains 1 majority Hispanic district (**District 21**), equally effective in current plan and Revised Plan (vote for Adams).

District 21	HVAP	HCVAP	Vote for Adams
Revised Plan	73.1	61.9	41.1
Current Plan	72.8	61.4	40.1

Asian Districts*Majority Asian District:*

Revised Plan retains 1 majority Asian district (**District 20**), equally effective in current plan and Revised Plan.

District 20	AVAP (DOJ)	AVAP	ACVAP	Vote for Yang
Revised Plan	72.6	72.3	57.4	48.6
Current Plan	72.5	72.2	56.8	48.8

Plurality Asian Districts:

Revised Plan retains 4 plurality Asian districts (**Districts 23, 24, 25, and 26**):

- **Districts 23, 24 and 26** retain comparable AVAP and votes for Yang. Districts 23, 24, and 26 are Asian opportunity districts – all three elected Asian voters' preferred candidates (although District 24 elects a white candidate, he was preferred over other Asian candidates by Asian voters). They remain opportunity districts in Revised Plan.

District 23	AVAP (DOJ)	AVAP	ACVAP	Vote for Yang
Revised Plan	44.1	43.6	40.7	22.8
Current Plan	44.0	43.6	39.6	22.9

District 24	AVAP (DOJ)	AVAP	ACVAP	Vote for Yang
Revised Plan	37.8	36.6	30.8	27.6
Current Plan	37.4	36.5	31.1	27.8

District 26	AVAP (DOJ)	AVAP	ACVAP	Vote for Yang
Revised Plan	33.5	32.8	24.9	17.2
Current Plan	32.2	31.5	23.9	17.0

- Although **District 25** has a higher Asian VAP than Districts 24 and 26, Asian voters in this district were not able to elect their preferred candidate in 2021 – the Asian candidate elected is NOT the Asian-preferred Asian candidate. This district is not an Asian opportunity district. The AVAP decreased from 45.1 in current plan to 42.5 in Revised Plan; votes for Yang decreased from 26.3 to 22.9.

District 25	AVAP (DOJ)	AVAP	ACVAP	Vote for Yang
Revised Plan	42.5	42.1	39.2	22.9
Current Plan	45.1	44.7	41.6	26.3

Brooklyn**Black Districts***Majority Black districts:*

Revised Plan retains 6 majority Black districts, and all remain effective (**Districts 36, 40, 41, 42, 45, 46**)

- **District 36** has a BVAP of only 49.5 but the BCVAP is 57.0 in the Revised Plan
- **District 46** decreased BVAP from 54.5 in current plan to 50.5 in Revised Plan but Adams still easily carries the district (55.5 in current plan and 54.2 in Revised Plan)

District 36	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams
Revised Plan	49.5	48.3	57.0	37.4
Current Plan	50.2	49.1	58.0	38.6

District 40	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams
Revised Plan	50.5	49.6	56.9	44.1
Current Plan	48.7	47.9	54.6	40.4

District 41	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams
Revised Plan	71.9	70.9	77.6	67.8
Current Plan	71.9	70.9	77.9	68.2

District 42	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams
Revised Plan	65.2	64.5	74.6	71.0
Current Plan	66.0	65.2	74.7	71.4

District 45	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams
Revised Plan	60.3	59.6	64.8	63.6
Current Plan	61.7	61.0	66.7	65.0

District 46	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams
Revised Plan	50.5	50.0	50.9	54.2
Current Plan	54.5	54.0	54.8	55.5

Hispanic Districts*Majority Hispanic districts:*

Revised Plan retains 1 majority Hispanic district (**District 37**), which is equally effective in the Revised and current plan.

District 37	HVAP	HCVAP	Vote for Reynoso
Revised Plan	50.3	45.5	33.1
Current Plan	50.3	45.0	30.5

Asian Districts*Majority Asian District:*

Revised Plan creates new majority Asian opportunity district. **District 43** is 55.0 AVAP and Yang carries the district easily with 50.6 % of the vote.

District 43	AVAP (DOJ)	AVAP	ACVAP	Vote for Yang
Revised Plan	55.0	53.9	48.5	50.6

Plurality Asian District in current plan that is plurality Hispanic in the Revised Plan:

- **District 38** is a plurality Asian district in current plan but elected a Hispanic-preferred Hispanic candidate (not supported by Asian voters). Revised Plan retains essentially the same HVAP but decreased the AVAP and increased the WVAP. The current Hispanic incumbent was supported by both Hispanic and white voters in the 2021 Democratic primary. In 2017, the winning Hispanic candidate was also supported by Hispanic and white voters (but not by Asian voters).

District 38	AVAP (DOJ)	AVAP	HVAP	WVAP
Revised Plan	32.3	31.6	35.3	26.3
Current Plan	41.0	40.6	35.1	18.1

Staten Island

Revised Plan retains 1 combined majority minority district (**District 49**) with BVAP, HVAP, and AVAP percentages very close to current plan.

District 49	BVAP (DOJ)	BVAP	HVAP	AVAP (DOJ)	AVAP	WVAP
Revised Plan	24.1	23.3	30.2	12.2	11.3	30.9
Current Plan	23.8	23.1	29.9	12.3	11.9	31.4

**Exhibit Q to Vattamala Affirmation-
Racially Polarized Voting (RPV) Analysis Expert Report -
Matt Stevens
[pp. 204 - 207]**

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Racial Block Voting in the Richmond Hill / South Ozone Park Area

Matthew Stevens

New York University

My task was to conduct a racially polarized voting analysis in the area of interest, the neighborhood of Richmond Hill/South Ozone Park, with particular interest in the voting patterns of Asian and Other voters.

I looked for correlations between voting results and Census-designated racial and ethnic categories on the VTD (Voter Tabulation District) level. The Census categories were Hispanic, non-Hispanic white, non-Hispanic Black, non-Hispanic Asian and Other non-Hispanic, as defined by the Federal Department of Justice and Office of Management and Budget. (American Indian and Pacific Islander populations were too small to analyze.) Voting results were acquired by the New York City Board of Elections, aggregated from the Election District (ED) to VTD level.

I looked for racially polarized voting in following two races:

- The 2017 Democratic primary for the 28th City Council district; and
- The 2021 general election for the 32nd City Council district

I found strong evidence of racially polarized voting in the both races.

28th City Council District, 2017 Democratic Primary

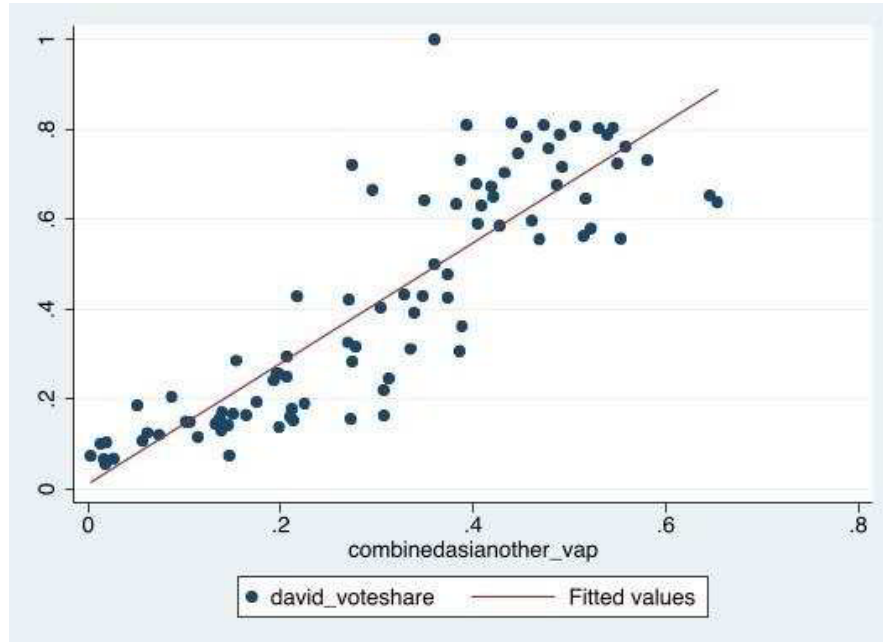
CCD 28 was a plurality non-Hispanic Black district with large Asian and Indo-Caribbean populations.

asian_vap	20.5%
hispanic_vap	17.4%
other_vap	10.0%
white_vap	3.2%
black_vap	37.8%

There were three candidates on the ballot in 2017: Hettie Powell, Adrienne Adams, and Richard David. This correlation matrix shows that Adams was favored by non-Hispanic Black voters, while David was preferred by the Hispanic, and non-Black, non-Hispanic voters.

	asian~p	hispan~p	other~p	white~p	black~p
powell_vote	-0.6712	-0.3635	-0.6643	-0.5185	0.8062
adams_vote	-0.7548	-0.2101	-0.7170	-0.4743	0.8021
david_vote	0.7889	0.3073	0.7651	0.5470	-0.8855

Non-Hispanic Asian voters strongly preferred David, as we can see in this scatterplot:



32nd City Council District, 2021 general election

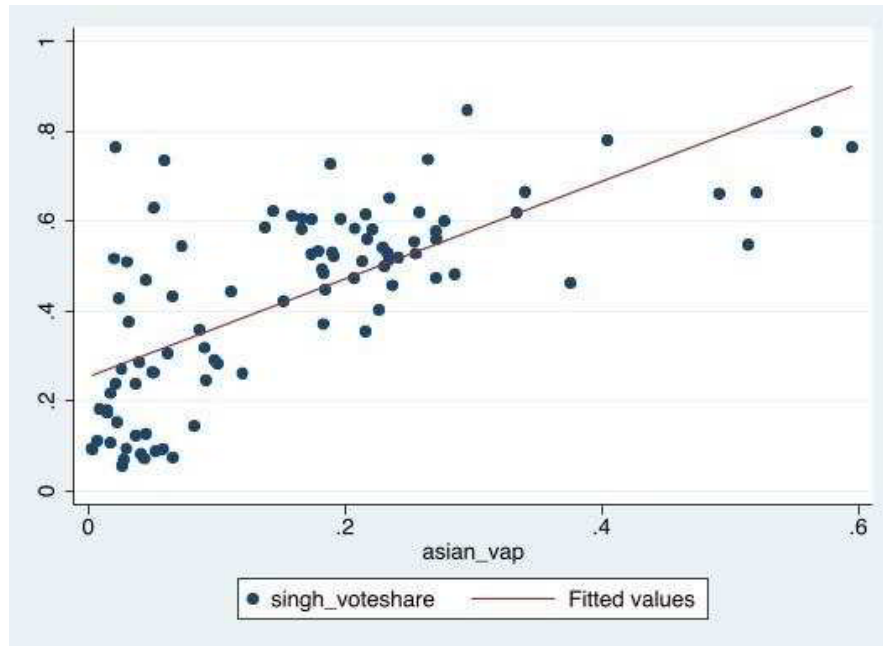
CCD 32 was a plurality non-Hispanic White district with large Hispanic and Asian populations.

```
asian_vap | 16.8%
hispanic_vap | 33.4%
other_vap | 3.9%
white_vap | 35.2%
black_vap | 7.3%
```

The 2021 general election featured Republican/Conservative Joanna Ariola against Democrat Felicia Singh. Non-Hispanic whites voted for Ariola, while Singh was favored by Hispanics and all other non-Whites, particularly with Asians. Again, this can be seen in our correlation matrix:

```
-----+-----
          | asian~p hispan~p other~p white~p black~p
-----+-----
singh_vote | 0.6953  0.5628  0.4318  -0.8896  0.4829
Ariola_vote | -0.6918 -0.5874 -0.4189  0.8941  -0.4685
```

The relationship between non-Hispanic Asian proportions and the Singh vote is shown graphically, below:



Conclusion

These results show strongly racially polarized voting and suggests that Asian voters' candidates of choice will be defeated by the white community's candidates of choice in District 32 and the Black community's candidates of choice in District 28. A district with higher Asian VAP and lower white VAP than District 32 as it was composed between 2012-2022, like that proposed by the Unity Map, provides the Asian community the reasonable opportunity to elect candidates of choice.

Matthew Stevens

2/23/2023

Date

Matthew Stevens

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 Goldens Bridge, NY 10526
 (646) 331-6415
 kent.allard.jr@gmail.com

Objective

I am an experienced data analyst, educator, map maker and political scientist with a passion for social justice. I am seeking a position that will allow me to apply my extensive redistricting experience to help protect the rights of underrepresented communities.

Experience

Instructor

New York University, Spring 2005—Present
 Columbia University, Spring 2005, Fall 2006, Spring 2007

Taught introductory and intermediate statistics courses for both undergraduates and graduate students in political science and international relations

Consultant

Asian-American Legal Defense and Education Fund, 2021-2023

- Drafted Unity coalition redistricting proposals for New York State
- Demonstrated ecological inferences of racial block voting
- Created maps related to redistricting and reapportionment

Data Analyst

NYU Pollock Center for Law and Business, 2017-2018

- Managed and analyzed Securities and Exchange Commission-based SEED database
- Mentored and trained a team of research assistants to code and enter data
- Administered academic program under the supervision of the Program Director

Statistician

Nassau County Legislature, 2012-2013

- Predicted election outcomes using registration information
- Drafted unofficial redistricting plan
- Used cluster and factor analysis to determine communities of shared interest
- Presented findings at public hearing and court case

Researcher

New York State Reapportionment Task Force, 2001-2013

- Drafted Democratic redistricting proposals
- Demonstrated ecological inferences of racial block voting
- Used cluster and factor analysis to determine communities of shared interest
- Created maps related to redistricting and reapportionment

Education

Columbia University

M.A., M.Phil, Ph.D in Political Science

- Concentrations: Statistics, Comparative Politics, American Politics
- Dissertation: "Constitutions of Circumstance: Explaining Class and Nationalism"

Hampshire College

B.A. in Political Science

Exhibit R to Vattamala Affirmation-Revised Plan

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Population Statistics

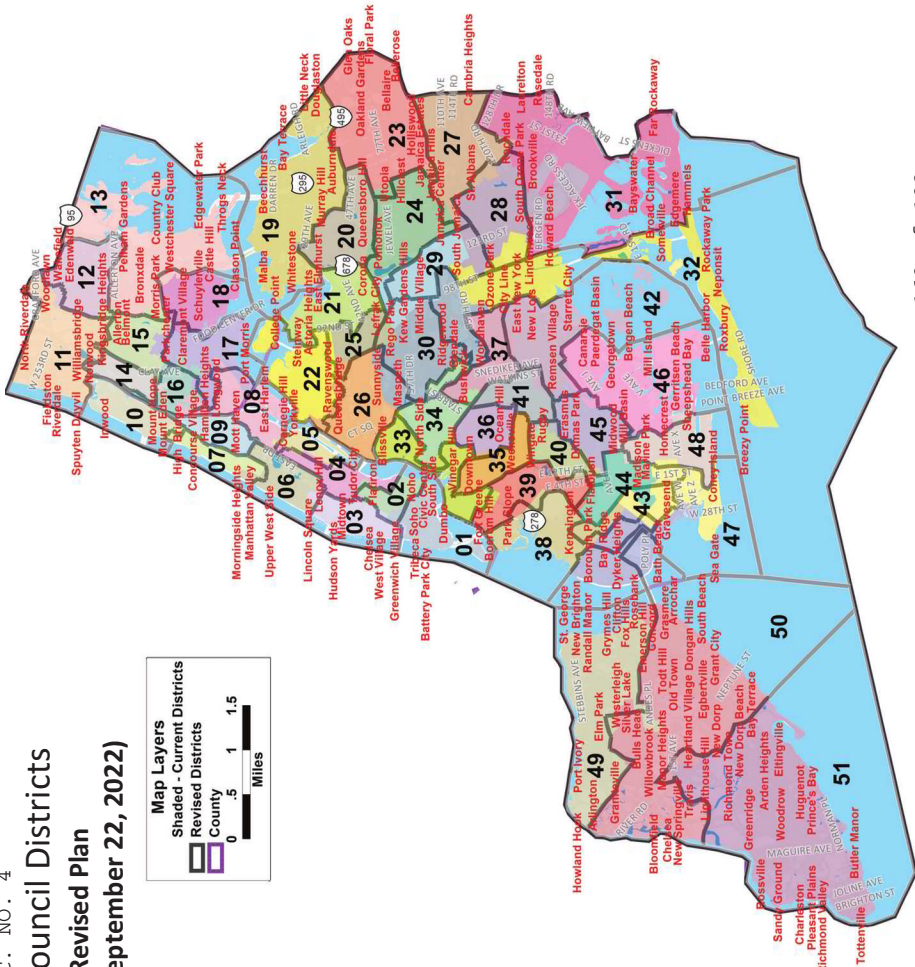
Table with 10 columns: District, Total Population, Deviation, % Deviation, VAP, % VAP, CVAP, % CVAP, Policy Popper, Comparsness, Reock Comparsness. Rows 1-10 for New York County.

Table with 10 columns: District, Total Population, Deviation, % Deviation, VAP, % VAP, CVAP, % CVAP, Policy Popper, Comparsness, Reock Comparsness. Rows 11-20 for Bronx County.

Table with 10 columns: District, Total Population, Deviation, % Deviation, VAP, % VAP, CVAP, % CVAP, Policy Popper, Comparsness, Reock Comparsness. Rows 21-30 for Queens County.

Table with 10 columns: District, Total Population, Deviation, % Deviation, VAP, % VAP, CVAP, % CVAP, Policy Popper, Comparsness, Reock Comparsness. Rows 31-40 for Kings County.

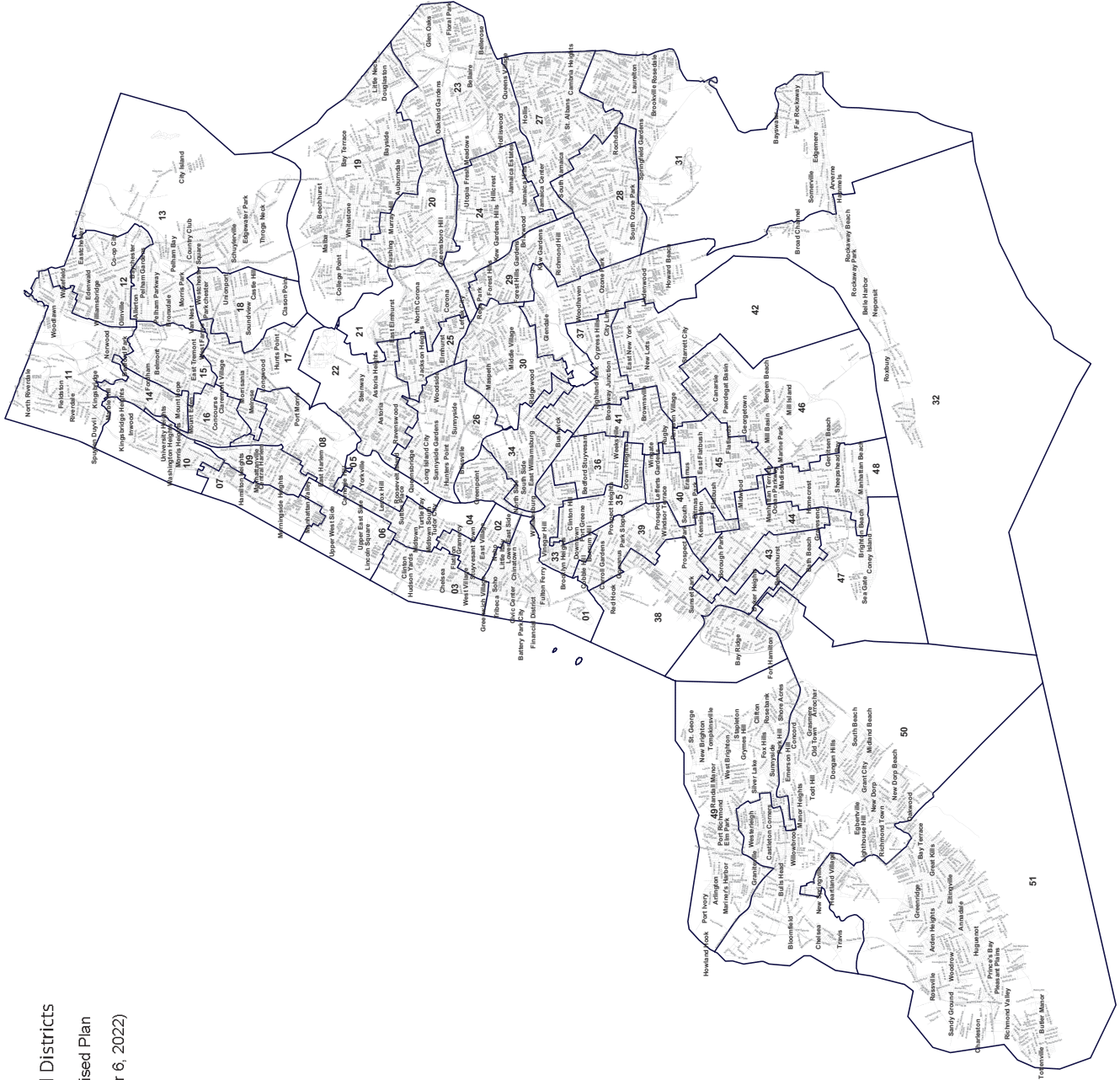
Table with 10 columns: District, Total Population, Deviation, % Deviation, VAP, % VAP, CVAP, % CVAP, Policy Popper, Comparsness, Reock Comparsness. Rows 41-51 for Richmond County.



Map Layers: Shaded - Current Districts, Revised Districts, County. Scale: 0 to 1.5 Miles.

https://www1.nyc.gov/site/districting/index.page

Exhibit S to Vattamala Affirmation-
Updated Revised Plan



NYC Council Districts
Updated Revised Plan
(As of October 6, 2022)

**Exhibit T to Vattamala Affirmation-
Asian American Federation Written Testimony, August 22, 2022
[pp. 210 - 212]**

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Asian American Federation

**Testimony to the New York City Redistricting Commission
August 22, 2022**

Thank you for holding these hearings and giving the Asian American Federation (AAF) the opportunity to testify regarding the City Council redistricting process. I'm Jo-Ann Yoo, the Executive Director of AAF, where we proudly represent the collective voice of more than 70 member nonprofits serving 1.5 million Asian New Yorkers.

Last month, we released a report highlighting that the New York City Asian voting-age population grew 19.5%, from 2013 to 2020, the fastest growth of any racial group. Additionally, almost 70% of Asian voting-age citizens are foreign-born, and almost 40% of Asian voting-age citizens had limited English proficiency in 2020. Furthermore, our research shows that not only is our community the fastest-growing in our State and or City, our community is dispersed, growing beyond traditional ethnic enclaves and into new areas of the Bronx, Staten Island, South Brooklyn and throughout Queens.

Two weeks ago, we released our yearly language briefs, comprising in-depth quantitative research on the linguistic diversity of our City's Asian community. More than 40 languages are spoken within the Asian community of New York City. Nine of these languages are spoken by more than 15,000 people according to the most recent American Community Survey.

So when we talk about communities of interest, AAF is looking not just at ethnic communities, but also linguistic communities. In our civic engagement work, language access continues to be a critical limitation to our community members exercising their franchise, and this effort must take into account our linguistic diversity in keeping our communities together.

Work done by the Asian American Legal Defense and Education Fund (AALDEF) identified 16 Asian communities of interest across New York City, eleven of which are in Queens: Richmond Hill/South Ozone Park, Ozone Park, Elmhurst, Jackson Heights, Woodside, Flushing, Bayside/Auburndale, Oakland Gardens, Floral Park-Queens Village-Bellerose-Glen Oaks, Briarwood, and Jamaica Hills.

The Redistricting Commission should already have the boundaries of these communities of interest.

The Asian American Federation requests that the Redistricting Commission consider the work put into the Unity Map, and give particular importance to keeping together the submitted Asian communities of interest in accordance with the Voting Rights Act and the New York City Charter, including the South Asian community of Richmond Hill that has consistently been divided, the Korean community in Bayside that has seen increased growth since the last Census, and the growing and already-significant Nepali and Tibetan communities of Woodside and Jackson Heights.

Persistently marginalized communities, such as the South Asian community of Richmond Hill and Ozone Park, are marginalized in part because their voice is divided into multiple Council districts. The draft map has their community now split into four Council districts. The growing Nepali and Tibetan populations of Woodside and the Korean community of Bayside, both Asian communities of interest, have been newly split up in the draft map in contravention of Section 52(1)(c) of the New York City Charter, "District lines shall keep intact neighborhoods and communities with established ties of common interest and association, whether historical, racial, economic, ethnic, religious or other."

We must do better. Keeping our communities of interest together means protecting the voting power of the fastest-growing racial community in the City. Keeping our communities of interest together also means protecting the future growth and influence of our immigrant communities across Queens. We do not have to split up communities just as the unprecedented diversity of Queens is becoming reflected at City Council, and unfortunately the draft map does exactly that instead of seeking to protect our ethnic communities' voting power.

Finally, I want to bring to the Commission's attention the disorganized, hurried and entirely inaccessible process of soliciting the public's feedback on this districting exercise. While I waited for three hours to testify at this hearing after being rescheduled from another one that was full, I repeatedly asked when I could testify, only to be told that while I was pre-registered, the staff had no way to inform the Commission that I was present and ready to submit testimony. Only after an exasperated conversation with staff did I finally get to the mic. I raise this experience because at AAF, accessibility is the first issue we take up in our policy advocacy. From language accessibility to process accessibility, the districting engagement process clarified just how far the City's civic engagement practices have to go regarding both. If I find

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this difficult and frustrating, only to persist and provide my testimony after a three-hour wait, I can only imagine the tenacity an immigrant with limited English proficiency must muster to participate in a process formative to how they interact with the City.

At the Asian American Federation, our goal throughout this process is to make sure the Districting Commission acknowledges the new and burgeoning Asian communities that deserve to be together over the next decade of elections and policy making, while protecting the growth in voting power of established Asian communities and neighborhoods.

Thank you for allowing me to speak today, the Asian American Federation will be submitting our recent Civic Engagement report and our language briefs for the record for the Commission to study.

**Exhibit U to Vattamala Affirmation-
South Queens Womens March Written Testimony, May 27, 2022
[pp. 213 - 215]**

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Good afternoon. Thank you to the NYC Districting Commission for answering our calls for a public hearing and for hearing us out today. My name is Amanda Deebrah and I am an active member and the vaccine outreach coordinator of South Queens Women's March (SQWM), a local grassroots gender justice organization. I am also a resident in the Richmond Hill area. Founded right before the pandemic hit, and inspired by global and national women's rights movements, SQWM amplifies the voices of South Queens' diverse women and gender-expansive people. We are an all-volunteer multi-generational, intersectional platform working to foster women's empowerment. We take our sisterhood to the streets to unify women and gender non-conforming individuals and connect them to the tools and resources necessary to empower their own lives and thrive. That includes fighting food insecurity and period poverty through pantries and essential distributions, tackling gender based violence via healthy relationships and art healing workshops, promoting empowerment through youth and professional development particularly among our community's large immigrant population, and finally promoting civic engagement and building political power through street canvassing and outreach, all while meeting people where they are, which is what brought us to become a proud member of the APA VOICE Redistricting Task Force.

Much of our work has been based in the Richmond Hill and South Ozone Park neighborhoods of South Queens, home to a vibrant and sprawling Asian American population - specifically South Asians, mainly Punjabi, and Indo-Caribbeans that Census data unfortunately does not fully account for. For clarification's sake, Indo-Caribbeans are those who migrated from India to the Caribbean as indentured servants in the early 1800s - to places like Guyana, Trinidad and Suriname. These communities have been gerrymandered for far too long. We have advocated and will continue to advocate for AALDEF's Asian American Community of Interest (COI) Maps.

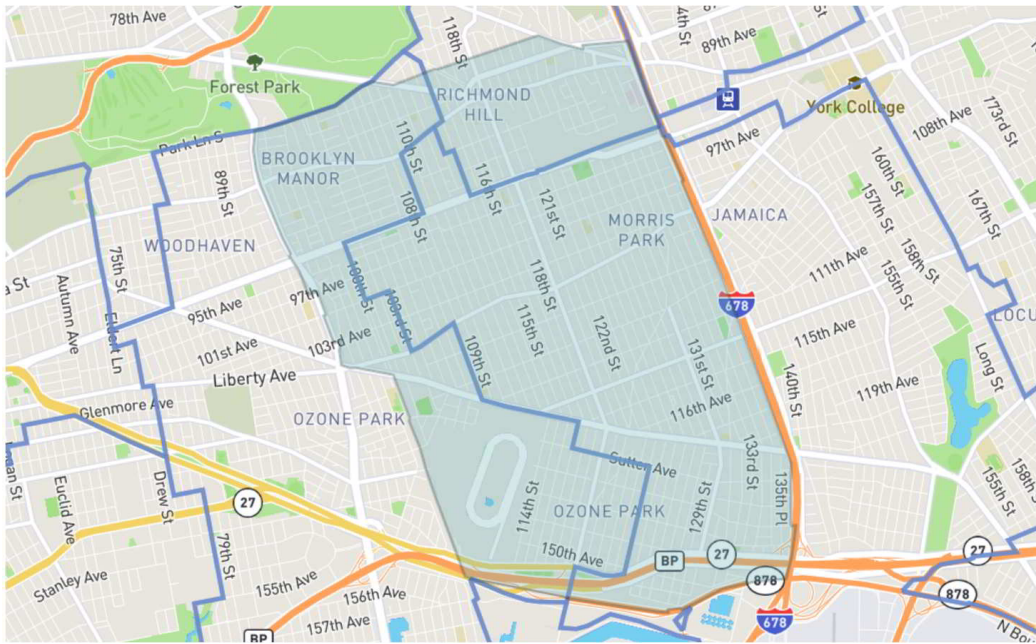
As a community of interest, we take the same mass transit, we go to the same schools, we worship in the same faith based institutions, we eat the same types of cuisines, we share similar socioeconomic statuses, YET we have been among the most egregiously divided at every single level of government. At the City Council level, we are divided into three Council districts - Districts 28, 29 and 32. If you take a look at the overlay of the AALDEF Community of Interest Map with the existing Council maps for District 28, 29 and 32, you'll see how we are divided, even at the very nucleus of our community of interest.

As you go to the drawing board and consider these maps, we ask that you please don't divide us. Please keep Richmond Hill and South Ozone Park whole.

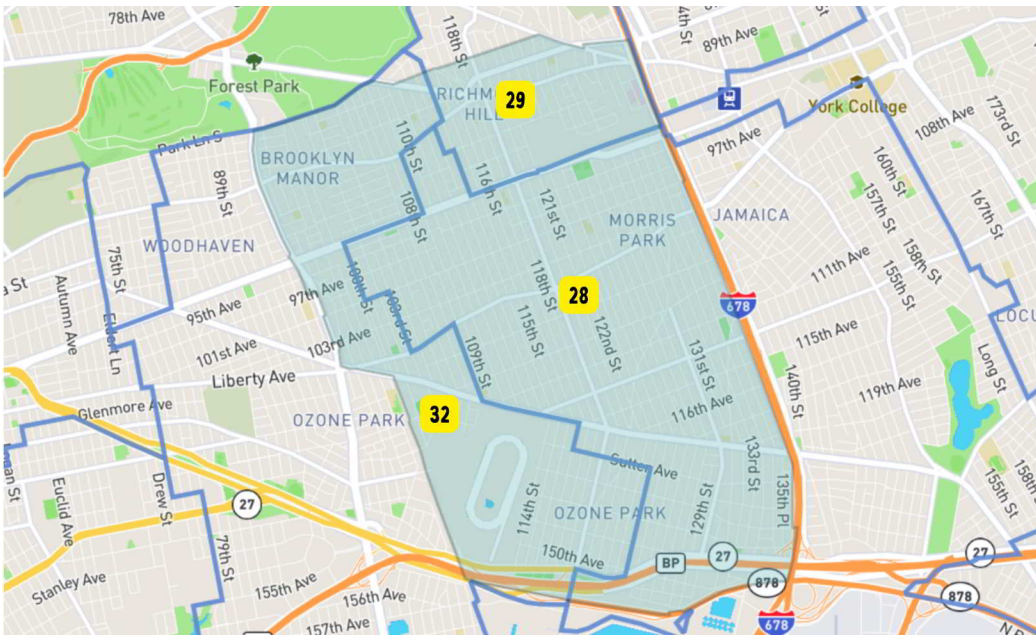
There are many in my community who have been fighting for this, for equitable lines for 30 years. I can recall several elections where many of my family members and friends, all who live nearby in our same community of interest, want to corral behind a candidate of our choice only to find that they live outside of that candidate's district - becoming deeply disappointed and frustrated by a political system that many of us already feel wasn't designed to uplift the voices of Black and Brown people.

This conversation isn't about identity politics for us. It's about equity for an Asian population in Queens that has grown larger than any other racial group per the last Census - by 29% - an increase many local CBOs including ours put so much energy into capturing, most of us doing so without a single dollar of funding or staff. All Asian American Communities Of Interests (COI) in Queens should be kept whole to the extent possible at all levels.

Thank you for listening. As we always say at South Queens Women's March, OUR VOICE IS OUR POWER.



AALDEF Community of Interest Map for Richmond Hill and South Ozone Park



City Council Districts overlaid with AALDEF's Community of Interest Map for Richmond Hill and South Ozone Park

**Exhibit V to Vattamala Affirmation-
The Hispanic & South Asian Alliance for Fair Redistricting
in South Queens Written Testimony, May 30, 2022
[pp. 216 - 220]**

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**HISPANIC & SOUTH ASIAN ALLIANCE
FOR FAIR REDISTRICTING IN SOUTH QUEENS**

124-06 ROCKAWAY BOULEVARD

OZONE PARK, NY 11420

Email: joshuasrealty@gmail.com

May 30th, 2022

Petition to please unite our communities of interest-Richmond Hill, Ozone Park and South Ozone Park into one City Council District, in accordance with the NYS, US Constitutions, Voting Rights Act, justice and fairness

Most Honorable NYC Districting Commission Members:

We are a group that represents the largest numbers of constituents in South Queens, namely Richmond Hill, Ozone Park and South Ozone Park. We-Latinos and South Asians alike-live with our families, and side by side in these hitherto indivisible, compact and contiguous neighborhood of Richmond Hill, Ozone Park and South Ozone Park. This is our home, and our community, built up by our blood, sweat and tears.

This proposed district will keep our neighborhoods and communities intact, with established ties of common interest, ownership and association, grounded in historical, racial, economic, ethnic, religious, and other ties. See attached.

We need united, strong voices and responsive leadership to lift our struggling community out of this pandemic. Lack of progress and hope will cripple us, unless you unite us, and let democracy prevail. We have enough constituents to form a City Council district. This cannot be business as usual.

We are the largest group in New York City, and the largest settlement and conglomeration of folks who can trace their ancestry to South Asia, South and Central America, the Caribbean and the West Indies. Moreover, as new, first and second generation Americans, we share many common bonds, and are one large family.

Our mission is to keep residents and voters in those communities together in one district, so that we can obtain common solutions to our issues and problems that affect our families on a daily basis. Many of us are essential workers and working families, whose children have served, defended and died for America-proudly. Please stop dividing and fragmenting us.

As you can see from the compact and contiguous maps submitted, we are bordered and defined by natural, geographic boundaries. In prior redistricting attempts, these natural and God-made boundaries have been consciously obliterated and ignored. It behooves you to act accordingly and unite us as a community, and not use us as filler for other communities.

Our elected officials and their staff do not look like us, nor care about us. They do not understand our customs, language or heritage. They treat us as if we are from a different planet. They look down upon us. They are imported from other communities.

We pray that you honor your mandate and duties to draw fair, common districts, and free us from the absurd, egregious gerrymandering that has divided us up unconscionably and unfairly. We have, at

present, as is evident from City Council 28 and 32 Districts, maps that resemble dinosaurs and reptiles, not communities of interest being kept together. They have been drawn to dilute and separate us, diminishing our already suppressed voices. They have *ALL* been drawn with an evil purpose in mind-protect these incumbents and suppress and dilute the communities of Richmond Hill, Ozone Park and South Ozone Park.

Everyone with a conscience call them the apartheid maps. They have been divided to suit the incumbent politicians, special interests and status quo, who do not care about us. The Covid-19 pandemic confirmed this. None of them even brought a single mask, a testing center, nor any other much needed Covid help to our hard hit community-the hardest in NYS. Shame on them, and shame on you if you preserve the *status quo*.

We could not get any help from any of them to get unemployment compensation, help us with homelessness, rent assistance, food, PEP or any other assistance, even though all of these societal problems increased during the pandemic. We could not even get help to bury our deceased. We were abandoned, and left without hope. That is why we are appealing to you. This desertion and deprivation must not be institutionalized, nor tolerated, by your revered commission any longer.

Districts must comply with state and federal laws and be similarly sized with reasonable, not zigzagging shapes. This commission, which can be an example for other states stifled and divided by partisan gerrymandering, must also consider that we are indivisible and solid “communities of interest.”

Our lives are so intertwined that we share the same heritage, ancestry, religions, places of interest, shopping centers, food markets, play the same sports, work in the same industries, have the same vocations and our children attend the same schools. We also use the same public transportation, and other facilities like libraries, Post Offices etc.

Richmond Hill, Ozone Park and South Ozone Park have the largest conglomeration of residents from South Asia that live in the USA-Guyanese, Sikhs, Trinidadians, Surinamese, Bengalis and Punjabi communities. We have been splintered, cruelly and shamelessly into several districts.

This is evil gerrymandering, and show how it dilutes and exploits communities of interest-apartheid style.

Moreover, none of these elected officials who are supposed to represent us-Hon. Adrienne Adams, (CD 28), Hon. Joann Ariola, (CD 32), Hon. Lynn Schulman (CD 29), have an office in our neighborhood. Nor do live in this area, nor do they ever come here. Most residents do not even know who these so-called representatives or their staff members are. They never return our calls for help and assistance. We don't exist, for them.

That is because our splintered neighborhoods make politicians less responsive to constituents' needs as gerrymandering diminishes our ability to influence elections. It is the same old divide and rule policy our great nation fought for in our independence against the British colonialists, now being used against us centuries later!

Look at our districts! They are the obvious end result of dicing, slicing, and gerrymandering. They eviscerate the Voting Rights Acts and the NYS and US Constitutions. The boundaries are disgraceful and shocking. They are an abomination of the redistricting standards/principles that require districts to be compact and contiguous, and preserve “communities of interest,” among other guidelines.

We contribute our fair share, to the Federal, State, and City coffers in various forms of taxes, yet we are not known. We energize the economy of the area by revitalizing businesses, the professions and other services. We are small business owners, essential workers, factory workers and laborers, engineers, lawyers, doctors and dentists, academics and teachers, brokers of real estate, insurance and financial services, businessmen and women, writers, poets, artists, and others, filling every niche of activity, and contributing tangibly to the growth and development of our neighborhoods and America.

Indeed, in these communities, there is a uniqueness in dress, dance, music, food, custom, religious routines, and other cultural practices. They convey a unique attribute to this area. One need only walk on Liberty, Atlantic, Jamaica and Rockaway Avenues, and Lefferts Boulevard in Richmond Hill, South Ozone Park and Ozone Park, yet we are not given justice, hope and due recognition.

These corrupt district lines make community organizing around school funding, health care, social services, among other political, social and workers' causes, impossible. Our political, economic and social rights have been made a mockery of. Enough is enough!

Lack of a voice has caused systemic deprivation and exploitation by government and other entities. Our communities are unfairly targeted by ICE, although we provide the tertiary workers like cooks, bell boys, household workers, cleaners, janitors, security and other personnel whose only "crime" is to secure a better life for their families in this great land of opportunity. You say we are "essential," when it suits your agenda, but "aliens" when it does not!

Moreover, whereas basements are legal for other communities, for example in Borough Park, neighboring Howard Beach, and are exempted from Department of Building enforcement sanctions, the Building Inspectors target us here with massive fines, vacate orders and other penalties. They call them "mother and daughter apartments," whereas we are violated and selectively prosecuted for having a prayer room or a recreation room in our attics and basements.

Again, we are singled out for other types of enforcement, environmental and traffic violations. We have the largest daily quota of summonses. Our small businesses are violated at higher rates, compared to other neighborhoods. At one time, a few years ago, we were the only neighborhood targeted for jaywalking. You criminalize our children with the eternal stigma of convicted felons at a far greater rate than elsewhere.

We are frustrated and deprived. We have been undercounted because some of us did not take part in the Census or speak to census takers due to building inspector harassment and immigration fears of deportation.

You must appreciate what has happened here. As the map compellingly demonstrates, our district was cut up into at least 3 City Council districts to dilute and oppress us, bypassing natural boundaries, geographic boundaries and common heritage and culture.

Our kids have to travel for hours outside our communities, in fact, counties, to get a decent education, because our schools are failing, with unacceptable graduation rates. We have no specialized High Schools in our area, because our taxes paid are unfairly routed to other neighborhoods to develop those more affluent communities-Kew Gardens, Howard Beach, Jamaica Estates, Glendale etc.

There is poor sanitation and other government services here. Grocery shopping has to be done in another district. Worship is also possible only in another district. If we have a problem, we have to run to several different officials, because they are all located in different areas, although we live just a few

blocks away from each other, resulting in the most complicated, poorest local governance and service delivery we see anywhere in New York City.

Consequently, people do not even bother to get their problems and issues addressed, whether it be educational, medical, government services, or otherwise.

Older people in the neighborhood compare this deprivation and state of affairs to the social, economic, historical and political suppression and situations they escaped from in their homes countries, which forced them to seek a better life in the United States, only to proverbially “jump into the fire.”

This was the main reason they left and came here in the first place, only to face the same deprivation, suppression and denial caused by gerrymandering and the separation of our communities of interest of Richmond Hill, Ozone Park and South Ozone Park into different districts.

Minority enrollment is 96% of the student body in both schools, which is higher than the New York state average of 57%. The graduation rates for students at our sole high Schools is far below the 84% rates state wide. Richmond Hill High School and John Adams High School, is at 54% and 70% respectively. It is easy for you to understand why our morale is so low, and why we feel deprived as a majority-minority community. These partitions and divisions have caused grave consequences upon us.

The reason for this is based on lack of resources, improvement and attention being paid to our community. Parents resign to a second class standard of education, due to gerrymandering and isolation of our minority community. Hope is a scare commodity. That is why we suffered the highest infection and death rates during the recent pandemic-systemic suppression. Neglect and disenfranchisement were the root causes.

Most of the students here, and their hardworking families are from Central and South America, Guyana, Bangladesh, Trinidad, India, Suriname, Sri Lanka, Jamaica, and can trace their roots to South Asia and Latin/South America. They live in Richmond Hill, Ozone Park and/or South Ozone Park.

In this entire area of over 500,000 residents, there is no community center and/or senior center, after school programs, skills teaching center and/or sports center. The facilities that are supposed to save us, are not enough. We cannot help but feel ostracized in our own community, even with our dealings with law enforcement. Ambulance and law enforcement response times are the slowest in New York City.

Although we have many self-sustaining places to worship, ethnic food stores and many family members here, we have nowhere to go for assistance with homework, academic guidance, counseling, vocational, play sports, or afterschool programs. On weekends, we usually have to leave the neighborhood to find anything useful to do with our time. Our libraries are overcrowded and need expansion. Public transportation can be improved.

Please help us attain a better life. We should not have to go to different representatives to deal with issues like when both of our major high schools were proposed for closure, when we were designated the area with the highest COVID infection rates, when we are unfairly treated by the cops, and/or when we need solutions to our issues and problems like high foreclosures and poor government services.

We need a district where the elected officials will be familiar with our heritage and culture, who are from this neighborhood and who will work with the community on our needs, e.g., improve graduation rates, help with homework, spaces for students to go after school, cooling centers, better police

relations, minimizing hate crimes, domestic violence counseling, more sports grounds, give our non-profits funding, and so on. We get zero at the moment.

We strongly urge you to keep these neighborhoods together in a single City Council district in accordance with your mandate, conscience and duties. Don't blame us for voter and census apathy, and higher suicide rates if you fail us.

Thank you for consideration and attention,

Respectfully submitted,

Joshua Harris (Chairman)

Gregory Adams (President)

Juan Carlos (Vice President)

Maria Bueno (Secretary)

Elizabeth McCarthy (Treasurer)

Tara Nath (Membership)

Beann Jaigobin (Organizing Secretary)

**Exhibit W to Vattamala Affirmation-
The Caribbean Equality Project Written Testimony, May 26, 2022
[pp. 221 - 222]**

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Advocating for Caribbean LGBTQ Voices in NYC

Post Office Box 200248 . Queens . NY 11420
www.CaribbeanEqualityProject.org . info@CaribbeanEqualityProject.org



**New York City Council
Redistricting Commission Hearing
Thursday, May 26, 2022**

Written Testimony

Mohamed Q. Amin, Founder and Executive Director, Caribbean Equality Project

Good Afternoon Commissioners,

Thank you for the opportunity to testify today.

My name is Mohamed Q. Amin. I have been a homeowner, voter, and community organizer living and working in Richmond Hill, "Little Guyana," for over 17 years.

I am also the founder and executive director of the [Caribbean Equality Project](https://www.caribbeanequalityproject.org/) (CEP). Founded in 2015 in response to anti-LGBTQ hate crime violence in Richmond Hill, CEP is a community-based organization that empowers, advocates for, and represents Black and Brown, LGBTQ+ Caribbean immigrants in New York City. Through public education, community organizing, civic engagement, storytelling, and cultural and social programming, the organization focuses on advocacy for LGBTQ+ and immigrant rights, gender equity, racial justice, immigration, mental health services, and ending hate violence in the Caribbean diaspora.

The Caribbean Equality Project is a proud member of the APA Voice Redistricting Task Force, a collective that unites 21 AAPI organizations across all five boroughs of New York City to advocate for fair and equitable maps.

There are currently over 1.5 million residents of Asian American Pacific Islander (AAPI) descent in New York City, comprising over 18% of the City's total population. AAPI New Yorkers are the fastest-growing racial and ethnic group and voting population in New York City.

Richmond Hill and South Ozone Park are home to the largest South Asian and Indo-Caribbean communities in Queens, the fastest-growing immigrant population in NYC. The AALDEF's Asian American Community of interest map for South Ozone Park and Richmond Hill defines and highlights how unjustly divided these neighborhoods are into 3 City Council districts, 28, 29, and 32. These district lines have diluted our political power, vote, and voice for decades.

The COVID-19 pandemic has disproportionately impacted immigrant communities, and it will take years to recover from its economic crisis. In 2020, at the peak of the COVID-19 pandemic, South Asian and Indo-Caribbean New Yorkers had the highest rates of COVID-19 infection and hospitalization due to limited access to language accessibility and culturally-competent testing and vaccination sites, including in neighborhoods of South Ozone Park and Richmond Hill in Queens. From health disparities, immigration, food insecurity, housing, economic disadvantages, and political disenfranchisement, our elected officials have neglected South Ozone Park and Richmond Hill.

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Asian immigrant New Yorkers and LGBTQ+ people have always been essential workers. Our diverse and intersectional communities can no longer be ignored, underfunded, and under-resourced.

Redistricting is a racial justice, immigrant rights, and quality of life issue. Today, I am calling on the NYC Redistricting Commission to hear our voices and bring Justice to Richmond Hill. We deserve equity in the New York City Council Redistricting process. We deserve to be kept whole and protected under the Voting Rights Act. We deserve fair and equitable maps. We deserve to be united and not divided!

Give us a fighting chance to emerge from the COVID-19 pandemic a more politically resilient community.

I want to thank you for allowing me to testify before you today. Our recommendations will help the NYC Redistricting Commission create fair maps to unite Richmond Hill and South Ozone Park into one City Council District. We look forward to working with you to create a more equitable New York City.

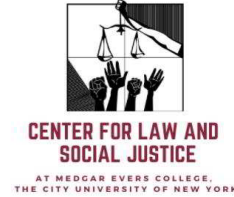
**Exhibit X to Vattamala Affirmation-
Unity Map Coalition Letter, October 6, 2022
[pp. 223 - 224]**

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October 6, 2022

Via E-Mail

New York City Districting Commission
253 Broadway, 3rd Floor
New York, NY 10007

Dear Commissioners,

The Unity Map Coalition, is a group of the leading legal voting rights advocacy organizations representing people of color in New York City. The Unity Map Coalition, includes the Asian American Legal Defense and Education Fund (AALDEF), The Center For Law And Social Justice At Medgar Evers College (CLSJ) and LatinoJustice PRLDEF; organizations that have fought for decades to advance racial justice and equality. We have consistently called for the adoption of the Unity map which is a reflection of deep community engagement and conversation. The Unity Map represents the best possible map for protected communities of color in coalition with one another; it complies with the city charter and the Voting Rights Act of 1965 and should be adopted in full.

Additionally, we wanted to remind commissioners of their obligations under the law. As legal advocates we worked closely to examine the city charter and how it affects the map drawing process for the city. Particularly, we want to reiterate that the commission's primary obligation, after population equality, is to ensure the fair and effective representation of the racial and language minority groups in New York city which are protected by the United States Voting Rights Act of 1965 to the maximum extent practicable.¹ Prioritizing lower ranked criteria and non-protected classes is in direct contravention of the charter and its explicit instruction to protect the interests of historically marginalized community members. Black, Latinx, and Asian community members require maps that protect their voting power and their ability to elect a candidate of their choice; the charter plainly upholds this principle by designating it as a high priority criteria that must lead any map-making process.

¹ New York City Charter, Chapter 2-A, Section 52(1); 52(1)(a)(b)

A number of decisions made by the commission conflict with several aspects of the city charter (Charter) and the Voting Rights Act of 1965 (VRA). These examples are:

The Asian American community of interest in Richmond Hill/South Ozone Park (Districts 28 and 32) - this protected group does not have fair and effective representation to the maximum extent practicable, without harming another racial minority group, as is required under the Charter. Liberty Avenue is a major thoroughfare in the community, and the commission's plan divides the community in half - in violation of the Charter. The neighboring communities in district 32, cannot be prioritized above the Asian American community in Richmond Hill/South Ozone Park. The Charter requires that the Asian American community in Richmond Hill/South Ozone Park *first* be given fair and effective representation to the maximum extent practicable, only after ensuring that requirement is satisfied, is the commission to look to other surrounding communities. The Unity Map best represents a district configuration that complies with the Charter and the VRA for this protected community, as well as the protected communities in districts 28, 31 and 27. The Unity Map provides the Asian American community in Richmond Hill/South Ozone Park with an ability to elect a candidate of their choice in district 32, and creates a new Black majority district in district 28. The Unity Map should be adopted to comply with the Charter.

Woodside (District 26) - As we testified earlier, district 26 is a performing coalition district, which is protected under the VRA, and it was a potential violation of the VRA and the Charter to dismantle this plurality Asian, performing coalition district and replace with a white plurality district. We are pleased to see that most of the coalition district has been restored to district 26 - but all of Woodside should be restored to district 26, as is done in the Unity Map. Woodside has a large Asian American population that is prioritized and protected under the Charter.

Elmhurst (District 25) - AALDEF previously submitted communities of interest maps to the commission, including a community of interest map of Elmhurst. The commission should restore all of Elmhurst, a prioritized and protected Asian American community to district 25. Elmhurst should not be split in any map configuration. The Unity Map keeps Elmhurst whole in one district, as required by the Charter, and should be adopted.

Lastly, we urge the commissioners to follow the will of the people and testimony produced by the community. While this is a process that implicates political interest it cannot be one that is solely driven by it. At stake is the democratic representation of the various community members of our great city for the next ten years, simply put their voice and collective vision should define the process. The Charter requires you to follow a prioritized list and to apply that criteria to the maximum extent practicable. You must comply with your legal obligations in drafting a new city council map. We will use all available resources to ensure that you do, including legal action.

Sincerely,
The Unity Map Coalition
Asian American Legal Defense and Education Fund
Center for Law and Social Justice at Medgar Evers College
LatinoJustice PRLDEF

Cc: Dr. John Fleteau, Executive Director

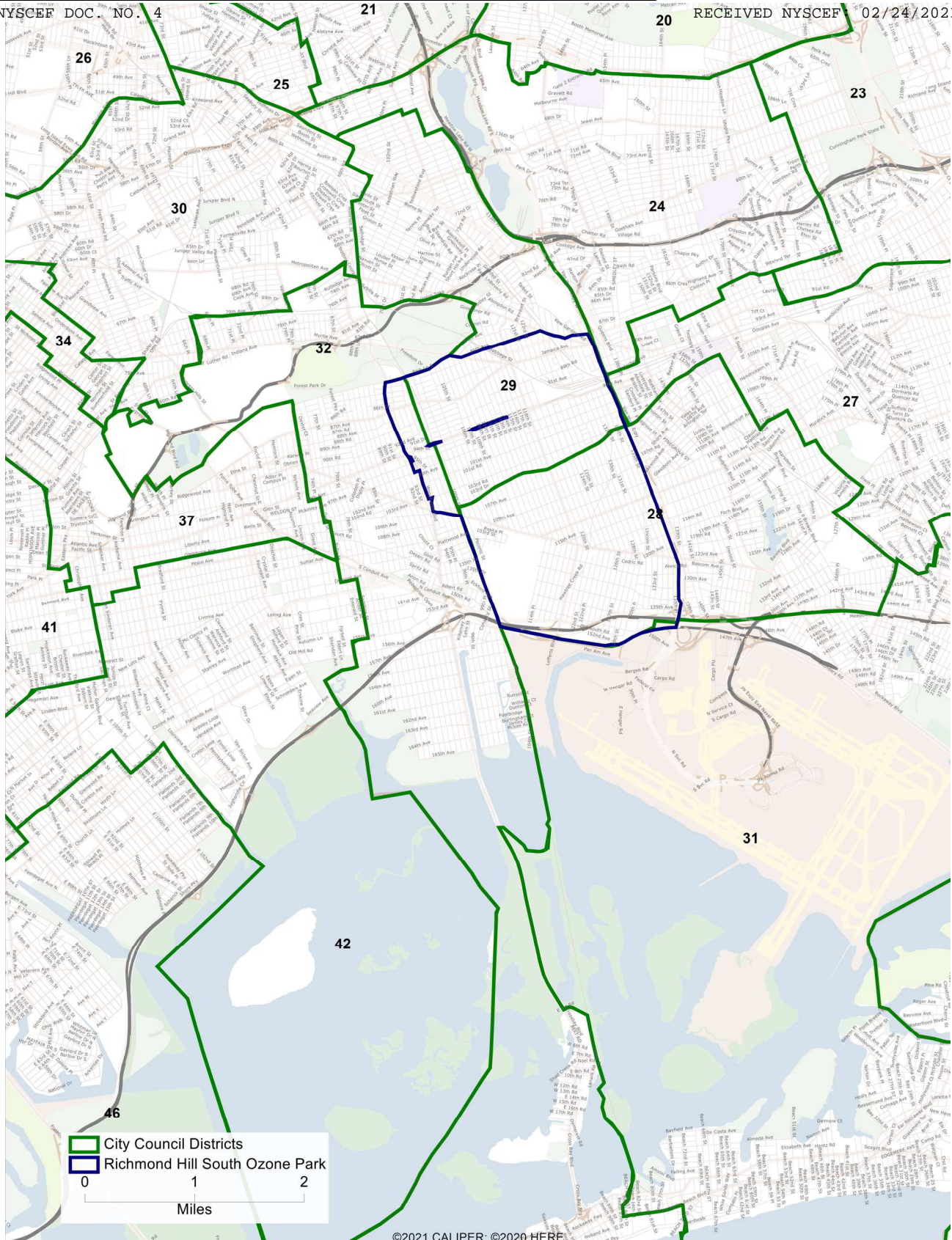
Exhibit Y to Vattamala Affirmation-
AALDEF Community of Interest Overlaid Over Final Certified
Map

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Emergency Affirmation of Jerry Vattamala in Support of Petitioners' Motion for a Temporary Restraining Order, dated February 24, 2023 [pp. 226 - 231]

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STATE OF NEW YORK SUPREME COURT, COUNTY OF NEW YORK

In the Matter of the Application of

DESI RISING UP AND MOVING, AARON FERNANDO, PAUL PERSAUD, SARWAN PERSAUD, NADIA PERSAUD, NADIRA PERSAUD, BISHAM PERSAUD, HARBHAJAN S. SURI, CHARANJIT S. SURI, DAVINDER S. SURI, SUKHVIR SINGH, SWARAN SINGH, LOVEDEEP MULTANI, PRINTHPAL S. BAWA, KAMLESH TANEJA, RAJWINDER KAUR, INDERBIR SINGH, PARAMJIT KAUR, and RAJBIR SINGH

Petitioners,

For and Order Pursuant to Article 78 of the N.Y. C.L.P.R.

-against-

NEW YORK CITY DISTRICTING COMMISSION, CHAIR DENNIS M. WALCOTT, HON. MARILYN D. GO, MARIA MATEO, JOSHUA SCHNEPS, LISA SORIN, MSGR. KEVIN SULLIVAN, KAI-KI WONG, MAF MISBAH UDDIN, MICHAEL SCHNALL, KRISTEN A. JOHNSON, YOVAN SAMUEL COLLADO, GREGORY W. KIRSCHENBAUM, MARC WURZEL, KEVIN JOHN HANRATTY, and DR. DARRIN K. PORCHER each in their capacity as members of the New York City Districting Commission, BOARD OF ELECTIONS IN THE CITY OF NEW YORK, NEW YORK STATE BOARD OF ELECTIONS,

Respondents.

Index No.: _____

EMERGENCY AFFIRMATION

Jerry Vattamala, being duly admitted to the practice of the law in the State of New York, affirms under penalty of perjury, pursuant to CPLR §2106, that:

1. I am an attorney at the Asian American Legal Defense and Education (AALDEF), who appears on behalf of the Petitioners in this proceeding. I am fully familiar with the facts and circumstances contained herein. I make this Affirmation because the within Order to Show Cause should be deemed an emergency application.
2. The within application should be entertained forthwith, pursuant to CPLR §6301, as an application for a Temporary Restraining Order (TRO).
3. Respondents have acted arbitrarily and capriciously in violation of CPLR §7803.
4. Specifically, as more fully explained in the Verified Petition, Respondents, the Districting Commission, have acted arbitrarily and capriciously by misapplying the mandates of New York City Charter (“the Charter”) § 52(1)(b) and failing to create a city council district plan that ensures the fair and effective representation of Asian voters in Richmond Hill/South Ozone Park, to the maximum extent practicable.
5. Furthermore, Respondents, The Board of Elections in the City of New York (“City BOE”) and New York State Board of Elections (“State BOE”) are set to begin conducting elections using this arbitrary and capriciously drawn district map.
6. A temporary restraining order may be granted pending a hearing “where it appears that immediate and irreparable injury, loss or damage will result unless the defendant is restrained before the hearing can be had.” CPLR §6301. To obtain such preliminary relief, “a movant must establish (1) a probability of success on the merits, (2) a danger of irreparable injury in the absence of an injunction, and (3) a balance of the equities in the movant’s favor.” *Herczl v. Feinsilver*, 153 A.D.3d 1338, 1338 (2d Dep’t 2017).

7. Here, Petitioner's right to relief on the merits is clear: §52(1)(b) of the Charter lays out a clear order of priority that the Districting Commission must follow in creating a district plan, and the Final Adopted Map arbitrarily eschews that order, favoring a white community of interest over a higher priority racial minority group.
8. Absent immediate relief, Petitioners will suffer irreparable and imminent harm. The illegal district plan adopted by Respondents will dilute the voting and representational rights of Petitioners in the upcoming City Council elections. Courts have made clear that an infringement on a petitioner's right to vote constitutes irreparable harm. *Marchant v. New York City Bd. of Elections*, 815 F. Supp. 2d 568, 578 (E.D.N.Y. 2011) ("The court agrees that infringement on the right to vote necessarily causes irreparable harm.") With petitioning for New York City's primary election set to begin on February 28, 2023, and primary elections set for June 27, 2023, this harm is imminent. Petitioners seek immediate relief to protect the rights of racial minority voters from infringement due to this illegal districting plan.
9. The balance of equities also weighs in Petitioners' favor. Respondents cannot credibly claim an interest in continuing to ignore clear mandates of the Charter. Meanwhile, the Asian voters of Richmond Hill/South Ozone Park who have long seen their representation diluted and dispersed among several districts will continue to face barriers to fair and effective representation if relief is not granted in this election cycle. Furthermore, racial and language minority voters around the city at large will stand to benefit from this court enforcing the provisions of § 52(1)(b) that ensure the fair and effective representation of these groups.

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10. Respondents should not succeed in barring requested relief under the doctrine of laches, as Petitioners have brought this case within the statute of limitations window and before the beginning of electoral activity on February 28, 2023. “The mere lapse of time, without a showing of prejudice, will not sustain a defense of laches” *Saratoga Cnty. Chamber of Com., Inc. v. Pataki*, 100 N.Y.2d 801, 798 N.E.2d 1047. Petitioners' case is detailed, fact intensive, and addresses a novel question of law. They have acted with due diligence in preparing the case, and brought it expeditiously before the beginning of petitioning for the June Primary so as to not create unnecessary duplication of efforts or confusion.
11. Because time is of the essence, Petitioners also request leave to effect service of a copy of the annexed Order to Show Cause, together with a copy of the papers upon which it is granted, upon Respondents as indicated in the accompanying Order to Show Cause: by email to the official government email addresses of the Districting Commission’s chair and the State Board of Elections’ two commissioners.
12. On February 22, 2023, I advised Respondents of Petitioner’s intent to seek relief. I attach hereto the email notification provided to Respondents on February 22, 2023.
13. No prior application has been made for the relief sought by this motion.

WHEREFORE, it is respectfully requested that this Court entertain this emergency Order to Show Cause, and grant the relief sought herein.

Dated: February 24, 2023

/s/  _____

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Jerry Vattamala
Director, Democracy Program
Asian American Legal Defense and Education Fund
99 Hudson Street, 12th Floor
New York, NY 10013
(212) 966-5932
jvattamala@aaldef.org

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From: [Jerry Vattamala](mailto:Jerry.Vattamala)
To: dwalcott@redistricting.nyc.gov; dak@khgflaw.com; douglas.kellner@elections.ny.gov; peter.kosinski@elections.ny.gov; sshamoun@elections.ny.gov
Cc: [Patrick Stegemoeller](mailto:Patrick.Stegemoeller); [Ronak Patel](mailto:Ronak.Patel); [Fisher, Spencer \(Law\)](mailto:Fisher.Spencer(Law)); *ExecOps; *Legal Department; [Stephen Kitzinger](mailto:Stephen.Kitzinger); "erlee@law.nyc.gov"; [Fisher, Spencer \(Law\)](mailto:Fisher.Spencer(Law)); [Bart J. Haggerty](mailto:Bart.J.Haggerty); [Amanda Berinato](mailto:Amanda.Berinato); [Michael J. Ryan](mailto:Michael.J.Ryan); [Hemalee Patel](mailto:Hemalee.Patel) (HPATEL@EVOTE.NYC); [Hemalee J. Patel](mailto:Hemalee.J.Patel); [Bethany Li](mailto:Bethany.Li); [Susana Lorenzo-Giguere](mailto:Susana.Lorenzo-Giguere)
Subject: Article 78 Petition and OSC
Date: Wednesday, February 22, 2023 7:19:36 PM
Importance: High

Dear Commissioner Walcott, Chairs Kosinski and Kellner, and President Shamoun,

For the past several months, we have been investigating a claim on behalf of voters and community organizations from Richmond Hill/South Ozone Park, Queens that the New York City Council district plan certified by the New York City Districting Commission on November 1, 2022 violates New York City Charter Section 52(1)(b)'s mandate to ensure fair and effective representation for racial minority voters. Notice of this violation was specifically raised in testimony to the Districting Commission on several occasions, but the Commission proceeded to certify a district plan in violation of the City Charter. As a result, we intend to bring an action seeking emergency relief to compel compliance with the Charter and delay the start of candidate petitioning for the June 2023 City Council primaries.

We will be filing a Petition along with an emergency Order to Show Cause in New York County Supreme Court on Friday, February 24, and will provide you with courtesy copies of the papers via email. Please let us know whether you, or any counsel you retain, consent to accept service of these papers via email. We will be requesting to be heard Monday, February 27, at 10am. We will update you with any information we hear from the court about the hearing, including date, time, and location.

Sincerely,

Jerry Vattamala

Jerry G. Vattamala
Director, Democracy Program
AALDEF
jvattamala@aaldef.org
tel: 212.966.5932 x 209
fax: 212.966.4303

Request for Judicial Intervention, dated February 24, 2023

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UCS-840

(rev. 02/01/2022)



REQUEST FOR JUDICIAL INTERVENTION

Supreme COURT, COUNTY OF New York

Index No: _____ Date Index Issued: _____

For Court Use Only:

CAUTION Enter the complete case caption. Do not use et al or et ano. If more space is needed, attach a caption rider sheet. IAS Entry Date

Desis Rising Up and Moving, Aaron Fernando, Paul Persaud, Sarwan Persaud, Nadia Persaud, Nadira Persaud, Bisham Persaud, Harbhajan S. Suri, Charanjit S. Suri, Davinder S. Suri, Sukhvir Singh, Swaran Singh, Lovedeep Multani, Printhpal S. Bawa, Kamlesh Taneja, Rajwinder Kaur, Inderbir Singh, Param...

Plaintiff(s)/Petitioner(s)

Judge Assigned

RJI Filed Date

-against-

New York City Districting Commission, Chair Dennis M. Walcott, Hon. Marilyn D. Go, Maria Mateo, Joshua Schneps, Lisa Sorin, Msgr. Kevin Sullivan, Maf Misbah Uddin, Michael Schnall, Kristen A. Johnson, Yovan Samuel Collado, Gregory W. Kirschenbaum, Marc Wurzel, Kevin John Hanratty, Dr. Darrin K. ...

Defendant(s)/Respondent(s)

NATURE OF ACTION OR PROCEEDING: Check only one box and specify where indicated.

COMMERCIAL

- Business Entity (includes corporations, partnerships, LLCs, LLPs, etc.)
Contract
Insurance (where insurance company is a party, except arbitration)
UCC (includes sales and negotiable instruments)
Other Commercial (specify):

NOTE: For Commercial Division assignment requests pursuant to 22 NYCRR 202.70(d), complete and attach the COMMERCIAL DIVISION RJI ADDENDUM (UCS-840C).

TORTS

- Adult Survivors Act
Asbestos
Environmental (specify):
Medical, Dental or Podiatric Malpractice
Motor Vehicle
Products Liability (specify):
Other Negligence (specify):
Other Professional Malpractice (specify):
Other Tort (specify):

SPECIAL PROCEEDINGS

- Child-Parent Security Act (specify): Assisted Reproduction Surrogacy Agreement
CPLR Article 75 - Arbitration [see NOTE in COMMERCIAL section]
CPLR Article 78 - Proceeding against a Body or Officer
Election Law
Extreme Risk Protection Order
MHL Article 9.60 - Kendra's Law
MHL Article 10 - Sex Offender Confinement (specify): Initial Review
MHL Article 81 (Guardianship)
Other Mental Hygiene (specify):
Other Special Proceeding (specify):

MATRIMONIAL

- Contested
NOTE: If there are children under the age of 18, complete and attach the MATRIMONIAL RJI Addendum (UCS-840M).
For Uncontested Matrimonial actions, use the Uncontested Divorce RJI (UD-13).

REAL PROPERTY Specify how many properties the application includes: _____

- Condemnation
Mortgage Foreclosure (specify): Residential Commercial
Property Address: _____

NOTE: For Mortgage Foreclosure actions involving a one to four-family, owner-occupied residential property or owner-occupied condominium, complete and attach the FORECLOSURE RJI ADDENDUM (UCS-840F).

- Partition
NOTE: Complete and attach the PARTITION RJI ADDENDUM (UCS-840P).

- Tax Certiorari (specify): Section: Block: Lot:
Tax Foreclosure
Other Real Property (specify):

OTHER MATTERS

- Certificate of Incorporation/Dissolution [see NOTE in COMMERCIAL section]
Emergency Medical Treatment
Habeas Corpus
Local Court Appeal
Mechanic's Lien
Name Change/Sex Designation Change
Pistol Permit Revocation Hearing
Sale or Finance of Religious/Not-for-Profit Property
Other (specify):

STATUS OF ACTION OR PROCEEDING Answer YES or NO for every question and enter additional information where indicated.

Table with 3 columns: Question, YES, NO. Rows include: Has a summons and complaint or summons with notice been filed? (NO checked), Has a summons and complaint or summons with notice been served? (NO checked), Is this action/proceeding being filed post-judgment? (NO checked).

NATURE OF JUDICIAL INTERVENTION Check one box only and enter additional information where indicated.

- Infant's Compromise
Extreme Risk Protection Order Application
Note of Issue/Certificate of Readiness
Notice of Medical, Dental or Podiatric Malpractice Date Issue Joined:
Notice of Motion Relief Requested: Return Date:
Notice of Petition Relief Requested: Return Date:
Order to Show Cause Relief Requested: Article 78 (Body or Officer) Return Date:
Other Ex Parte Application Relief Requested:
Partition Settlement Conference
Poor Person Application
Request for Preliminary Conference
Residential Mortgage Foreclosure Settlement Conference
Writ of Habeas Corpus
Other (specify):

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RELATED CASES List any related actions. For Matrimonial cases, list any related criminal or Family Court cases. If none, leave blank. If additional space is required, complete and attach the RJI Addendum (UCS-840A) .					
Case Title	Index/Case Number	Court	Judge (if assigned)	Relationship to instant case	
PARTIES For parties without an attorney, check the "Un-Rep" box and enter the party's address, phone number and email in the space provided. If additional space is required, complete and attach the RJI Addendum (UCS-840A) .					
Un-Rep	Parties	Attorneys and Unrepresented Litigants		Issue Joined	Insurance Carriers
	List parties in same order as listed in the caption and indicate roles (e.g., plaintiff, defendant, 3 rd party plaintiff, etc.)	For represented parties, provide attorney's name, firm name, address, phone and email. For unrepresented parties, provide party's address, phone and email.		For each defendant, indicate if issue has been joined.	For each defendant, indicate insurance carrier, if applicable.
<input type="checkbox"/>	Name: Desis Rising Up and Moving Role(s): Plaintiff/Petitioner	PATRICK STEGEMOELLER, Asian American Legal Defense and Education Fund, 99 Hudson St. 12th Floor, New York, NY 10013, 518-429-6533, pstegemoeller@aaldef.org		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Fernando, Aaron Role(s): Plaintiff/Petitioner	PATRICK STEGEMOELLER, Asian American Legal Defense and Education Fund, 99 Hudson St. 12th Floor, New York, NY 10013, 518-429-6533, pstegemoeller@aaldef.org		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Persaud, Paul Role(s): Plaintiff/Petitioner	PATRICK STEGEMOELLER, Asian American Legal Defense and Education Fund, 99 Hudson St. 12th Floor, New York, NY 10013, 518-429-6533, pstegemoeller@aaldef.org		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Persaud, Sarwan Role(s): Plaintiff/Petitioner	PATRICK STEGEMOELLER, Asian American Legal Defense and Education Fund, 99 Hudson St. 12th Floor, New York, NY 10013, 518-429-6533, pstegemoeller@aaldef.org		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Persaud, Nadia Role(s): Plaintiff/Petitioner	PATRICK STEGEMOELLER, Asian American Legal Defense and Education Fund, 99 Hudson St. 12th Floor, New York, NY 10013, 518-429-6533, pstegemoeller@aaldef.org		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Persaud, Nadira Role(s): Plaintiff/Petitioner	PATRICK STEGEMOELLER, Asian American Legal Defense and Education Fund, 99 Hudson St. 12th Floor, New York, NY 10013, 518-429-6533, pstegemoeller@aaldef.org		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Persaud, Bisham Role(s): Plaintiff/Petitioner	PATRICK STEGEMOELLER, Asian American Legal Defense and Education Fund, 99 Hudson St. 12th Floor, New York, NY 10013, 518-429-6533, pstegemoeller@aaldef.org		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Suri, Harbhajan S. Role(s): Plaintiff/Petitioner	PATRICK STEGEMOELLER, Asian American Legal Defense and Education Fund, 99 Hudson St. 12th Floor, New York, NY 10013, 518-429-6533, pstegemoeller@aaldef.org		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Suri, Charanjit S. Role(s): Plaintiff/Petitioner	PATRICK STEGEMOELLER, Asian American Legal Defense and Education Fund, 99 Hudson St. 12th Floor, New York, NY 10013, 518-429-6533, pstegemoeller@aaldef.org		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Suri, Davinder S. Role(s): Plaintiff/Petitioner	PATRICK STEGEMOELLER, Asian American Legal Defense and Education Fund, 99 Hudson St. 12th Floor, New York, NY 10013, 518-429-6533, pstegemoeller@aaldef.org		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	

I AFFIRM UNDER THE PENALTY OF PERJURY THAT, UPON INFORMATION AND BELIEF, THERE ARE NO OTHER RELATED ACTIONS OR PROCEEDINGS, EXCEPT AS NOTED ABOVE, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION BEEN PREVIOUSLY FILED IN THIS ACTION OR PROCEEDING.

Dated: 02/24/2023

PATRICK LYNCH STEGEMOELLER

Signature

5819982

PATRICK LYNCH STEGEMOELLER

Print Name

Attorney Registration Number

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Caption Rider Sheet

Desis Rising Up and Moving, Aaron Fernando, Paul Persaud, Sarwan Persaud, Nadia Persaud, Nadira Persaud, Bisham Persaud, Harbhajan S. Suri, Charanjit S. Suri, Davinder S. Suri, Sukhvir Singh, Swaran Singh, Lovedeep Multani, Printhpal S. Bawa, Kamlesh Taneja, Rajwinder Kaur, Inderbir Singh, Paramjit Kaur, Rajbir Singh

Plaintiff(s)/Petitioner(s)**vs.**

New York City Districting Commission, Chair Dennis M. Walcott, Hon. Marilyn D. Go, Maria Mateo, Joshua Schneps, Lisa Sorin, Msgr. Kevin Sullivan, Maf Misbah Uddin, Michael Schnall, Kristen A. Johnson, Yovan Samuel Collado, Gregory W. Kirschenbaum, Marc Wurzel, Kevin John Hanratty, Dr. Darrin K. Porcher, Board of Elections in the City of New York, New York State Board of Elections

Defendant(s)/Respondent(s)

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Request for Judicial Intervention Addendum

UCS-840A (7/2012)

Supreme COURT, COUNTY OF New York

Index No:

For use when additional space is needed to provide party or related case information.

PARTIES: For parties without an attorney, check "Un-Rep" box AND enter party address, phone number and e-mail address in "Attorneys" space.

Un-Rep	Parties	Attorneys and Unrepresented Litigants	Issue Joined	Insurance Carriers
<input type="checkbox"/>	Name: Singh, Sukhvir Role(s): Plaintiff/Petitioner	PATRICK STEGEMOELLER, Asian American Legal Defense and Education Fund, 99 Hudson St. 12th Floor, New York, NY 10013, 518-429-6533, pstegemoeller@aaldef.org	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Singh, Swaran Role(s): Plaintiff/Petitioner	PATRICK STEGEMOELLER, Asian American Legal Defense and Education Fund, 99 Hudson St. 12th Floor, New York, NY 10013, 518-429-6533, pstegemoeller@aaldef.org	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Multani, Lovedeep Role(s): Plaintiff/Petitioner	PATRICK STEGEMOELLER, Asian American Legal Defense and Education Fund, 99 Hudson St. 12th Floor, New York, NY 10013, 518-429-6533, pstegemoeller@aaldef.org	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Bawa, Printhpal S. Role(s): Plaintiff/Petitioner	PATRICK STEGEMOELLER, Asian American Legal Defense and Education Fund, 99 Hudson St. 12th Floor, New York, NY 10013, 518-429-6533, pstegemoeller@aaldef.org	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Taneja, Kamlesh Role(s): Plaintiff/Petitioner	PATRICK STEGEMOELLER, Asian American Legal Defense and Education Fund, 99 Hudson St. 12th Floor, New York, NY 10013, 518-429-6533, pstegemoeller@aaldef.org	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Kaur, Rajwinder Role(s): Plaintiff/Petitioner	PATRICK STEGEMOELLER, Asian American Legal Defense and Education Fund, 99 Hudson St. 12th Floor, New York, NY 10013, 518-429-6533, pstegemoeller@aaldef.org	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Singh, Inderbir Role(s): Plaintiff/Petitioner	PATRICK STEGEMOELLER, Asian American Legal Defense and Education Fund, 99 Hudson St. 12th Floor, New York, NY 10013, 518-429-6533, pstegemoeller@aaldef.org	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Kaur, Paramjit Role(s): Plaintiff/Petitioner	PATRICK STEGEMOELLER, Asian American Legal Defense and Education Fund, 99 Hudson St. 12th Floor, New York, NY 10013, 518-429-6533, pstegemoeller@aaldef.org	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Singh, Rajbir Role(s): Plaintiff/Petitioner	PATRICK STEGEMOELLER, Asian American Legal Defense and Education Fund, 99 Hudson St. 12th Floor, New York, NY 10013, 518-429-6533, pstegemoeller@aaldef.org	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: New York City Districting Commission Role(s): Defendant/Respondent	Aimee Lulich K, Office of the Corporation Counsel of the City of New York, 100 Church St., New York, NY 10007, (212) 356-2369, alulich@law.nyc.gov	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Walcott, Chair Dennis M. Role(s): Defendant/Respondent	253 Broadway 3rd Floor, New York, NY 10007	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Go, Hon. Marilyn D. Role(s): Defendant/Respondent	253 Broadway 3rd Floor, New York, NY 10007	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Mateo, Maria Role(s): Defendant/Respondent	253 Broadway 3rd Floor, New York, NY 10007	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Schneps, Joshua Role(s): Defendant/Respondent	253 Broadway 3rd Floor, New York, NY 10007	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Sorin, Lisa Role(s): Defendant/Respondent	253 Broadway 3rd Floor, New York, NY 10007	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	

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NYSCEF Un- Rep	Parties NO. 7 List parties in same order as listed in the caption and indicate roles (e.g., plaintiff, defendant, 3 rd party plaintiff, etc.)	Attorneys and Unrepresented Litigants For represented parties, provide attorney's name, firm name, address, phone and email. For unrepresented parties, provide party's address, phone and email.	Issue Joined For each defendant, indicate if issue has been joined.	Insurance Carriers For each defendant, indicate insurance carrier, if applicable.
<input checked="" type="checkbox"/>	Name: Sullivan, Msgr. Kevin Role(s): Defendant/Respondent	253 Broadway 3rd Floor, New York, NY 10007	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Uddin, Maf M. Role(s): Defendant/Respondent	253 Broadway 3rd Floor, New York, NY 10007	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Schnall, Michael Role(s): Defendant/Respondent	253 Broadway 3rd Floor, New York, NY 10007	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Johnson, Kristen A. Role(s): Defendant/Respondent	253 Broadway 3rd Floor, New York, NY 10007	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Collado, Yovan S. Role(s): Defendant/Respondent	253 Broadway 3rd Floor, New York, NY 10007	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Kirschenbaum, Gregory W. Role(s): Defendant/Respondent	253 Broadway 3rd Floor, New York, NY 10007	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Wurzel, Marc Role(s): Defendant/Respondent	253 Broadway 3rd Floor, New York, NY 10007	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Hanratty, Kevin J. Role(s): Defendant/Respondent	253 Broadway 3rd Floor, New York, NY 10007	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Porcher, Dr. Darrin K. Role(s): Defendant/Respondent	253 Broadway 3rd Floor, New York, NY 10007	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Board of Elections in the City of New York Role(s): Defendant/Respondent	32 Broadway, New York, NY 10004	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: New York State Board of Elections Role(s): Defendant/Respondent	40 N. Pearl St. Suite 5, Albany, NY 12207	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	

RELATED CASES: List any related actions. For Matrimonial actions, include any related criminal and/or Family Court cases.

Emergency Affirmation of Jerry Vattamala in Support of Petitioners' Motion for a Temporary Restraining Order, dated February 24, 2023 [pp. 237 - 242]

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STATE OF NEW YORK SUPREME COURT, COUNTY OF NEW YORK

In the Matter of the Application of

DESIS RISING UP AND MOVING, AARON FERNANDO, PAUL PERSAUD, SARWAN PERSAUD, NADIA PERSAUD, NADIRA PERSAUD, BISHAM PERSAUD, HARBHAJAN S. SURI, CHARANJIT S. SURI, DAVINDER S. SURI, SUKHVIR SINGH, SWARAN SINGH, LOVEDEEP MULTANI, PRINHPAL S. BAWA, KAMLESH TANEJA, RAJWINDER KAUR, INDERBIR SINGH, PARAMJIT KAUR, and RAJBIR SINGH

Petitioners,

For and Order Pursuant to Article 78 of the N.Y. C.L.P.R.

-against-

NEW YORK CITY DISTRICTING COMMISSION, CHAIR DENNIS M. WALCOTT, HON. MARILYN D. GO, MARIA MATEO, JOSHUA SCHNEPS, LISA SORIN, MSGR. KEVIN SULLIVAN, KAI-KI WONG, MAF MISBAH UDDIN, MICHAEL SCHNALL, KRISTEN A. JOHNSON, YOVAN SAMUEL COLLADO, GREGORY W. KIRSCHENBAUM, MARC WURZEL, KEVIN JOHN HANRATTY, and DR. DARRIN K. PORCHER each in their capacity as members of the New York City Districting Commission, BOARD OF ELECTIONS IN THE CITY OF NEW YORK, NEW YORK STATE BOARD OF ELECTIONS,

Respondents.

Index No.: _____

EMERGENCY AFFIRMATION

Jerry Vattamala, being duly admitted to the practice of the law in the State of New York, affirms under penalty of perjury, pursuant to CPLR §2106, that:

1. I am an attorney at the Asian American Legal Defense and Education (AALDEF), who appears on behalf of the Petitioners in this proceeding. I am fully familiar with the facts and circumstances contained herein. I make this Affirmation because the within Order to Show Cause should be deemed an emergency application.
2. The within application should be entertained forthwith, pursuant to CPLR §6301, as an application for a Temporary Restraining Order (TRO).
3. Respondents have acted arbitrarily and capriciously in violation of CPLR §7803.
4. Specifically, as more fully explained in the Verified Petition, Respondents, the Districting Commission, have acted arbitrarily and capriciously by misapplying the mandates of New York City Charter (“the Charter”) § 52(1)(b) and failing to create a city council district plan that ensures the fair and effective representation of Asian voters in Richmond Hill/South Ozone Park, to the maximum extent practicable.
5. Furthermore, Respondents, The Board of Elections in the City of New York (“City BOE”) and New York State Board of Elections (“State BOE”) are set to begin conducting elections using this arbitrary and capriciously drawn district map.
6. A temporary restraining order may be granted pending a hearing “where it appears that immediate and irreparable injury, loss or damage will result unless the defendant is restrained before the hearing can be had.” CPLR §6301. To obtain such preliminary relief, “a movant must establish (1) a probability of success on the merits, (2) a danger of irreparable injury in the absence of an injunction, and (3) a balance of the equities in the movant’s favor.” *Herczl v. Feinsilver*, 153 A.D.3d 1338, 1338 (2d Dep’t 2017).

7. Here, Petitioner's right to relief on the merits is clear: §52(1)(b) of the Charter lays out a clear order of priority that the Districting Commission must follow in creating a district plan, and the Final Adopted Map arbitrarily eschews that order, favoring a white community of interest over a higher priority racial minority group.
8. Absent immediate relief, Petitioners will suffer irreparable and imminent harm. The illegal district plan adopted by Respondents will dilute the voting and representational rights of Petitioners in the upcoming City Council elections. Courts have made clear that an infringement on a petitioner's right to vote constitutes irreparable harm. *Marchant v. New York City Bd. of Elections*, 815 F. Supp. 2d 568, 578 (E.D.N.Y. 2011) ("The court agrees that infringement on the right to vote necessarily causes irreparable harm.") With petitioning for New York City's primary election set to begin on February 28, 2023, and primary elections set for June 27, 2023, this harm is imminent. Petitioners seek immediate relief to protect the rights of racial minority voters from infringement due to this illegal districting plan.
9. The balance of equities also weighs in Petitioners' favor. Respondents cannot credibly claim an interest in continuing to ignore clear mandates of the Charter. Meanwhile, the Asian voters of Richmond Hill/South Ozone Park who have long seen their representation diluted and dispersed among several districts will continue to face barriers to fair and effective representation if relief is not granted in this election cycle. Furthermore, racial and language minority voters around the city at large will stand to benefit from this court enforcing the provisions of § 52(1)(b) that ensure the fair and effective representation of these groups.

10. Respondents should not succeed in barring requested relief under the doctrine of laches, as Petitioners have brought this case within the statute of limitations window and before the beginning of electoral activity on February 28, 2023. “The mere lapse of time, without a showing of prejudice, will not sustain a defense of laches” *Saratoga Cnty. Chamber of Com., Inc. v. Pataki*, 100 N.Y.2d 801, 798 N.E.2d 1047. Petitioners' case is detailed, fact intensive, and addresses a novel question of law. They have acted with due diligence in preparing the case, and brought it expeditiously before the beginning of petitioning for the June Primary so as to not create unnecessary duplication of efforts or confusion.
11. Because time is of the essence, Petitioners also request leave to effect service of a copy of the annexed Order to Show Cause, together with a copy of the papers upon which it is granted, upon Respondents as indicated in the accompanying Order to Show Cause: by email to the official government email addresses of the Districting Commission’s chair and the State Board of Elections’ two commissioners.
12. On February 22, 2023, I advised Respondents of Petitioner’s intent to seek relief. I attach hereto the email notification provided to Respondents on February 22, 2023.
13. No prior application has been made for the relief sought by this motion.

WHEREFORE, it is respectfully requested that this Court entertain this emergency Order to Show Cause, and grant the relief sought herein.

Dated: February 24, 2023

/s/ Jerry Vattamala

FILED: NEW YORK COUNTY CLERK 02/27/2023 11:37 AM

NYSCEF DOC. NO. 8

INDEX NO. 151762/2023

RECEIVED NYSCEF: 02/27/2023

Jerry Vattamala
Director, Democracy Program
Asian American Legal Defense and Education Fund
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New York, NY 10013
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jvattamala@aaldef.org

FILED: NEW YORK COUNTY CLERK 02/27/2023 11:37 AM

NYSCEF DOC. NO. 8

INDEX NO. 151762/2023

RECEIVED NYSCEF: 02/27/2023

From: [Jerry Vattamala](mailto:Jerry.Vattamala)
To: dwalcott@redistricting.nyc.gov; dak@khgfllaw.com; douglas.kellner@elections.ny.gov; peter.kosinski@elections.ny.gov; sshamoun@elections.ny.gov
Cc: [Patrick Stegemoeller](mailto:Patrick.Stegemoeller); [Ronak Patel](mailto:Ronak.Patel); [Fisher, Spencer \(Law\)](mailto:Fisher.Spencer(Law)); *ExecOps; *Legal Department; [Stephen Kitzinger](mailto:Stephen.Kitzinger); "erlee@law.nyc.gov"; [Fisher, Spencer \(Law\)](mailto:Fisher.Spencer(Law)); [Bart J. Haggerty](mailto:Bart.J.Haggerty); [Amanda Berinato](mailto:Amanda.Berinato); [Michael J. Ryan](mailto:Michael.J.Ryan); [Hemalee Patel](mailto:Hemalee.Patel) (HPATEL@EVOTE.NYC); [Hemalee J. Patel](mailto:Hemalee.J.Patel); [Bethany Li](mailto:Bethany.Li); [Susana Lorenzo-Giguere](mailto:Susana.Lorenzo-Giguere)
Subject: Article 78 Petition and OSC
Date: Wednesday, February 22, 2023 7:19:36 PM
Importance: High

Dear Commissioner Walcott, Chairs Kosinski and Kellner, and President Shamoun,

For the past several months, we have been investigating a claim on behalf of voters and community organizations from Richmond Hill/South Ozone Park, Queens that the New York City Council district plan certified by the New York City Districting Commission on November 1, 2022 violates New York City Charter Section 52(1)(b)'s mandate to ensure fair and effective representation for racial minority voters. Notice of this violation was specifically raised in testimony to the Districting Commission on several occasions, but the Commission proceeded to certify a district plan in violation of the City Charter. As a result, we intend to bring an action seeking emergency relief to compel compliance with the Charter and delay the start of candidate petitioning for the June 2023 City Council primaries.

We will be filing a Petition along with an emergency Order to Show Cause in New York County Supreme Court on Friday, February 24, and will provide you with courtesy copies of the papers via email. Please let us know whether you, or any counsel you retain, consent to accept service of these papers via email. We will be requesting to be heard Monday, February 27, at 10am. We will update you with any information we hear from the court about the hearing, including date, time, and location.

Sincerely,

Jerry Vattamala

Jerry G. Vattamala
Director, Democracy Program
AALDEF
jvattamala@aaldef.org
tel: 212.966.5932 x 209
fax: 212.966.4303

**Affirmation of Aimee K. Lulich in Opposition to Petitioners'
Motion for a Temporary Restraining Order, dated February 27, 2023
[pp. 243 - 254]**

FILED: NEW YORK COUNTY CLERK 02/27/2023 03:11 PM

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RECEIVED NYSCEF: 02/27/2023

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X

In the Matter of the Application of
DESI RISING UP AND MOVING, AARON
FERNANDO, PAUL PERSAUD, SARWAN
PERSAUD, NADIA PERSAUD, NADIRA
PERSAUD, BISHAM PERSAUD, HARBHAJAN S.
SURI, CHARANJIT S. SURI, DAVINDER S. SURI,
SUKHVIR SINGH, SWARAN SINGH,
LOVEDEEP MULTANI, PRINTHIPAL S. BAWA,
KAMLESH TANEJA, RAJWINDER KAUR,
INDERBIR SINGH, PARAMJIT KAUR, and
RAJBIR SINGH,

Petitioners,

-against-

NEW YORK CITY DISTRICTING COMMISSION,
CHAIR DENNIS M. WALCOTT, HON. MARILYN
D. GO, MARIA MATEO, JOSHUA SCHNEPS,
LISA SORIN, MSGR. KEVIN SULLIVAN, KAI-KI
WONG, MAF MISBAH UDDIN, MICHAEL
SCHNALL, KRISTEN A JOHNSON, YOVAN
SAMUEL COLLADO, GREGORY W.
KIRSCHENBAUM, MARC WURZEL, KEVIN
JOHN HANRATTY, and DR. DARRIN K.
PORCHER each in their capacity as members of the
New York City Districting Commission, BOARD
OF ELECTIONS IN THE CITY OF NEW YORK,
NEW YORK STATE BOARD OF ELECTIONS,

Respondents.

-----X

AIMEE K. LULICH, an attorney duly admitted to practice in the Courts of the
State of New York, affirms the following to be true under the penalties of perjury pursuant to
Section 2106 of the New York Civil Practice Law and Rules (hereinafter "CPLR").

1. I am an attorney in the Office of the Hon. Sylvia O. Hinds-Radix,
Corporation Counsel of the City of New York, attorney for Respondents the City of New York

2022-2023 Districting Commission (the “Commission”), Chair Dennis M. Walcott, Hon. Marilyn D. Go, Maria Mateo, Joshua Schneps, Lisa Sorin, Monsignor Kevin Sullivan, Kai-Ki Wong, MAF Misbah Uddin, Michael Schnall, Kristen A. Johnson, Yovan Samuel Collado, Gregory W. Kirschenbaum, Marc Wurzel, Kevin John Hanratty, and Dr. Darrin K. Porcher, each of whom are named in their official capacity as members of the New York City Districting Commission (the “Commissioners”), and the New York City Board of Elections (“City BOE”) in the above-referenced matter.¹ I submit this affirmation on behalf of the Commission and the Commissioners² (“Commission Respondents”) in opposition to the Proposed Order to Show Cause and Temporary Restraining Order in which petitioners seek, in pertinent part, an order enjoining the City from “conducting any elections under the 2022 New York Districting Commission’s certified plan”³ because petitioners cannot establish any of the requirements necessary for emergency injunctive relief, and because the relief sought is barred by the doctrine of laches.

2. I make this affirmation based upon my review of records maintained by the City of New York, discussions with City employees and upon the papers and proceedings heretofore had in this proceeding.

¹ The Commission and the Commissioners will hereinafter be referred to collectively as the “Commission Respondents.”

² City BOE does not take a position as to the merits of the Verified Petition or the request for emergency injunctive relief. City BOE has provided an Affidavit in Response to the Order to Show Cause to set forth information that may be helpful to this Court regarding the 2023 election process and the potential impact of the relief sought by petitioners.

³ Respondents address only Petitioner’s request for emergency injunctive relief herein. To the extent this Court endorses the Order to Show Cause, Respondents will file a full response in compliance with the schedule set forth by the Court.

STATEMENT OF RELEVANT FACTS

3. The Commission was tasked with redrawing the New York City Council Election Districts pursuant to Chapter 2-A of the New York City Charter (“Charter”). See New York City Districting Commission Plan (“Plan”), filed with the Office of the New York City Clerk on November 2, 2022, annexed hereto as Exhibit A.

4. To that end, the Commission followed the process mandated by the Charter, reviewed and considered the public’s input and testimony, and held public hearings and mapping sessions. Id.

5. On July 15, 2022, the Commission released its Preliminary Plan, followed by additional public hearings pursuant to Charter § 51(b). Id.

6. On October 6, 2022, the Commission adopted the instant Plan. Id.

7. The Commission retained Dr. Lisa Handley, a voting rights and redistricting expert, to evaluate the redistricting Plan to determine whether it satisfies the requirements of the United States Voting Rights Act of 1965. Dr. Handley concluded, inter alia, that the Plan increased the number of districts that offer Asian voters an opportunity to elect their preferred candidates of choice. See Racial Bloc Voting Report, Commission Website, available at: <https://www.nyc.gov/assets/districting/downloads/pdf/RBV-Report.pdf> (last visited Feb. 26, 2023).

8. On October 6, 2022, the Commission submitted the Plan to the New York City Council (“Council”) pursuant to Charter § 51(c) for the Council’s consideration. Exhibit A.

9. On October 27, 2022, the Plan was deemed adopted pursuant to Charter § 51(d) because Council did not adopt a resolution objecting to the plan, and, in fact, Council indicated in a letter to the Commission that it accepted the Plan. Id.

10. Pursuant to Charter § 51(g), the Commission voted at a public meeting to certify the Plan by a vote of eleven to four. Id.

11. The Commission certified, inter alia, that the requirements of Charter § 52(1)(b) were implemented in the Plan, in the Certification Statement dated November 1, 2022. Id.

12. On November 2, 2022, the Commission filed its redistricting Plan, including the Certification Statement, with the New York City Clerk as required by Charter § 51(g). Id.

13. Primary elections in New York are set to take place on June 27, 2023, with early voting from June 17, 2023 through June 25, 2023. See New York State Board of Elections 2023 Political Calendar, annexed hereto as Exhibit B and available at: www.elections.ny.gov/NYSBOE/law/2023PoliticalCalendar.pdf (last visited February 27, 2023).

14. The New York City primary elections will include elections for City Council Members as well as Judges and District Attorneys.

15. Petitioning begins on February 28, 2023. Id.

16. The candidate petitioning schedule, including collecting of signatures, filing of petitions, and authorizing designations and filling vacancies are set forth by the New York State Legislature, and modification is not within the discretion of the City BOE. See New York Election Law (“E.L.”) § 6-120, § 6-134(4), & § 6-158.

17. Prior to the primary elections, the processes for, inter alia, petitioning to designate candidates, certification of the ballots, allocation and disbursement of public funds to eligible candidates, and voter education cannot proceed if the election districts are not certified.

18. Indeed, as set forth in the annexed Affidavit of Joseph Gallagher, the New York City Campaign Finance Board (“CFB”), potential candidates, and their supporters and donors have already relied upon the Commission’s Plan to gather donations within the election districts, negotiate contracts, qualify candidates for public funds and disburse public funds.

19. Further, as demonstrated by the Affidavit of Georgea Kontzamanis, enjoining petitioning would ensure that New York City could not hold a primary for City Council Members as currently scheduled. Two primaries – one for District Attorneys and Judges, and one for City Council – would almost certainly be required.

20. Additionally, as demonstrated by the Affirmation of Grace Pyun, any required redistricting would necessitate that the Commission hire additional staff, contract with mapping vendors, and re-engage in the districting process to at least some degree. It would take, at minimum, two months for the Commission to complete the operation tasks necessary to begin the redistricting process, which would take an additional five to six months.

21. Petitioners now, nearly four months after the Plan was finalized and on the eve of the commencement of candidate petitioning, ask this Court to enjoin the City from implementing election activities in any of the 51 election districts, notwithstanding the significant cost of such an injunction at this late stage to candidates, interested voters, and a multitude of City agencies tasked with the implementation of elections, all of whom have relied upon the districts as set forth in the Plan.

**PLAINTIFFS’ APPLICATION IS
 BARRED BY THE DOCTRINE OF
 LACHES.**

18. Petitioners request that this Court enjoin the administration of City Council elections in the City *almost four months after* the Final Certified Plan was filed, on the

day before petitioning is set to commence, notwithstanding that the Commission Respondents, other City agencies, candidates for office, and donors to candidates for office have relied upon the adopted District map and the schedule set forth for the 2023 election cycle.

19. Even assuming petitioners had asserted a cognizable claim under Article 78 (which they have not), the requested injunctive relief is barred by the doctrine of laches.

20. Laches is “such neglect or omission to assert a right as, taken in conjunction with the lapse of time, more or less great, and other circumstances causing prejudice to an adverse party, operates as a bar in a court of equity. The essential element of this equitable defense is delay prejudicial to the opposing party.” Schulz v. State, 81 N.Y.2d 336, 348 (1993) (citing Matter of Barabash’s Estate, 31 N.Y.2d 76, 81 (1972), rearg. denied 31 N.Y.2d 963).

21. While petitioners have (barely) filed within the four month statute of limitations, laches still applies, particularly in the context of an impending election. See, e.g. Wessendorf v. Donohue, 54 Misc.2d 1045 (Albany Co. 1967).

22. Petitioners’ conclusory statement that they have acted with “diligence” because this matter is “fact-intensive” will not suffice. Emergency Affirmation of Jerry Vattamala at ¶ 10. Here, the Plan was filed on November 2, 2022, almost four months ago. However, Petitioners were certainly aware of the Plan prior to November 2nd. In its current iteration, the Plan was submitted to Council on October 6, 2022. Prior to October, the Commission heard public comments on the election districts as early as March 29, 2022. See Commission Website, available at www.nyc.gov/site/districting/index.page (last visited Feb. 24, 2023).

23. Petitioners, many if not all of whom provided public comment and testimony at Commission hearings, cannot credibly argue now that they had insufficient

information to challenge the Plan before such challenge would cause significant disruption to the election cycle.

24. As set forth in the Gallagher Affirmation, Kontzamanis Affidavit, and Pyun Affirmation, attached, candidates, donors, the City BOE, the Commission, and the CFB have relied upon the Plan to prepare for and begin to execute the multitude of actions required to run an election according to all applicable laws.

25. Further, the Affidavits establish that, should this Court grant a temporary restraining order, a delay in petitioning would have a domino effect that would make it impossible to hold the City Council primary elections as scheduled, prejudicing not just the Respondents, but the candidates, their supporters, City taxpayers, and voters.

26. Indeed, the doctrine of laches is a bar to petitioners' success on the merits of the Petition in its entirety because the City BOE, CFB, candidates, and political parties have all taken considerable and significant actions in reliance upon the Plan. Accordingly, petitioners' neglect in filing this eleventh-hour request to vacate all Council election districts within the City is barred in its entirety by the doctrine of laches. See, e.g., Cavalier v. Warren County Board of Elections, 210 A.D.3d 1131 (3d Dep't 2022), Amedure v. State of New York, 210 A.D.3d 1134 (3d Dep't 2022) (collectively, affirming the dismissal of requests, "just weeks before the issuance of absentee ballots," to preliminarily enjoin the distribution or acceptance of said absentee ballots); New York City Council Member Adrienne E. Adams v. City of New York, N.Y. Co. Index No. 160662/2020, Decision and Order on Motion dated May 4, 2021, NYSCEF Document No. 140 (dismissing request for a preliminary injunction preventing the City from administering an election using ranked choice voting as barred by laches.)

**PLAINTIFFS FAIL TO MAKE THE
NECESSARY SHOWING TO OBTAIN
INJUNCTIVE RELIEF.**

27. Additionally, petitioners' request for a temporary restraining order or preliminary injunction fails on the merits because petitioners cannot meet any of the requirements for the issuance of a temporary restraining order or preliminary injunction, and this request must be denied.

28. Injunctive relief is a drastic remedy that may be granted only where the Petitioners demonstrate that they will suffer irreparable harm absent the injunction. A party seeking a temporary restraining order or preliminary injunction bears the heavy burden of proving each of the following: (1) the likelihood of its ultimate success on the merits of the underlying petition; (2) that he will suffer irreparable injury if the relief is not granted; and (3) that, on balance, the equities favor granting the preliminary injunctive relief. State of N.Y. v. Fine, 72 N.Y.2d 967, 968-69 (1988); W.T. Grant Company v. Srogi, 52 N.Y.2d 496, 517 (1981); Schneider Leasing Plus, Inc. v. Stallone, 172 A.D.2d 739, 739 (2d Dept.), appeal dismissed, 78 N.Y.2d 1043 (1991); Zonghetti v. Jeromack, 150 A.D.2d 561, 562 (2d Dept. 1989).

Petitioners Cannot Succeed on the Merits.

29. Petitioners cannot prevail here as he has no likelihood of success on the merits. First, as described in Point I, supra, the Petition is barred by the doctrine of laches because petitioners neglected to file it until the eve of the commencement of petitioning and the relief sought by petitioners will significantly prejudice not just the Respondents herein, but candidates, political parties, and voters.

30. Further, the Plan was not arbitrary and capricious, as a whole or with regard to Election Districts 28 and 32. A determination is arbitrary and capricious where there is

no rational basis in the administrative record to support the determination. A rational basis exists where there is evidence in the record to support its conclusion. See Pell v. Board of Education, 34 N.Y.2d 222, 230-31 (1974).

31. Petitioners challenge the Plan based upon an allegation that the Commission did not adequately consider Charter § 52(1)(b), which directs that the districting plan shall ensure “to the maximum extent practicable” “the fair and effective representation of the racial and language minority groups in New York city which are protected by the United States voting rights act of nineteen hundred sixty-five...” Charter § 52(1)(b).

32. In the context of districting, the Court of Appeals has recognized that the Commission is required to balance a multitude of federal, state and local requirements as well as numerous competing interests, and therefore the Court should not “second-guess” the Commission’s reasonable policy choices. See Brooklyn Heights Ass’n v. Macchiarola, 82 N.Y.2d 101, 1106 (1993).

33. The seven factors set forth in the Charter § 52(1) are not required to be applied with “strict adherence” but rather “flexibility” in completing a “task that necessarily involved many compromises and difficult choices.” Id.

34. The Plan itself demonstrates that there is a rational basis in the record for its certification. The Commission detailed the extensive public comment process held in two stages, during which petitioners had a chance to be heard along with other interested members of the public. Indeed, many of the petitioners herein did avail themselves of the opportunity to testify and submit comments to the Commission about the Plan. Exhibit A. The Commission noted that it considered the public comments and testimony while drafting the Plan.

35. Indeed, the Commission specifically certified that it complied with Charter § 52(1) in the Plan.

36. Finally, while petitioners here provide an alleged expert who purportedly disagrees with Dr. Handley, the expert relied upon by the Commission, a competing expert is not sufficient to render a determination arbitrary and capricious. Dr. Handley sets forth in great detail her process and the data she analyzed in reaching her conclusion that the Plan complies with the Voting Rights Act and that it expands the voting power of Asians in the City as a whole. This supports the certification by the Commission that it complied with Charter § 52(1)(b).

Petitioners Cannot Demonstrate Irreparable Harm.

37. Petitioners assert that the deprivation of voting rights is an irreparable harm. However, the Petition does not set forth a cognizable deprivation of voting rights, as described above. On the contrary, petitioners, and all eligible voters in their districts, may vote in the upcoming elections and may otherwise participate in the electoral process.

38. Petitioners are not entitled to have an election district created according to their preferences. They were provided with the same opportunity as other members of the public to be heard during the districting process, their comments and testimony were considered, and the Commission weighed the competing interests and requirements to create the Plan. There has been no violation of a cognizable right, and, thus, petitioners have not, and will not, suffer any harm by voting in their assigned election district.

The Equities Favor the Commission Respondents.

39. For the reasons described in Point I, supra, the balance of the equities is squarely in favor of the Commission Respondents and the public interest.

40. An injunction of the Plan at this stage will result in considerable delay to the elections of 2023 and cost to the City and candidates. Further, it will require voters to turn

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out for two separate primaries, which would likely depress voter turnout for one or both of the primary elections.

41. By contrast, petitioners have not established any cognizable harm requiring injunctive relief.

42. For the foregoing reasons, injunctive relief is not warranted and should not be granted.

WHEREFORE, for the reasons set forth herein, the Commission Respondents respectfully request that the request for a temporary restraining order and/or preliminary injunction be denied and the Order to Show Cause and Verified Petition be dismissed, or, in the alternative, that the Respondents be permitted to Answer the Verified Petition.

Dated: New York, New York
February 27, 2023

HON. SYLVIA O. HINDS-RADIX
Corporation Counsel of the
City of New York
Attorney for Respondents the Commission,
Commissioners and City BOE
100 Church Street, Rm. 5-143
New York, New York 10007
Phone: (212) 356-2369

By: Aimee K. Lulich
Aimee K. Lulich
Assistant Corporation Counsel

Exhibit A to Lulich Affirmation-
Letter to the City Clerk of New York City, dated November 2, 2022
[pp. 255 - 338]

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THE CITY OF NEW YORK
OFFICE OF THE CITY CLERK
141 WORTH STREET
NEW YORK, N.Y. 10013

MICHAEL McSWEENEY
CITY CLERK, CLERK OF THE COUNCIL

November 2, 2022

RECEIPT OF FILING

The NYC Council Districting Plan and
Signed certification statement has been filed
with the Office of the City Clerk.

A handwritten signature in black ink, appearing to read "McSweeney".

Michael McSweeney
City Clerk, Clerk of the Council

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NYC Districting Commission

253 Broadway
3rd Floor
New York, NY 10007

Chair
Dennis M. Walcott

Commissioners
Yovan Samuel Collado
Hon. Marilyn D. Go
Kevin John Hanratty
Maria Mateo, Esq.
Joshua Schneps
Lisa Sorin
Msgr. Kevin Sullivan
Kai-Ki Wong
Maf Misbah Uddin
Michael Schnall
Kristen Johnson
Gregory W. Kirschenbaum
Marc Wurzel
Dr. Darin K. Porcher

Executive Director
John Fleteau, Ph.D.

1 212 676 3090 tel.
nyc.gov/districting

November 2, 2022

BY HAND
City Clerk of New York City
Office of the City Clerk
141 Worth Street
New York, NY 10013

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OFFICE OF THE CITY CLERK

NOV -2 P 3:47

To the City Clerk of New York City:

The City of New York 2022-2023 Districting Commission (the "Commission") hereby submits the new maps for the 51 New York City Council Districts and Certification Statement for filing with your Office.

Under Chapter 2-A of the New York City Charter ("Charter"), the Commission is tasked with redrawing the 51 New York City Council Districts following the 2020 decennial census, which showed that the population of New York City residents had grown from 8.2 million to 8.8 million people.

Throughout the process mandated by the Charter, the Commission has reviewed and considered the public's input and testimony, which has been received on an unprecedented scale. The Commission began by holding public hearings in all five boroughs from May to July 2022 to gather public testimony. After the Preliminary Plan was released on July 15, 2022, the Commission then held another round of public hearings in the five boroughs in August 2022 to solicit the public's input in accordance with Section 51(b) of the Charter. In total, the Commission held over 35 hours of in-person and virtual testimony and received over 13,000 submissions of public testimony. The public testimony spans across all five boroughs from individuals, community organizations, and Council members. The Commission has carefully reviewed and considered the public testimony, and the public's valuable input was incorporated to the extent practicable.

On October 6, 2022, the Commission submitted a revised plan (the "Plan") to the City Council pursuant to Section 51(c) of the Charter. The Plan was delivered to the Council that same day for its consideration.

NYC Districting Commission

253 Broadway
3rd Floor
New York, NY 10007

Chair
Dennis M. Walcott

Commissioners
Yovan Samuel Collado
Hon. Marilyn D. Go
Kevin John Hanratty
Maria Mateo, Esq.
Joshua Schneps
Lisa Sorin
Msgr. Kevin Sullivan
Kai-Ki Wong
Maf Misbah Uddin
Michael Schnell
Kristen Johnson
Gregory W. Kirschenbaum
Marc Wurzel
Dr. Darrin K. Porcher

Executive Director
John Fleteau, Ph.D.

1 212 676 3090 tel.
nyc.gov/districting

Under Section 51(d) of the Charter, such Plan is “deemed adopted unless within three weeks, the council by vote of a majority of all its members adopts a resolution, objecting to such plan and returns the plan to the commission with such resolution and a statement of its objections, and with copies of the written objections of any individual members of the Council who have submitted objections to the Speaker prior to such date.” During the three-week period of Council review, the Plan was made available to the public but the Commission otherwise did not take action until further response from the Council.

The three-week period subsequently expired on October 27, 2022, and the City Council did not adopt a resolution objecting to the Plan and it further provided a letter, attached hereto for filing, stating that it accepted the Plan without objection. On November 1, 2022, at a public meeting, the Commission voted 11 in favor and 4 in opposition to file the certification statement signed by “at least nine members of the commission” pursuant to Section 51(g) of the Charter (“Certification Statement”).

The Commission therefore submits the Plan and signed Certification Statement herewith for filing, which will complete the adoption of the new maps for the 51 New York City Council Districts. This Plan reflects the diversity and changing communities of New York City.

Respectfully,

Dennis M. Walcott

Dennis M. Walcott

Chair of the New York City Districting Commission 2022-2023

cc: Commissioners of the New York City Districting Commission
John Fleteau, Executive Director
Grace Pyun, General Counsel



253 Broadway
3rd Floor
New York, NY 10007

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CERTIFICATION STATEMENT

Chair

Dennis M. Walcott

Commissioners

Yovan Samuel Collado
Hon. Marilyn D. Go
Kevin John Hanratty
Maria Mateo, Esq.
Joshua Schneps
Lisa Sorin
Msgr. Kevin Sullivan
Kai-Ki Wong
Maf Misbah Uddin
Michael Schnall
Kristen Johnson
Gregory W. Kirschenbaum
Marc Wurzel
Dr. Darrin K. Porcher

Executive Director

John Flateau, Ph.D.

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1. In accordance with section 51(a) of chapter 2-A of the New York City Charter (the “Charter”), the City of New York 2022-2023 Districting Commission (the “Commission”) has created a plan for dividing New York City into fifty-one districts for election of members of the New York City Council for the 2023 City Council elections (the “October 6 Plan” or “Council District Plan”).

2. On May 26, June 27, June 29, July 6, and July 7, 2022, the Commission held preliminary public hearings across the five boroughs to solicit public input and comment for a preliminary plan.

3. In accordance with section 51(b) of chapter 2-A of the Charter, on July 15, 2022, at a public meeting pursuant to the New York Open Meetings law at which a quorum was present, the Commission voted 11 in favor, 2 opposed, and 1 abstention to release a Preliminary Plan for the public’s inspection and comment.

4. In accordance with section 51(b) of chapter 2-A of the Charter, on August 16, 17, 18, 21, and 22, 2022, the Commission held a second round of public hearings across the five boroughs to solicit public input and comment of the Preliminary Plan.

5. In accordance with section 51(c) of chapter 2-A of the Charter, on October 6, 2022, at a public meeting pursuant to the New York Open Meetings law at which a quorum was present, the Commission voted 13 in favor and 1 opposed to approve and submit a revised plan (“October 6 Plan”) to the City Council. On that same day, the October 6 Plan was delivered to Council.

6. Section 51(d) of chapter 2-A of the Charter provides that the October 6 Plan “shall be deemed adopted unless within three weeks, the council by a vote of a majority of all its members adopts a resolution, objecting to such plan and returns the plan to the commission with such resolution and a statement of its objections, and with copies of the written objections of any individual members to the council who have submitted

NYC Districting
Commission

objections to the speaker prior to such date. Any objections from individual members submitted to the speaker by such date shall be transmitted to the districting commission whether or not the council objects to such districting plan.”

7. At the expiration of the three-week period on October 27, 2022, the City Council did not return a resolution by vote of a majority of all its members objecting to the October 6 Plan and did not return the October 6 Plan to the Commission.

8. Pursuant to section 51(g) of chapter 2-A of the Charter, each of the undersigned members of the Commission hereby certifies that, in creating the Council District Plan: (A) the Commission has complied with the constraint set forth in paragraph (a) of subdivision (1) of section 52 of the New York City Charter and the applicable provisions of section 10(1)(ii)(a)(13) of the New York State Municipal Home Rule Law which modify the criterion set forth in (a) of subdivision (1) of section 52 of the New York City Charter; and (B) the criteria set forth in the other paragraphs of such subdivision (1) have been applied in the order in which they are listed and such criteria have been implemented, in such order, to the maximum extent practicable.

9. In preparing the Council District Plan, the Commission members or staff (a) determined the geographical location of the racial and language minority groups in the City of New York that are protected by the Federal Voting Rights Act of 1965; (b) made the Commission’s informational materials available and translated in the top ten languages spoken in New York City and made such materials available in other languages upon request; (c) held numerous public hearings, at which a number of persons testified, including persons who were members of such racial and language minority groups, and provided translation services at such hearings where needed; (d) reviewed over 13,000 written and oral comments from the public, including from organizations representing members of such racial and language minority groups and individuals; (e) conducted targeted outreach through community meetings, and advertising in minority media and non-English language publications to promote meaningful participation by such racial and language minority groups during the Commission’s process; (f) reviewed analyses of voting data and voting patterns of such racial and language minority groups; (g) reviewed and analyzed districting plans submitted by the public, including by organizations representing such racial and language minority voting groups; and (h) drew Council district lines to ensure opportunities of racial and language minority groups to participate in the political process and elect candidates of their choice.

NYC Districting Commission

10. Based on the activities set forth in paragraph "9" of this certification, each of the undersigned members of the Commission further certifies that the requirements of paragraph (b) of subdivision (1) of section 52 of the New York City Charter have been implemented.

Dated: *November 1, 2022* New York, New York



DENNIS M. WALCOTT, CHAIR



YOVAN SAMUEL COLLADO



HON. MARILYN D. GO



KEVIN JOHN HANRATTY



KRISTEN A. JOHNSON



GREGORY W. KIRSCHENBAUM

MARIA MATEO, ESQ.



MICHAEL SCHNABEL



DR. DARRIN K. PORCHER

LISA SORIN



MAF MISBAH UDDIN

JOSHUA SCHNEPS




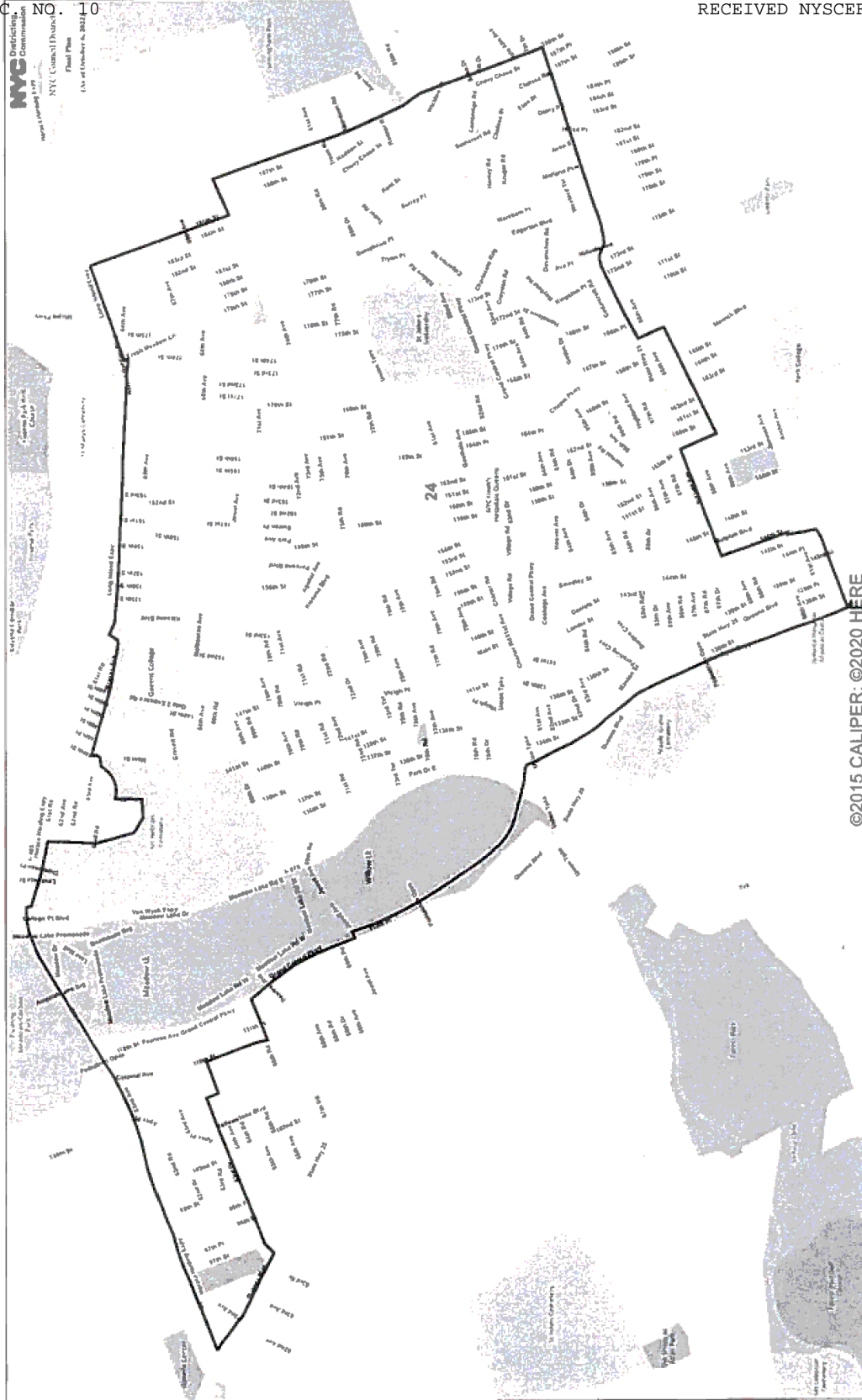
MSGR. KEVIN SULLIVAN



MARC WURZEL

KAI-KI WONG


JOSEPH G. MADANO, ESQ.
Notary Public, State of New York
No. 02MA6393335
Qualified in Richmond County
Commission Expires 06/17/2023



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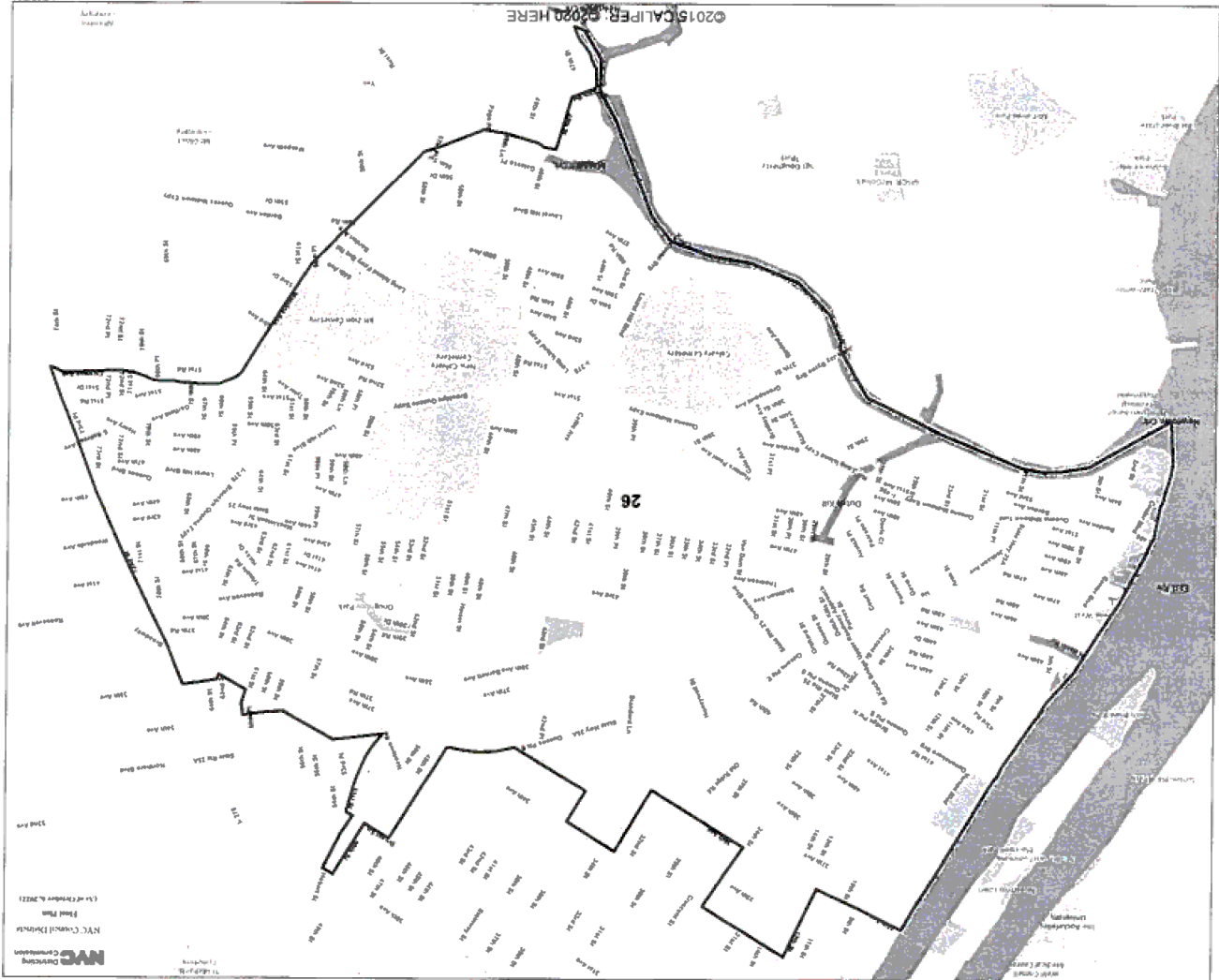


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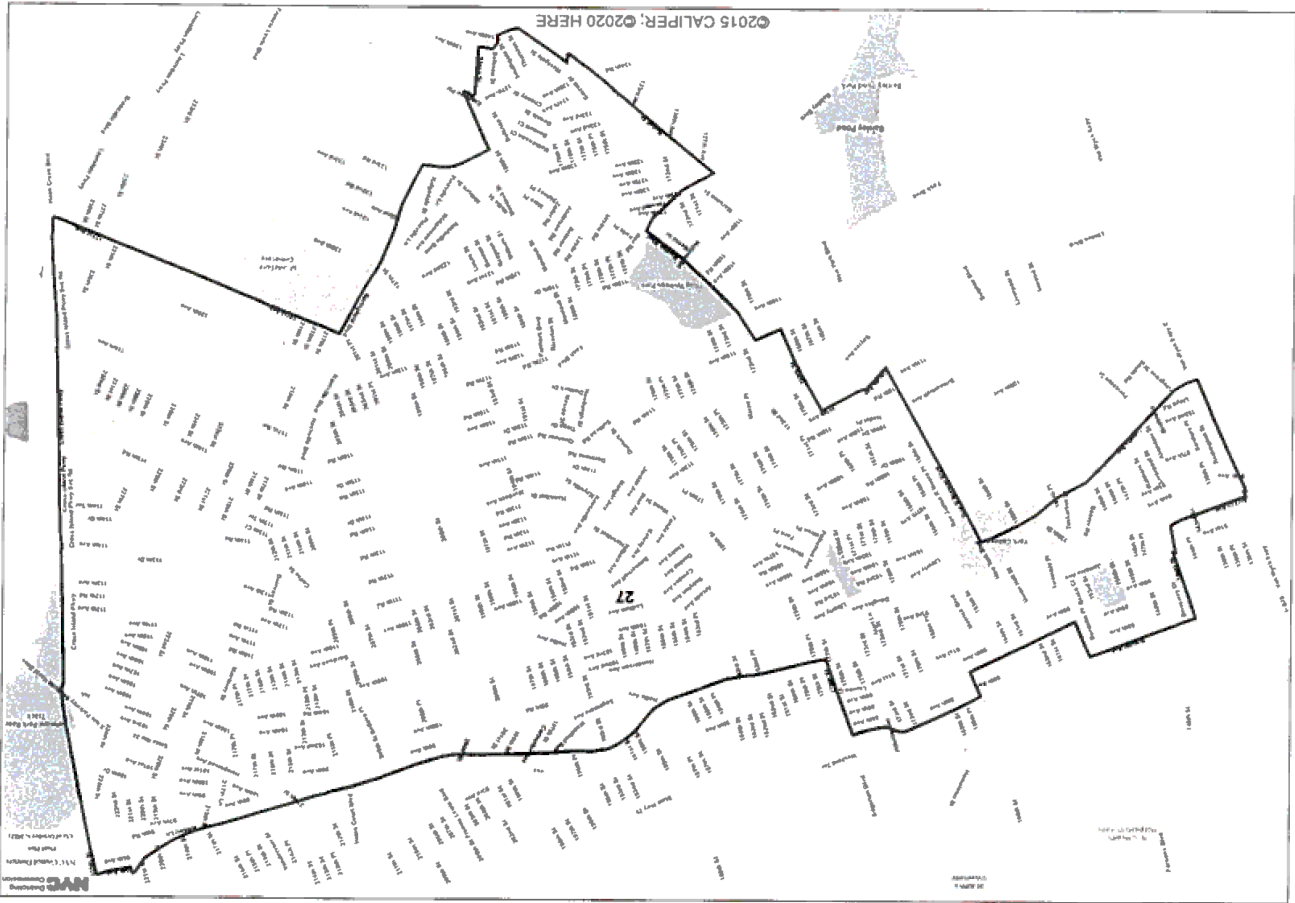


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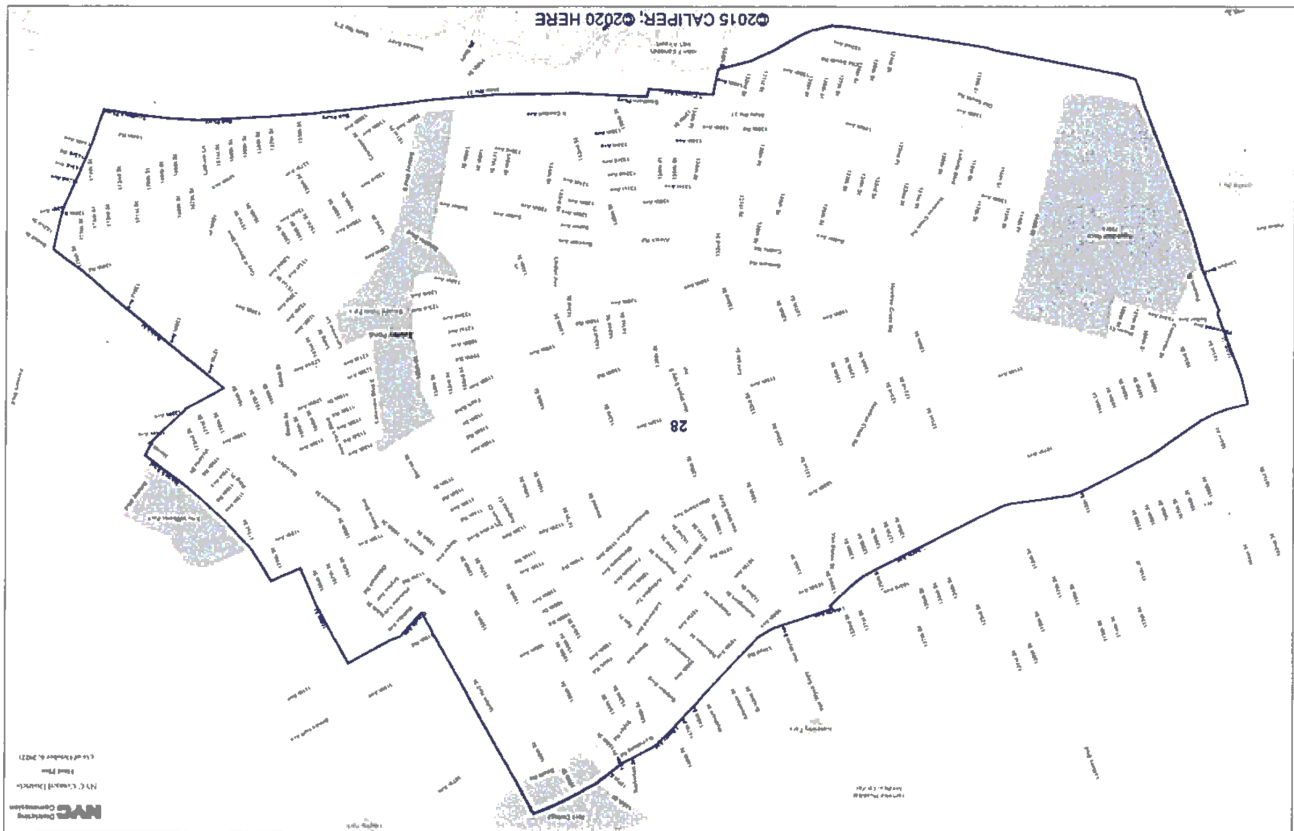


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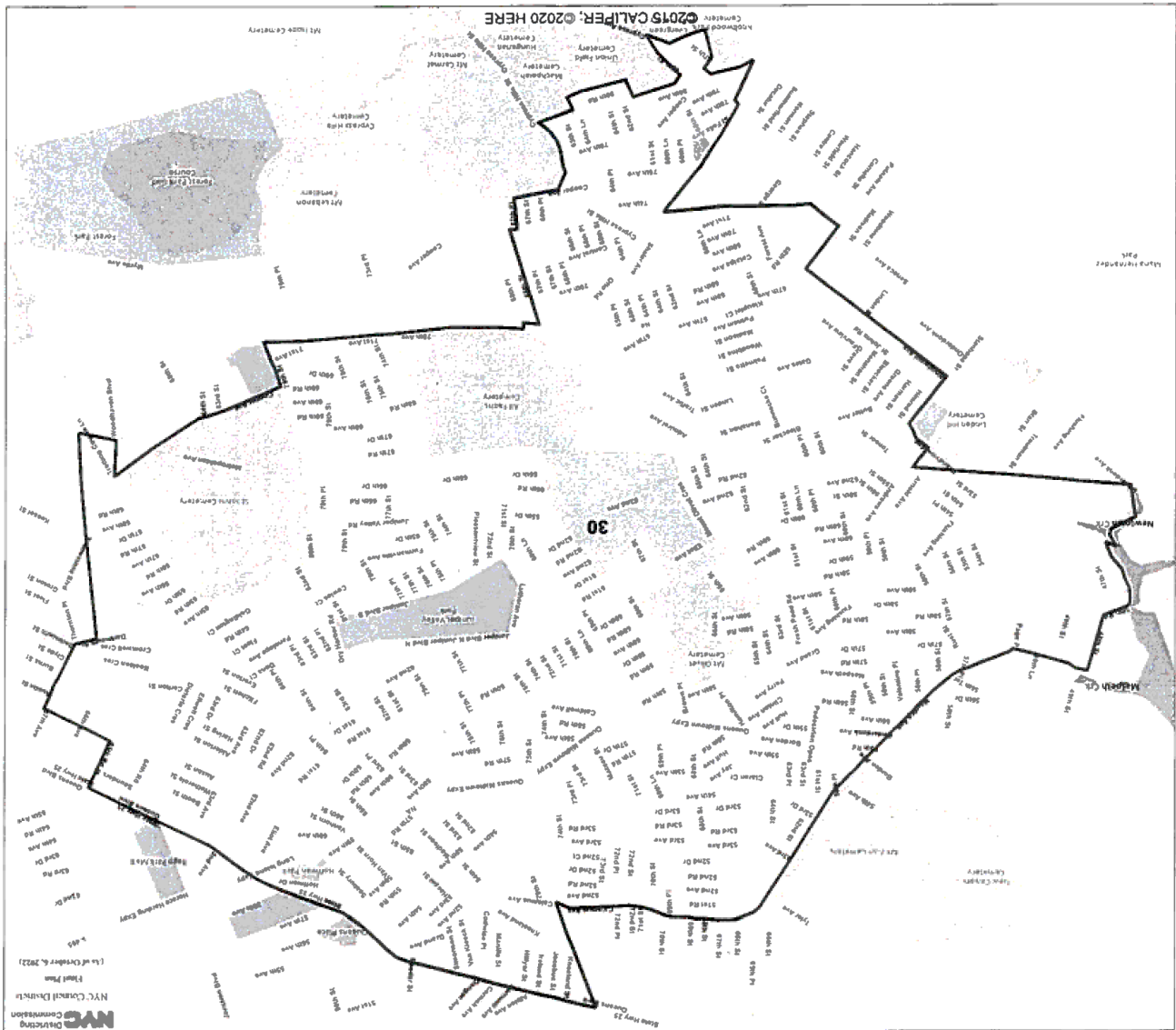
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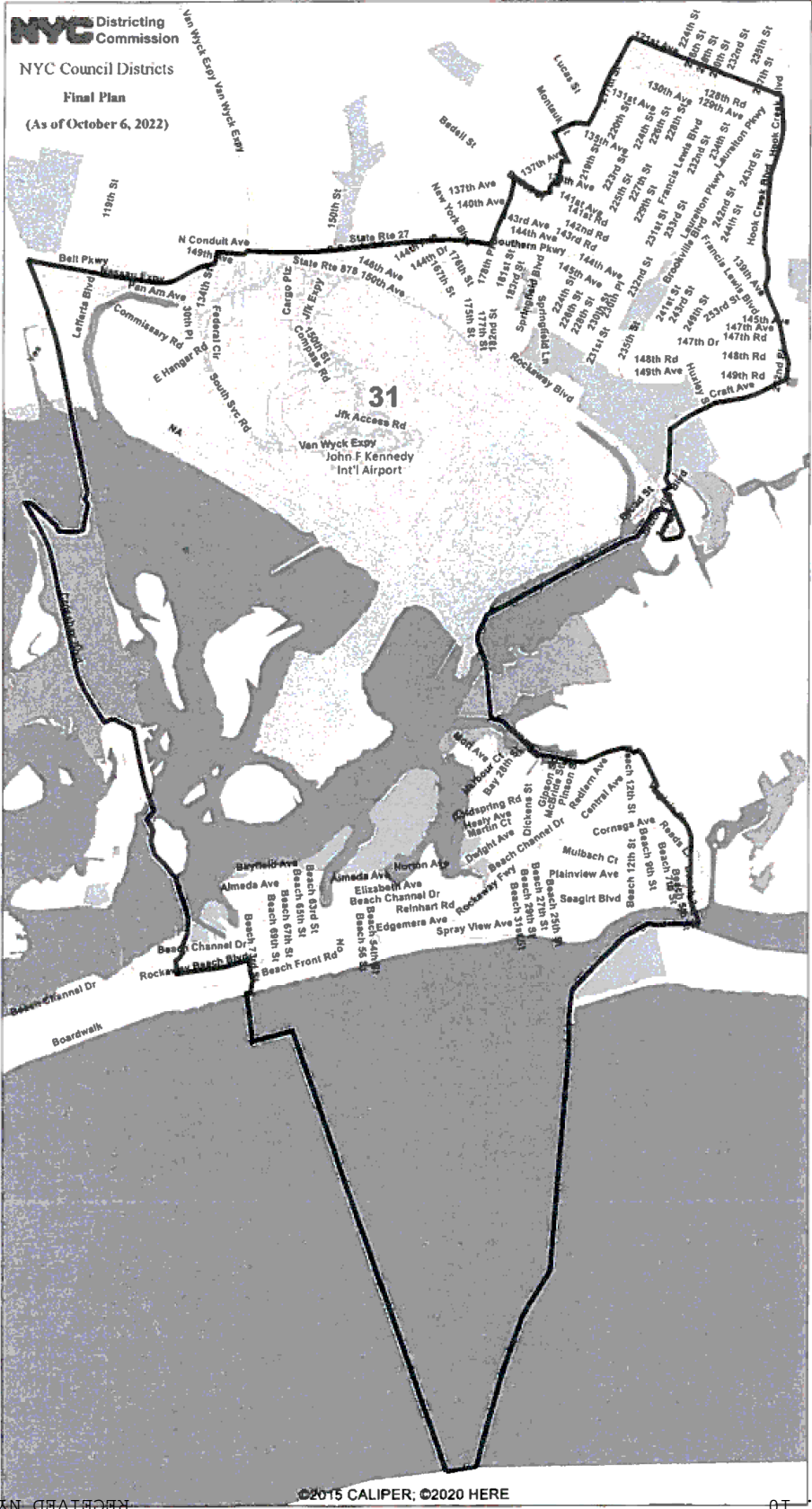
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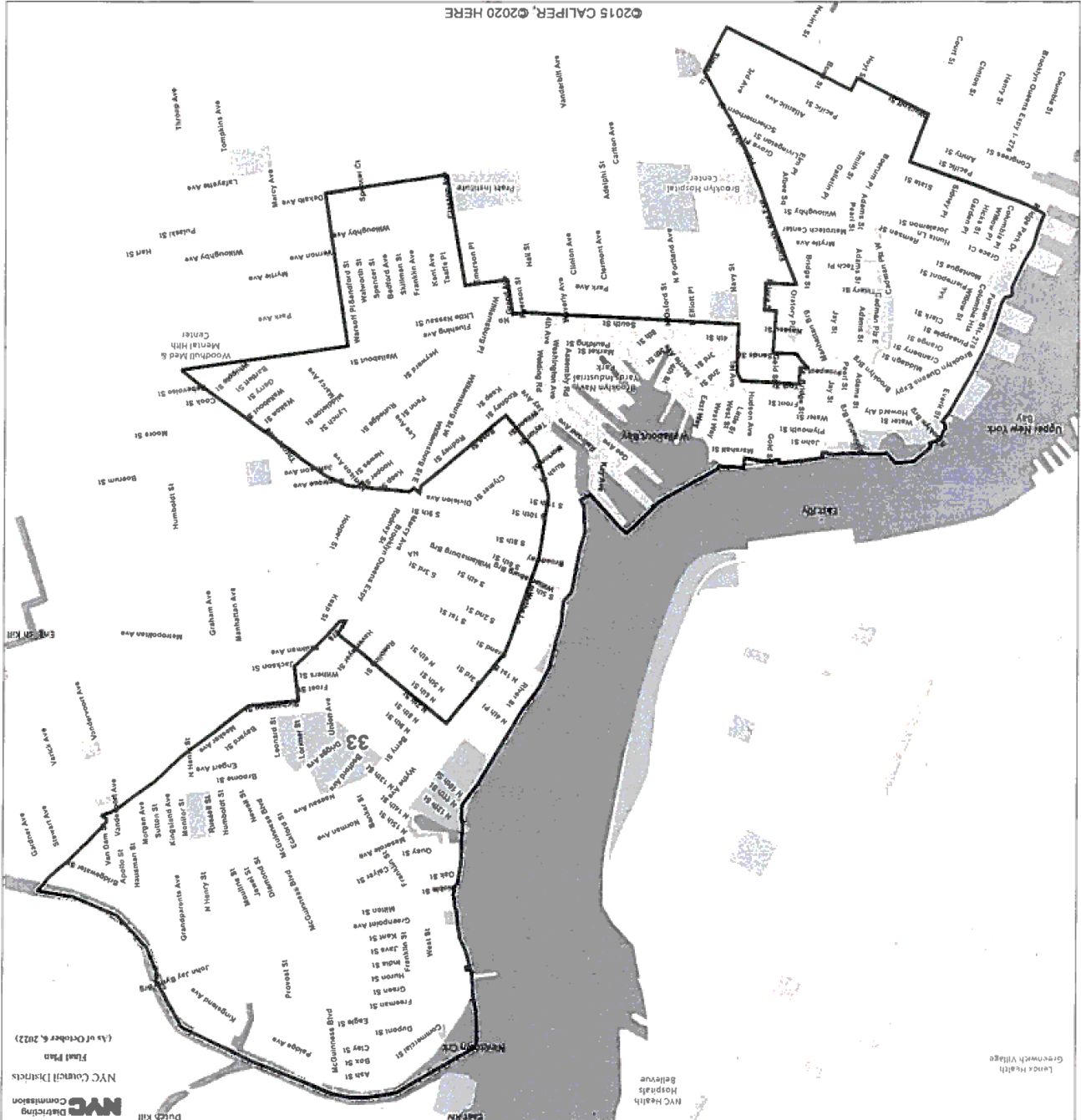


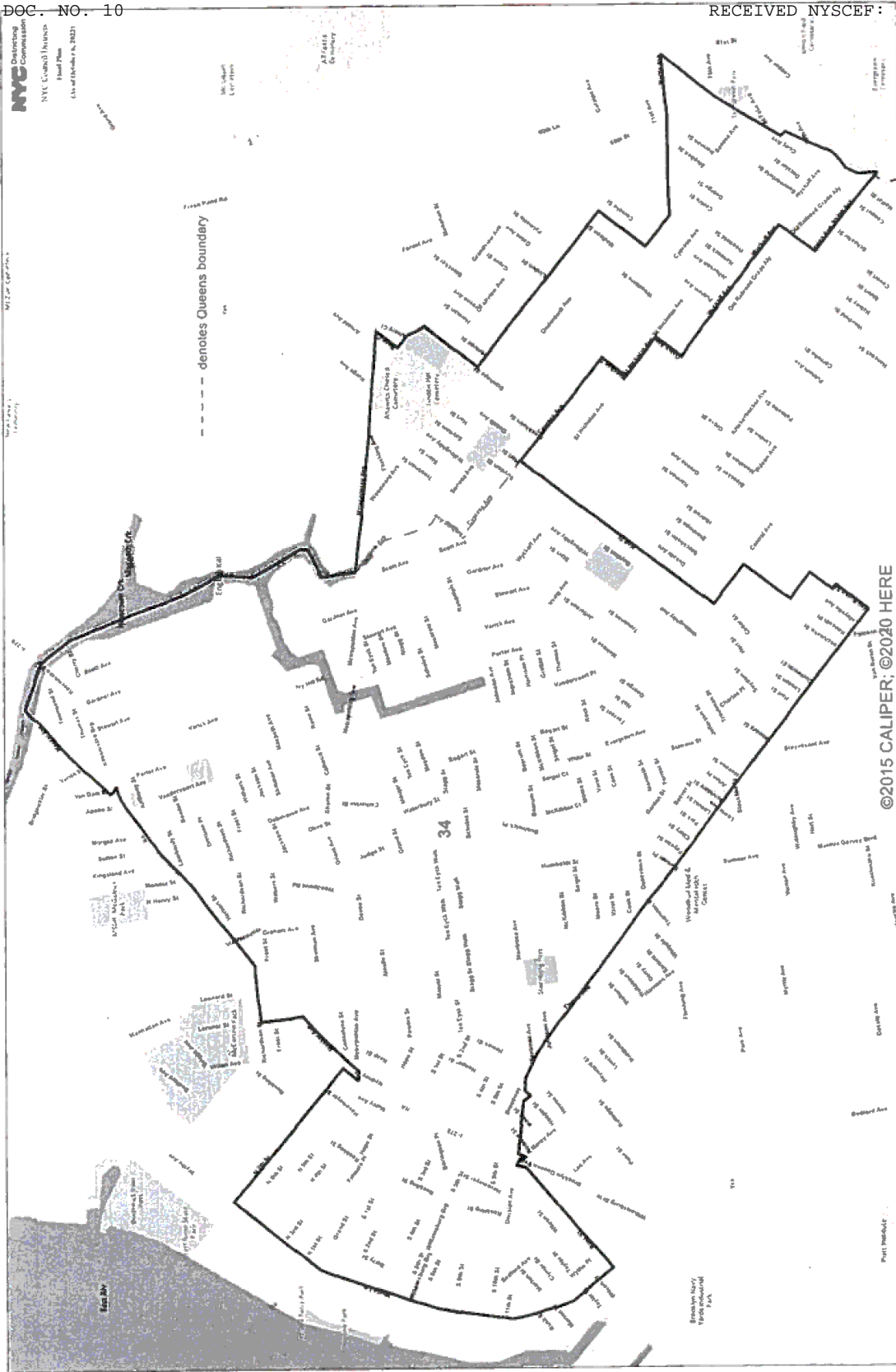


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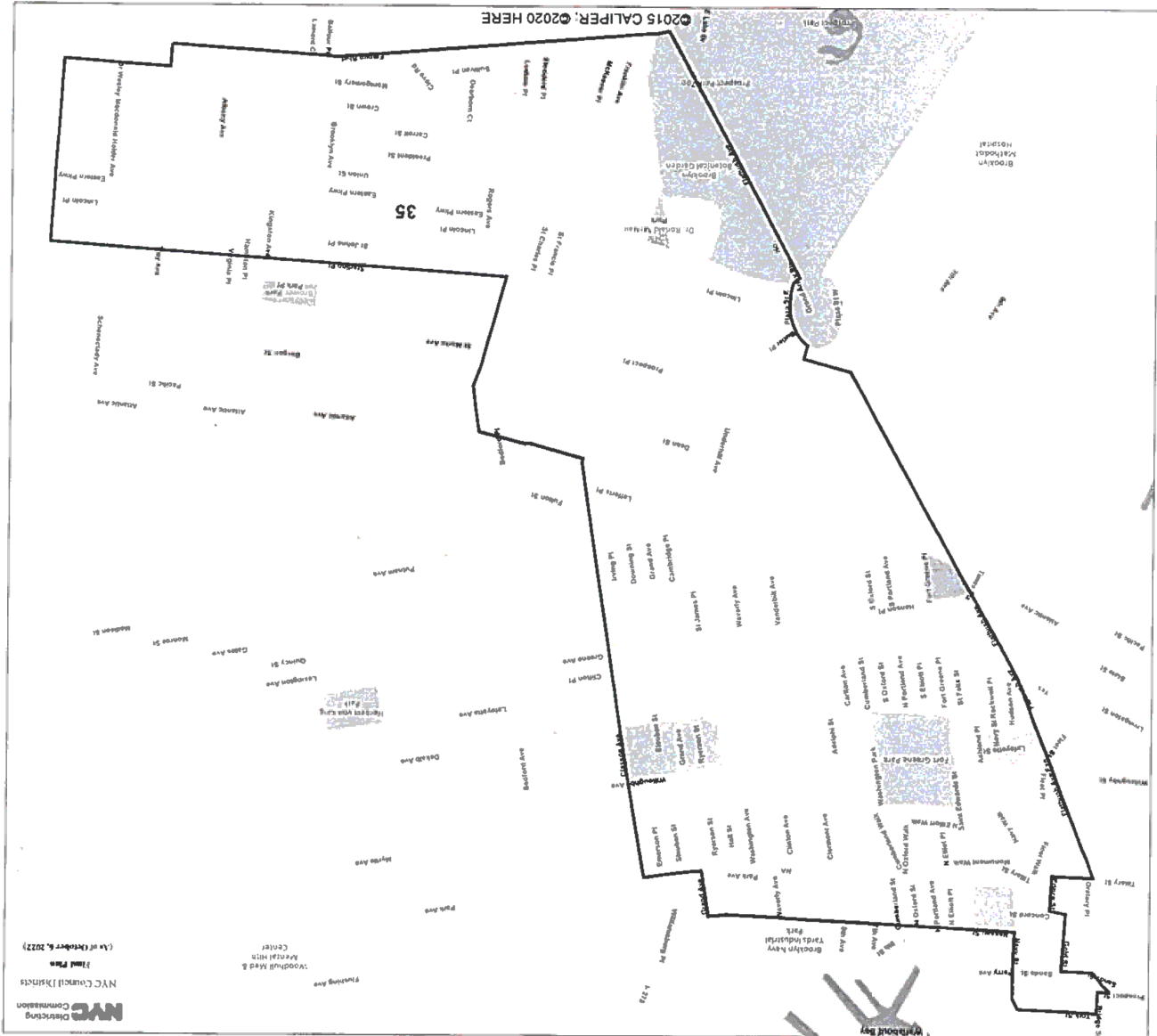
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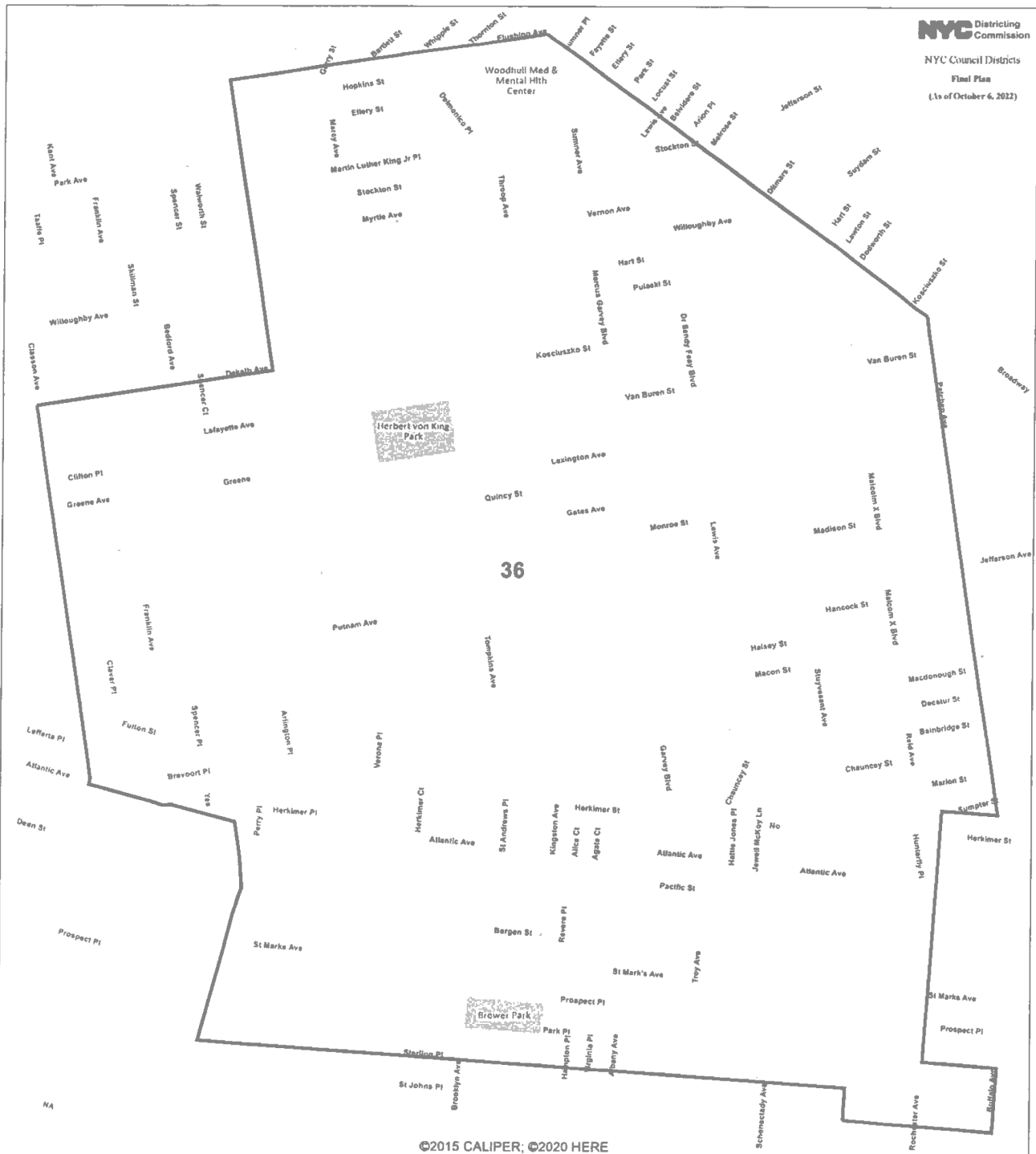




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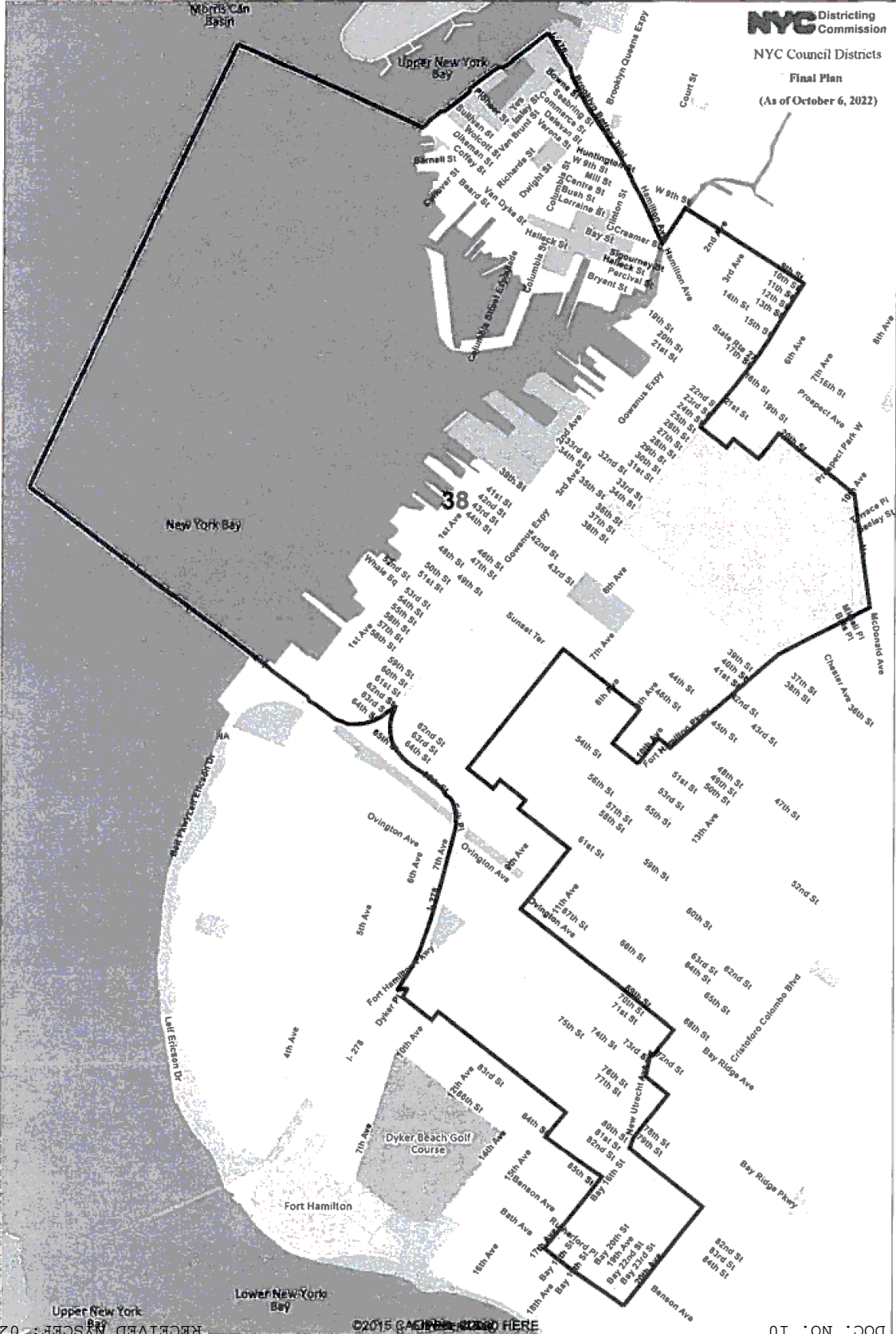
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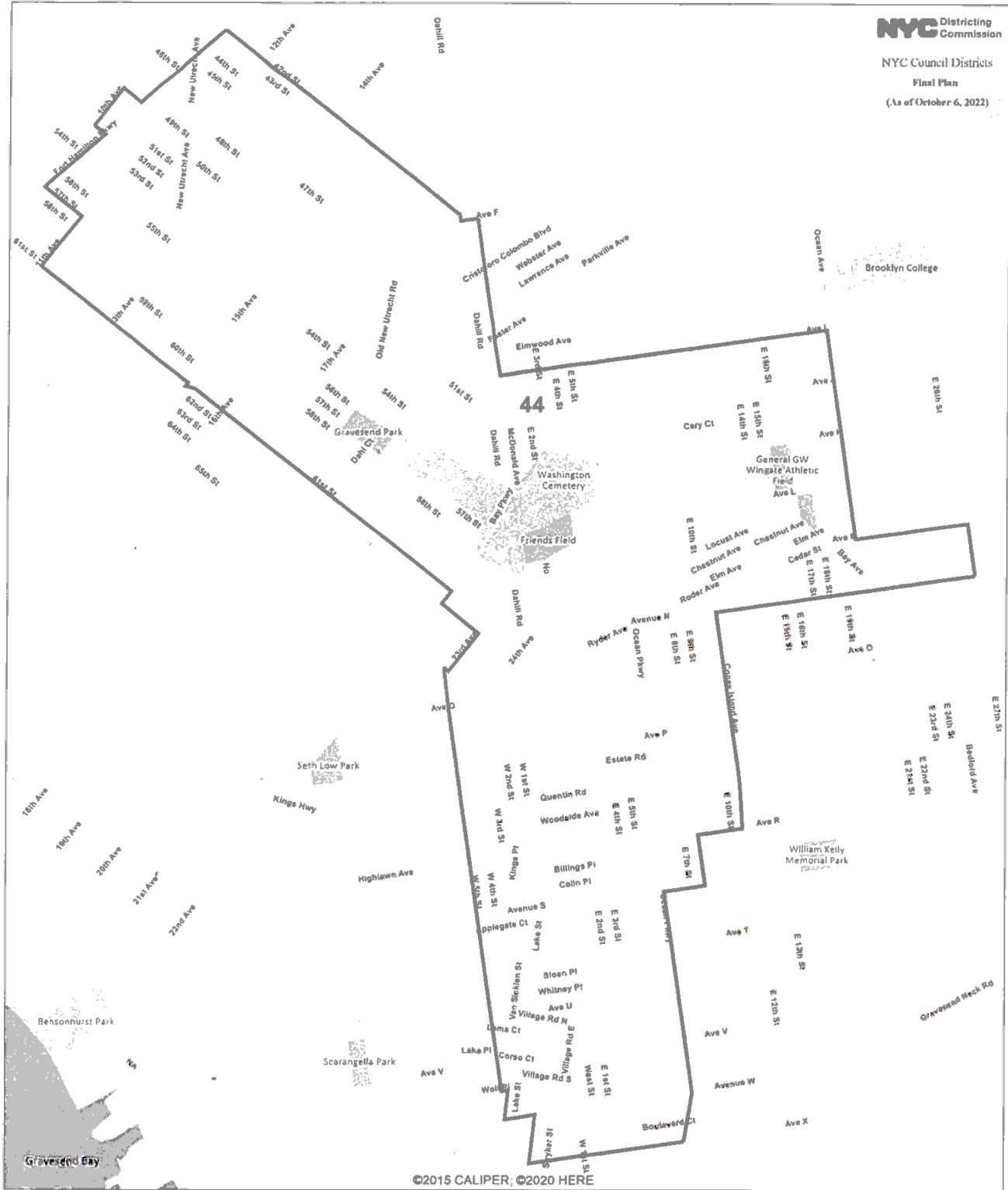




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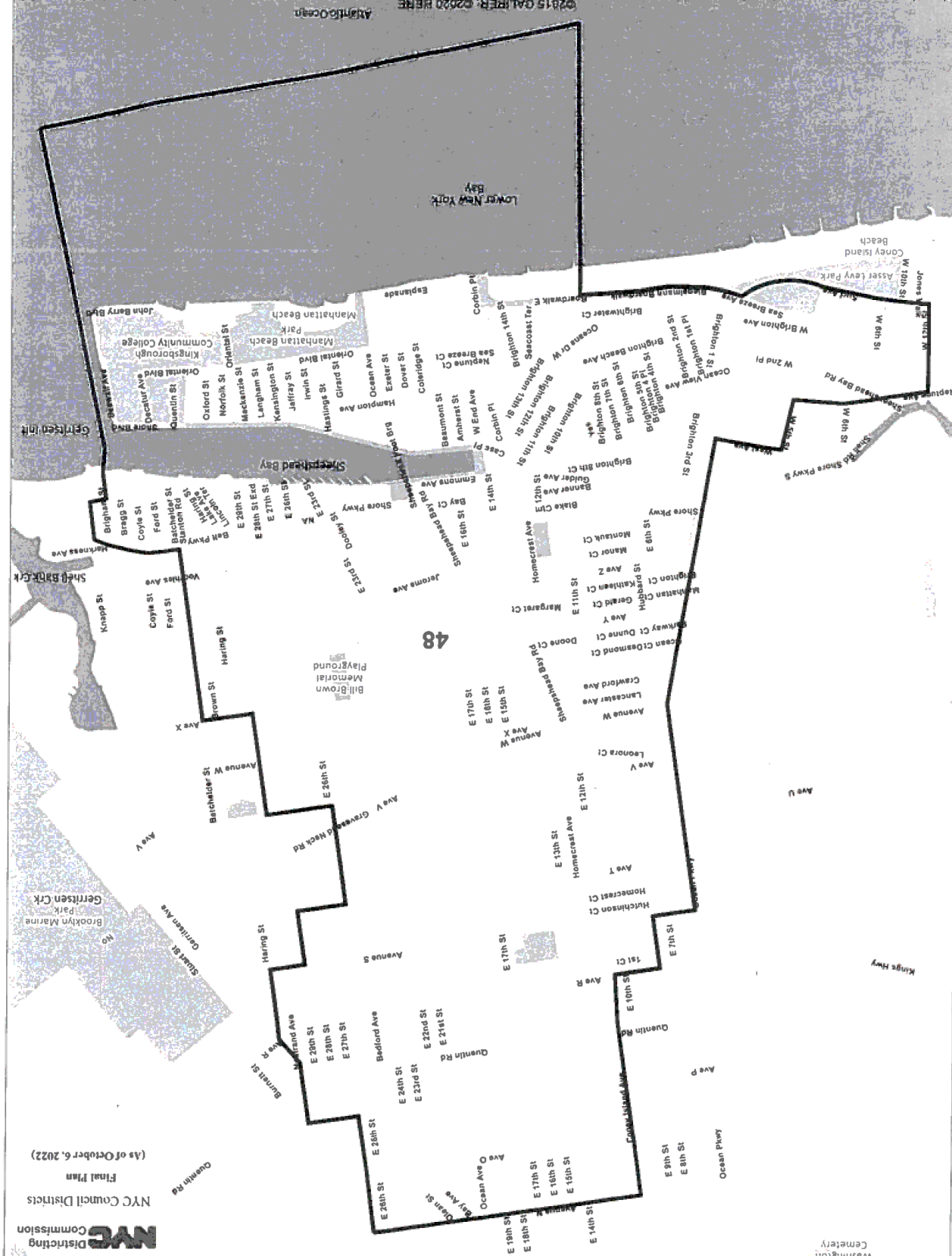
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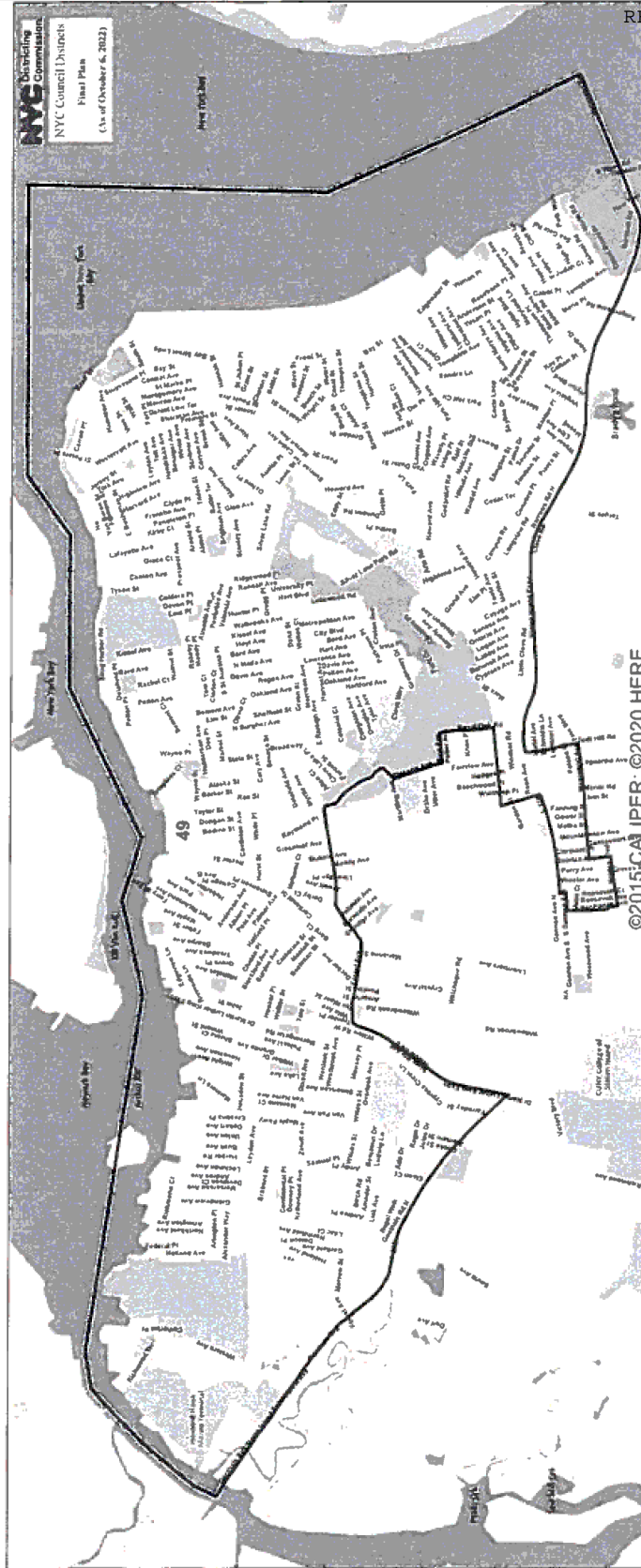








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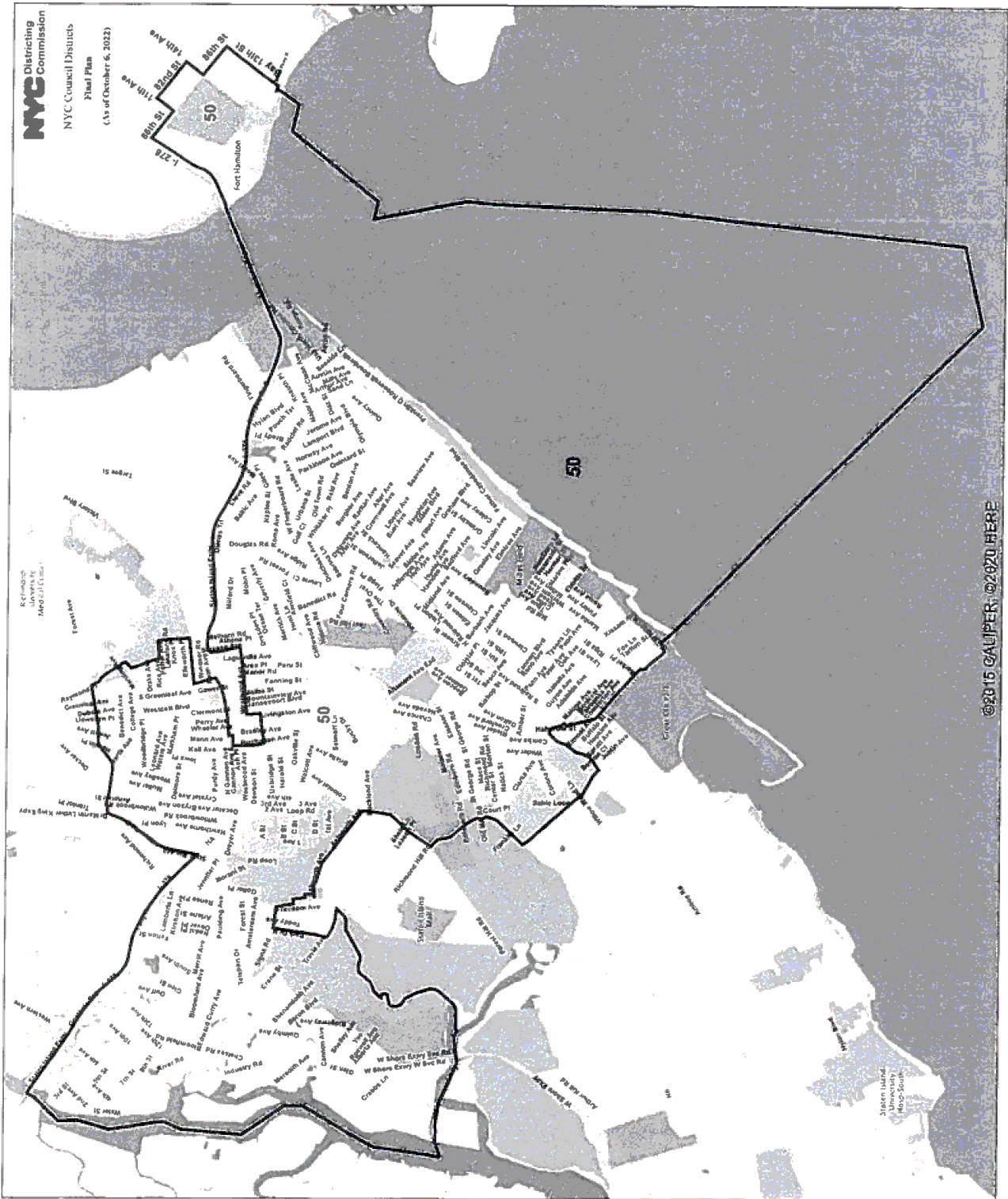


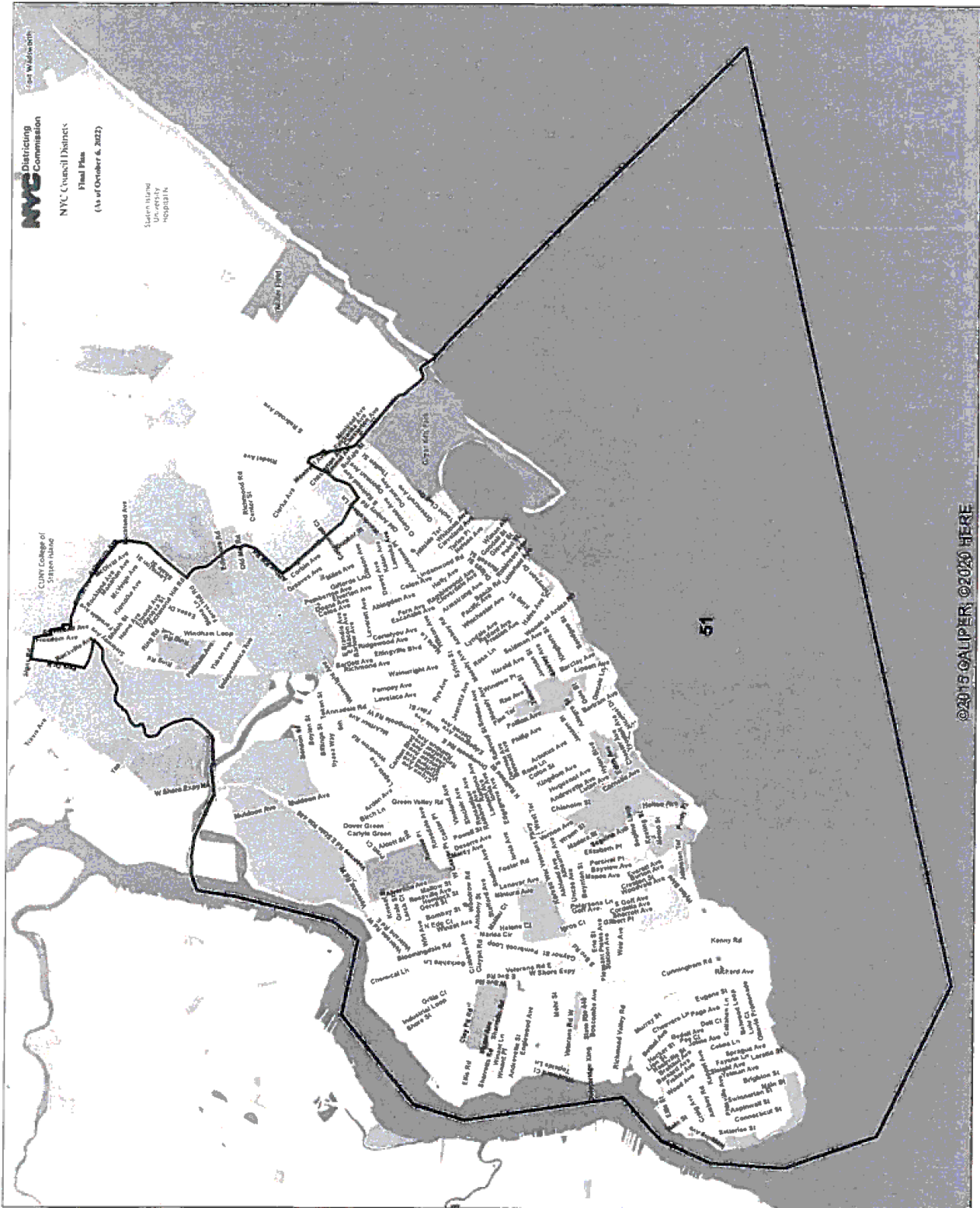
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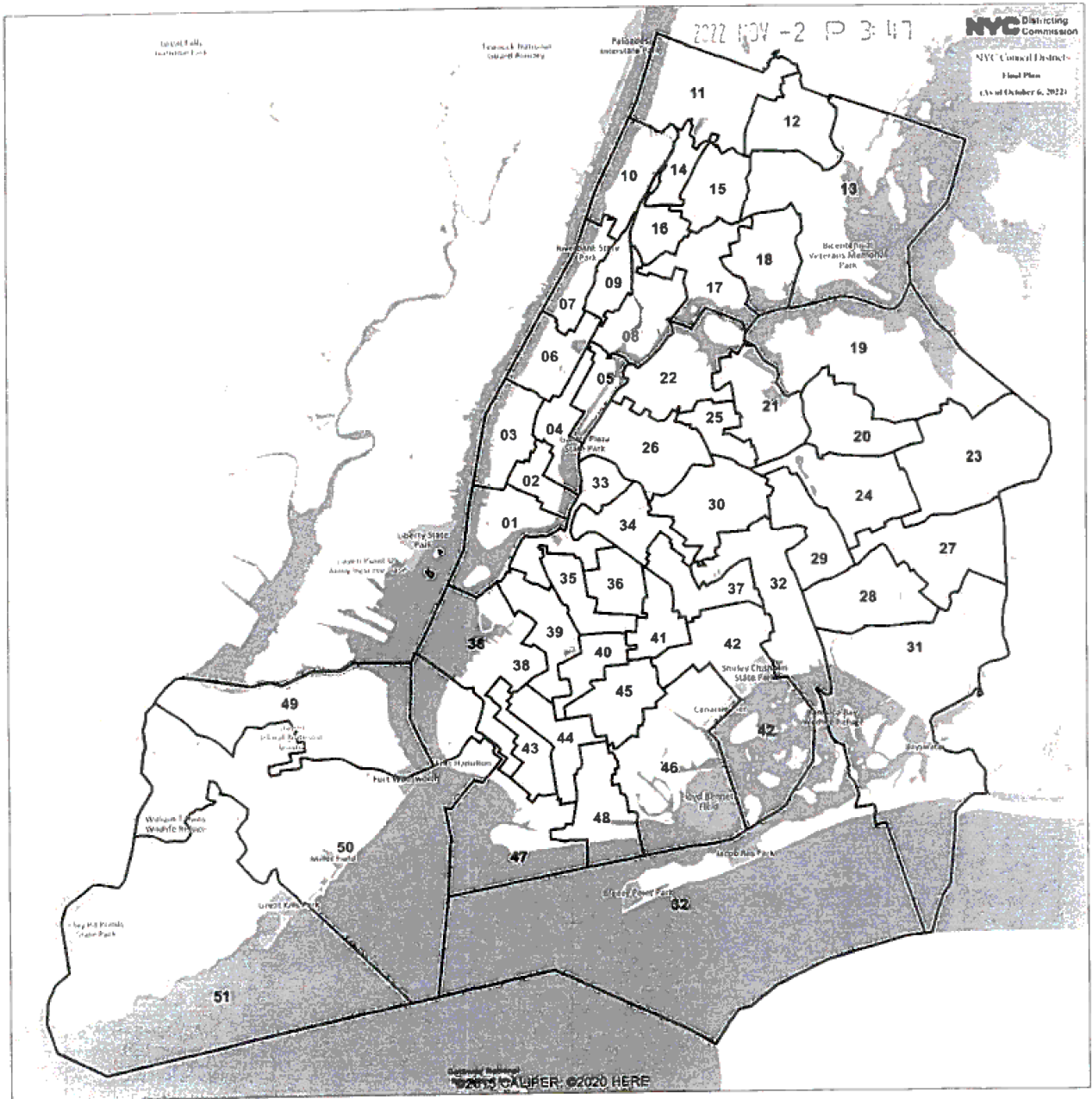
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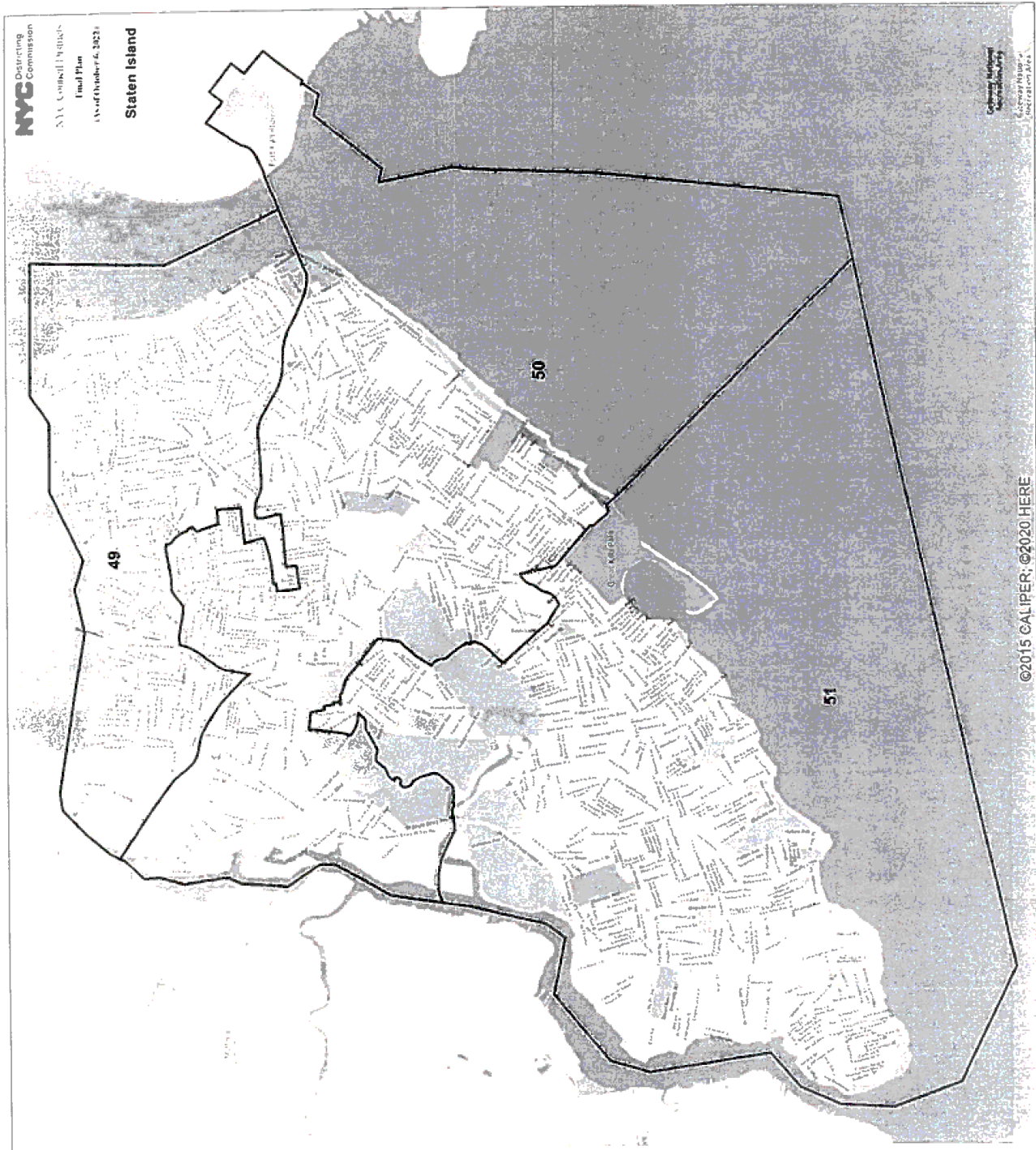


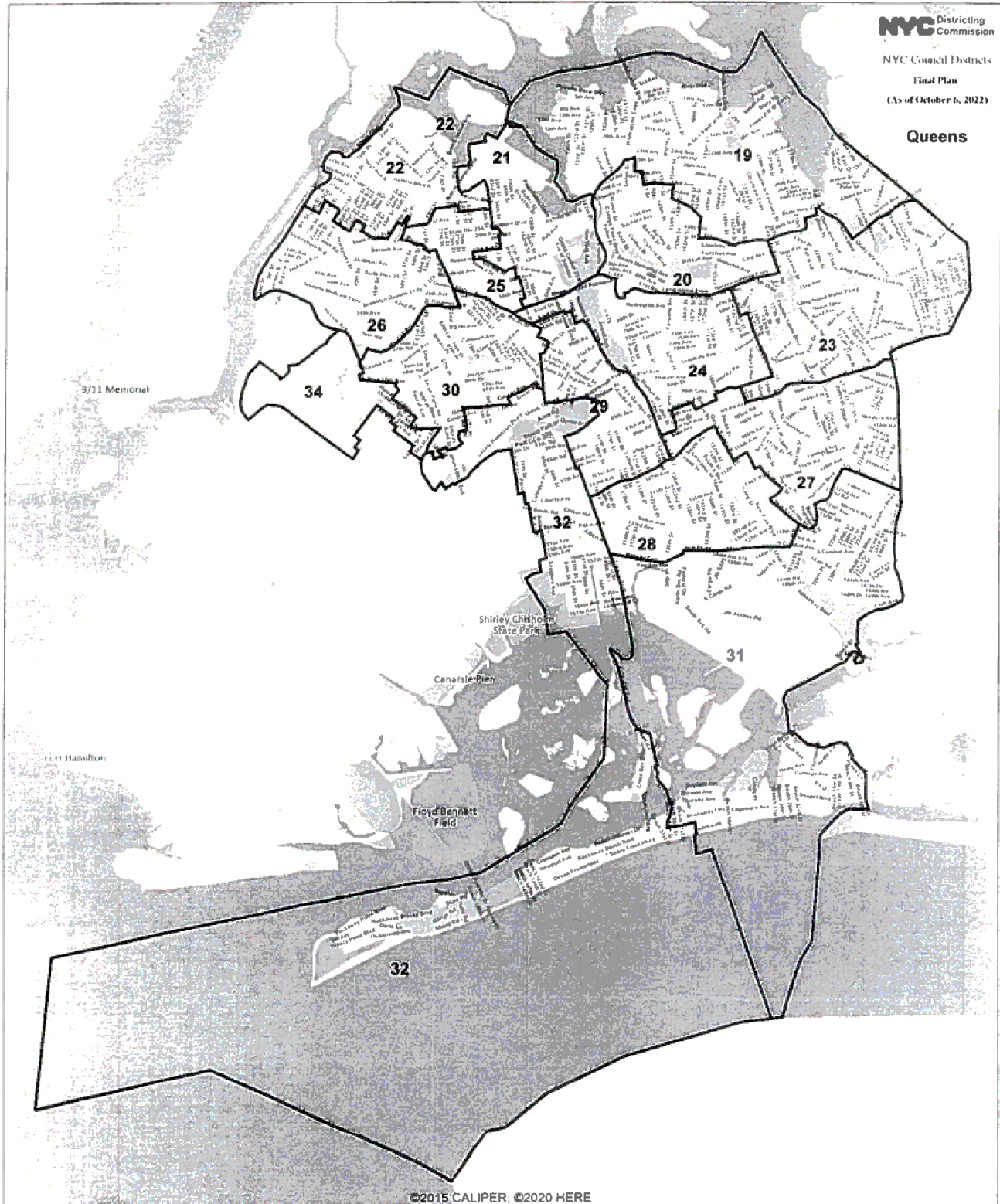
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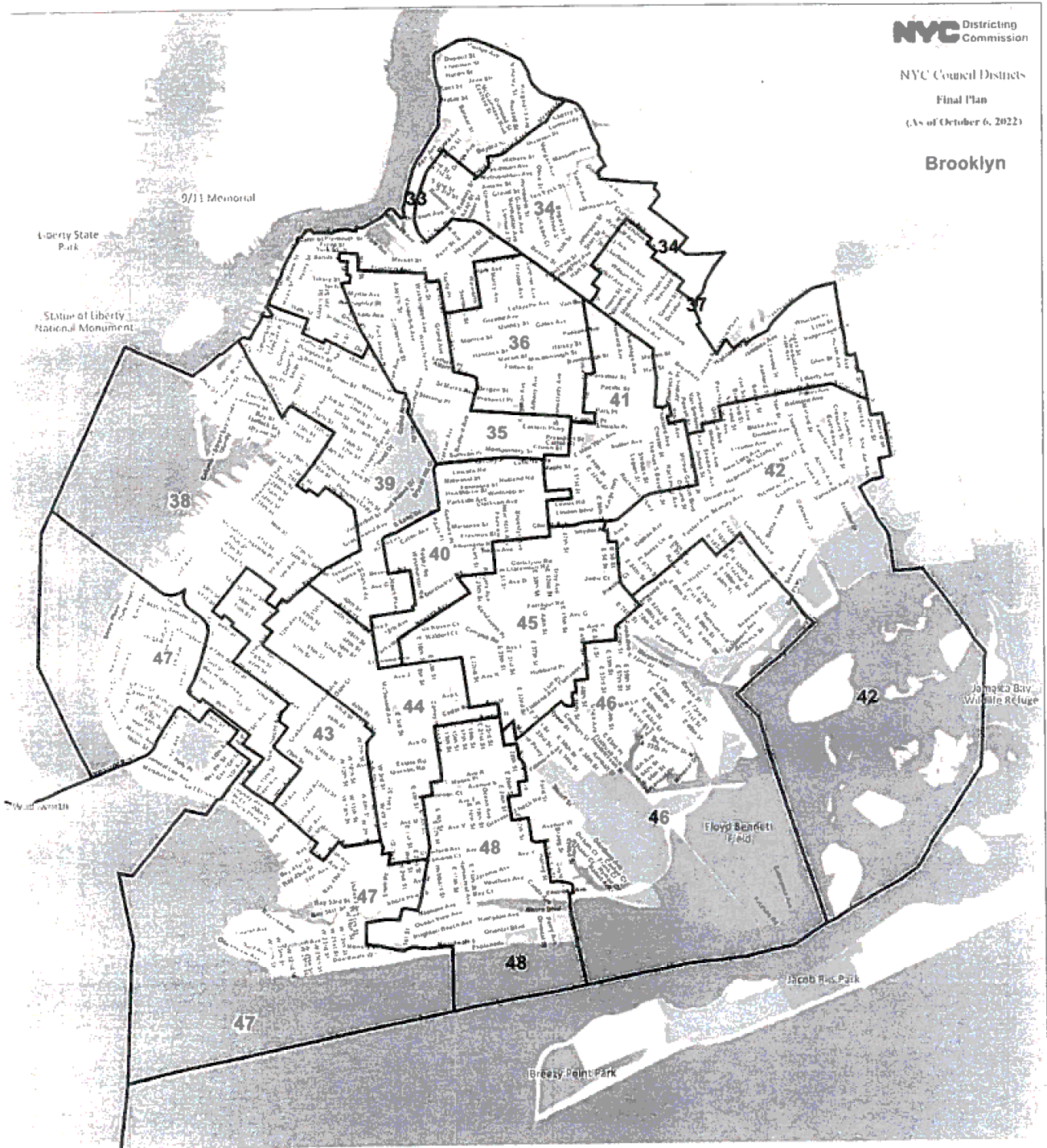


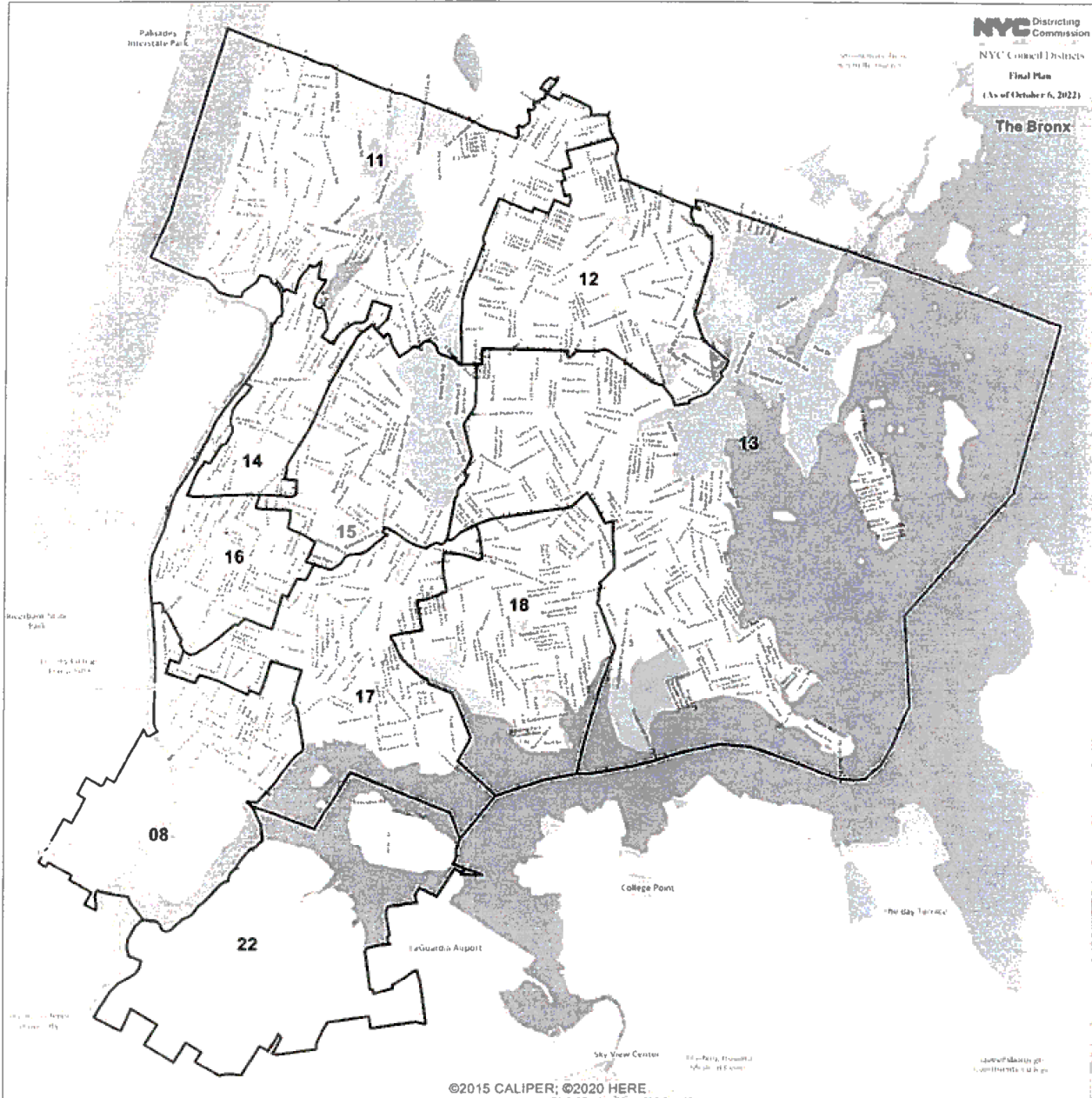
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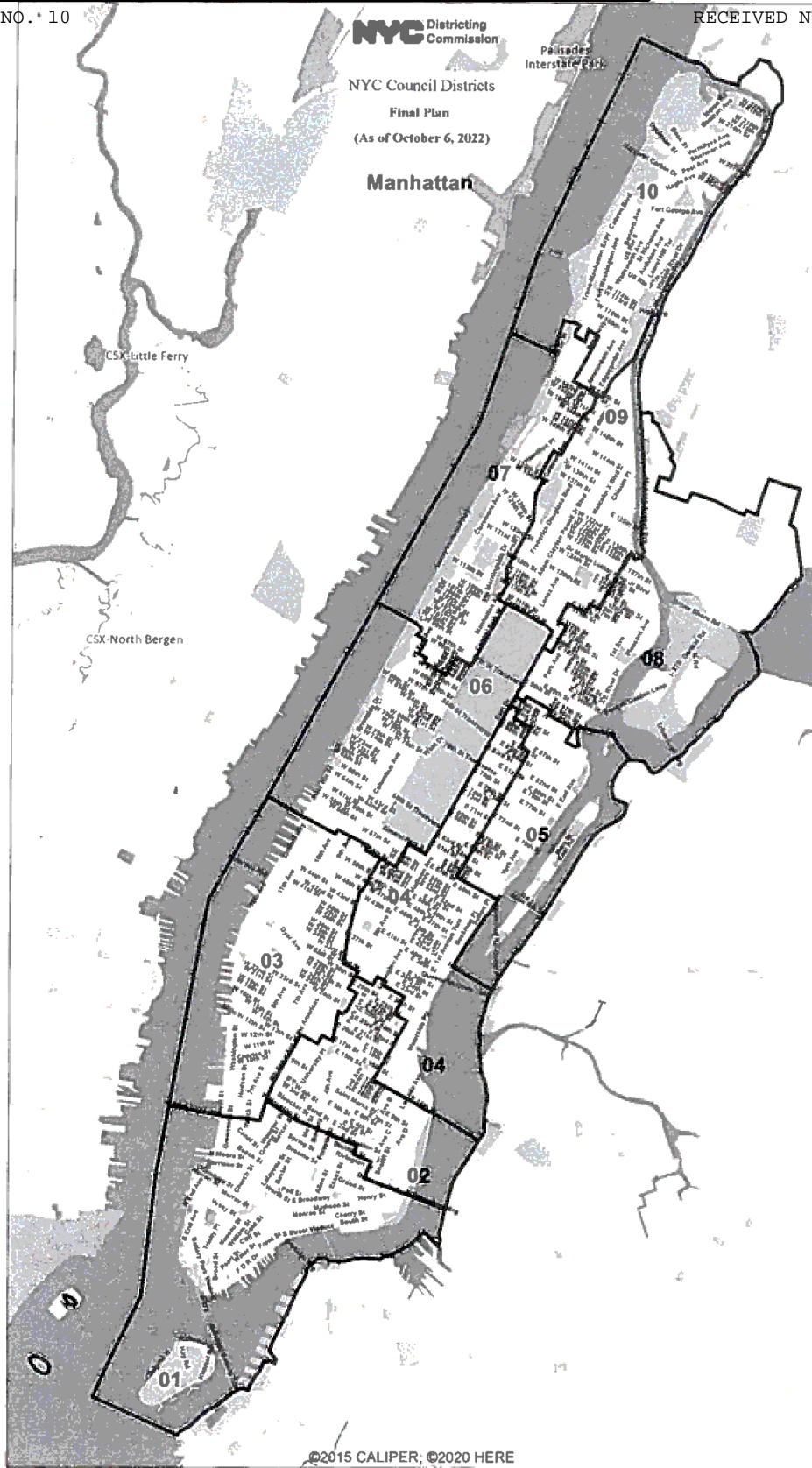
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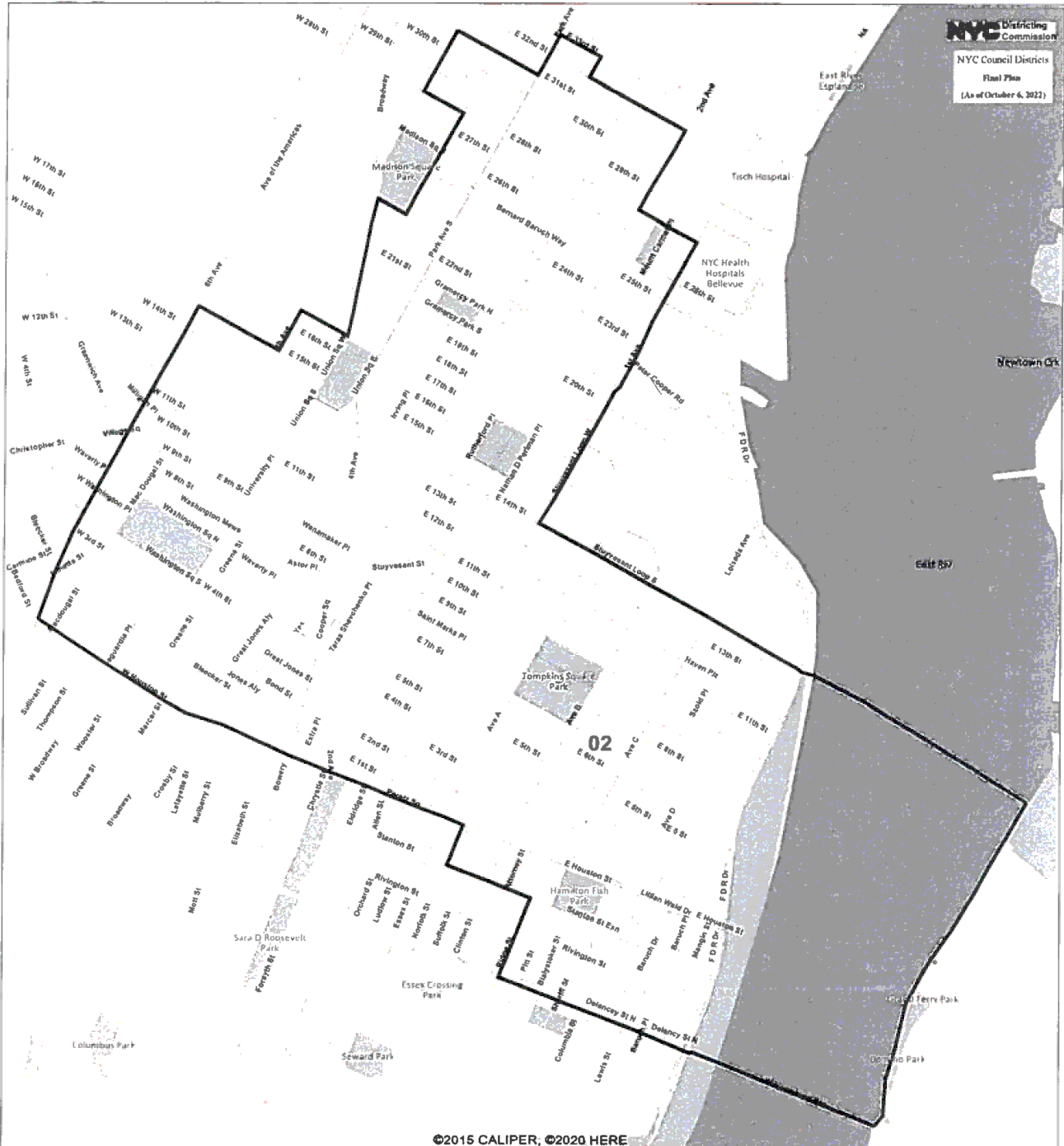
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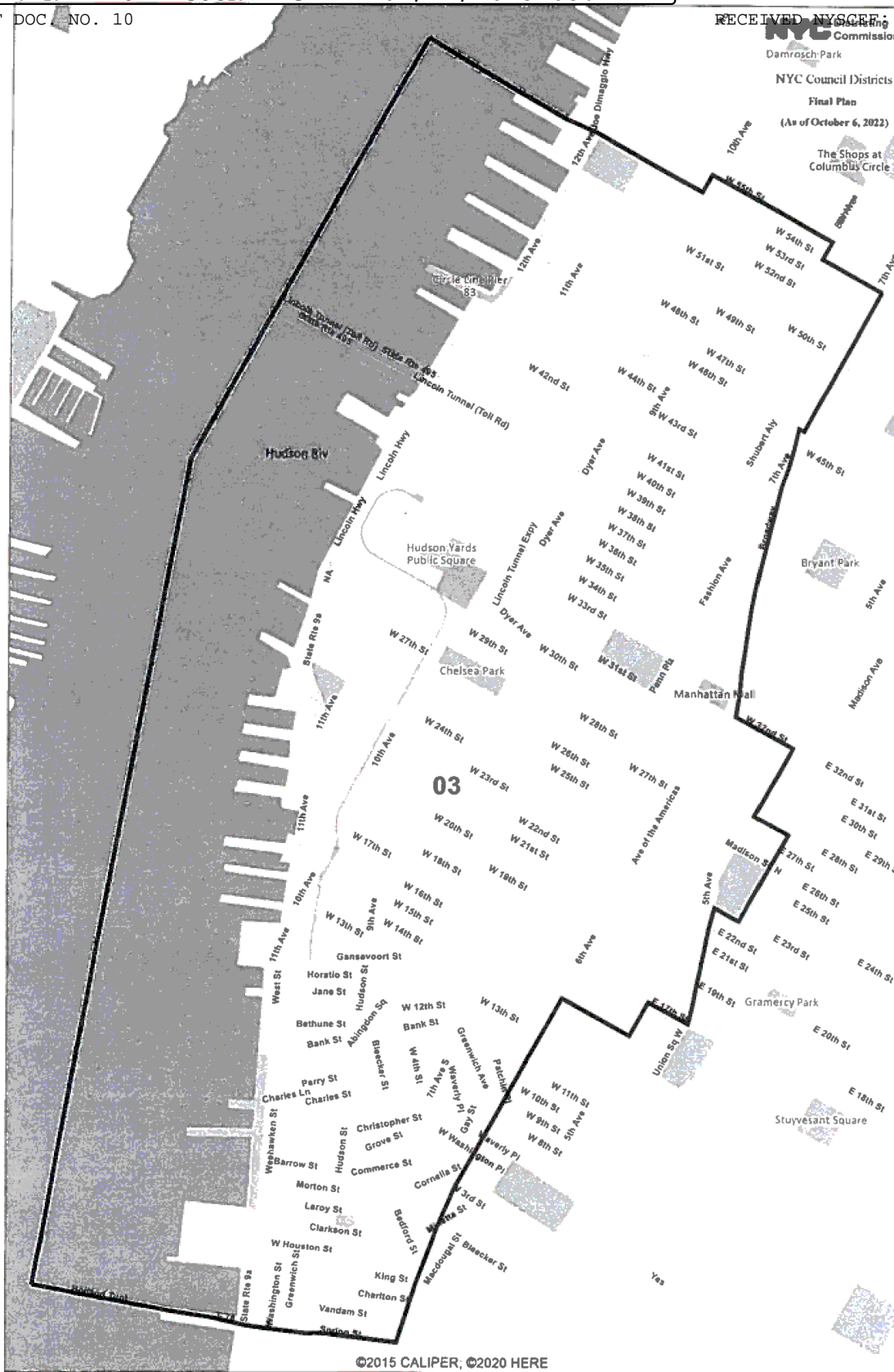


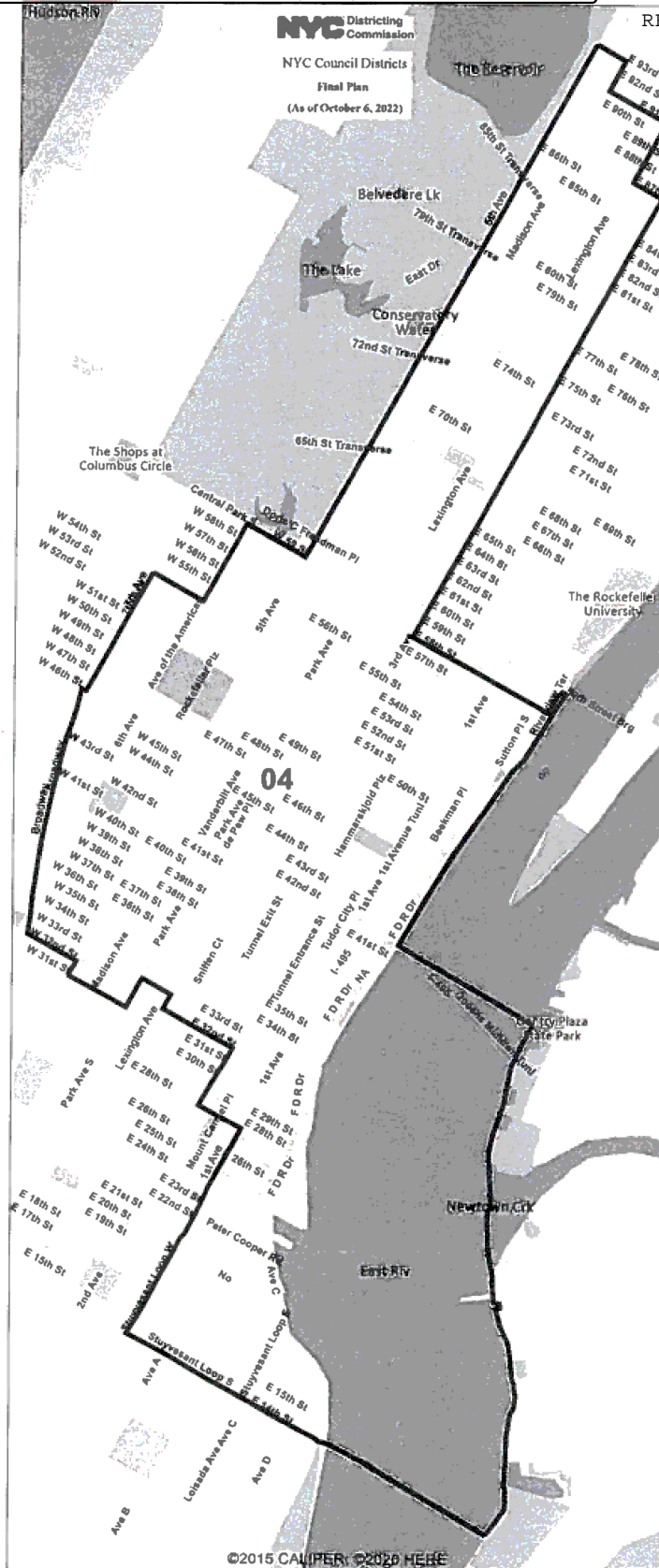


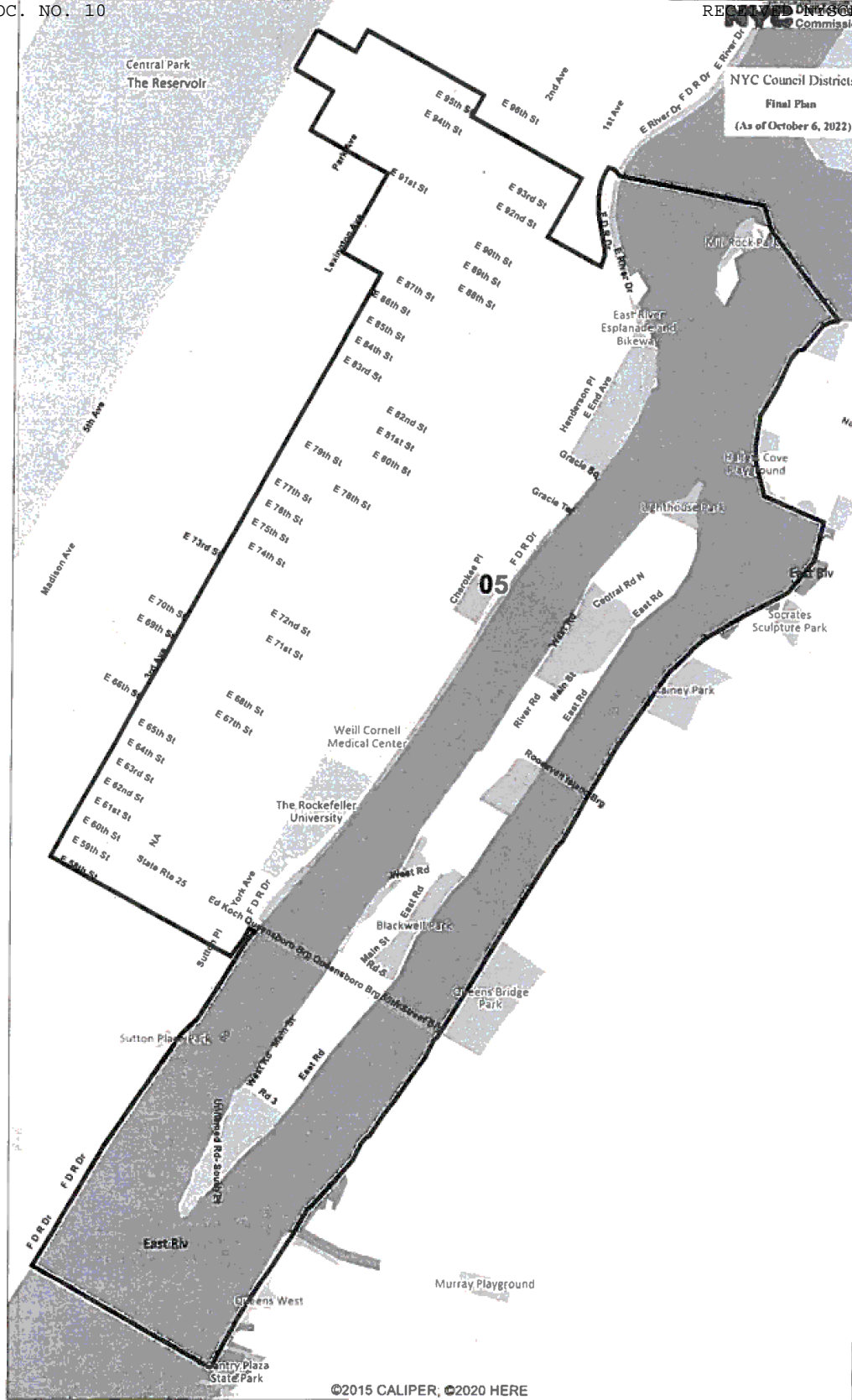




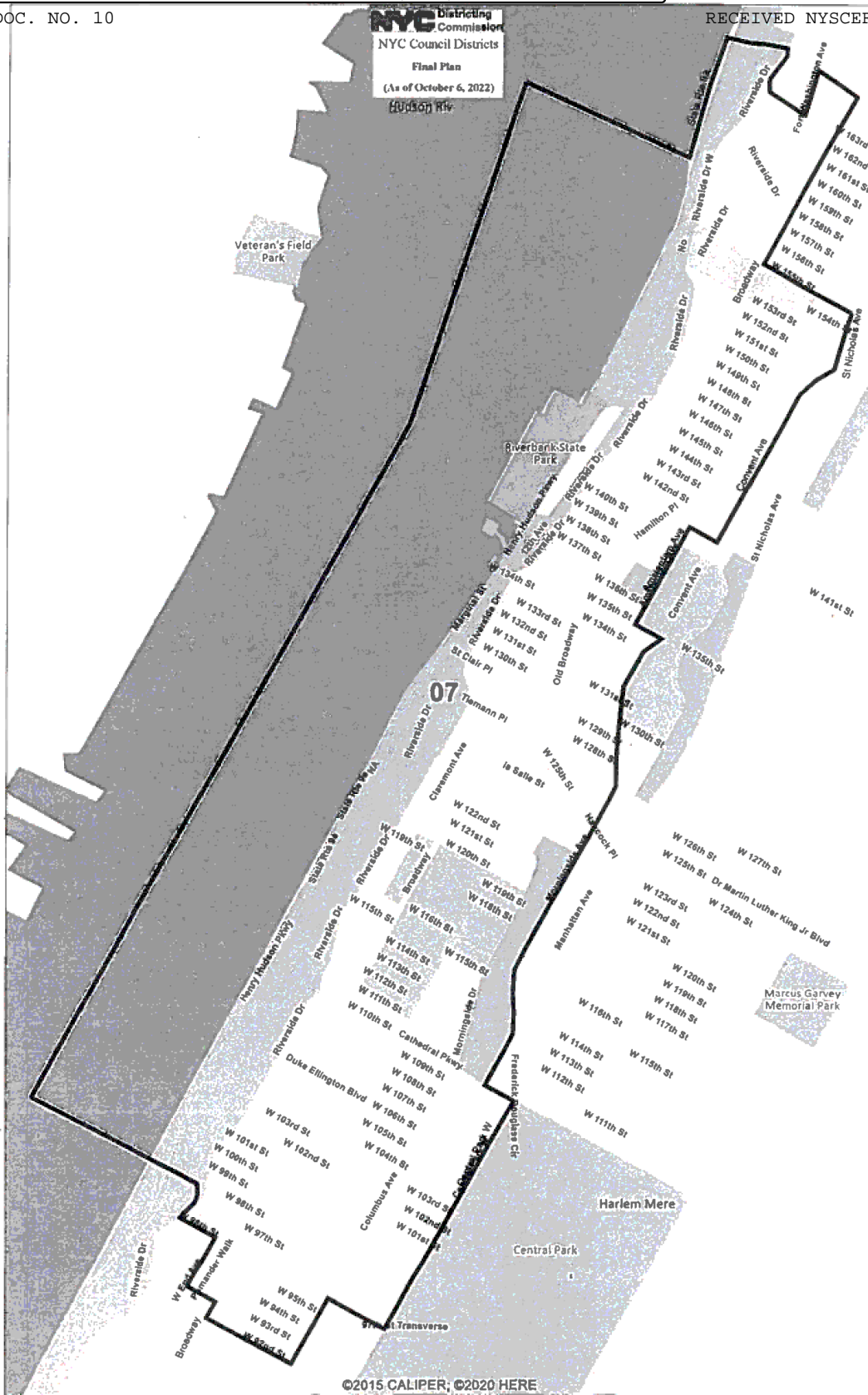




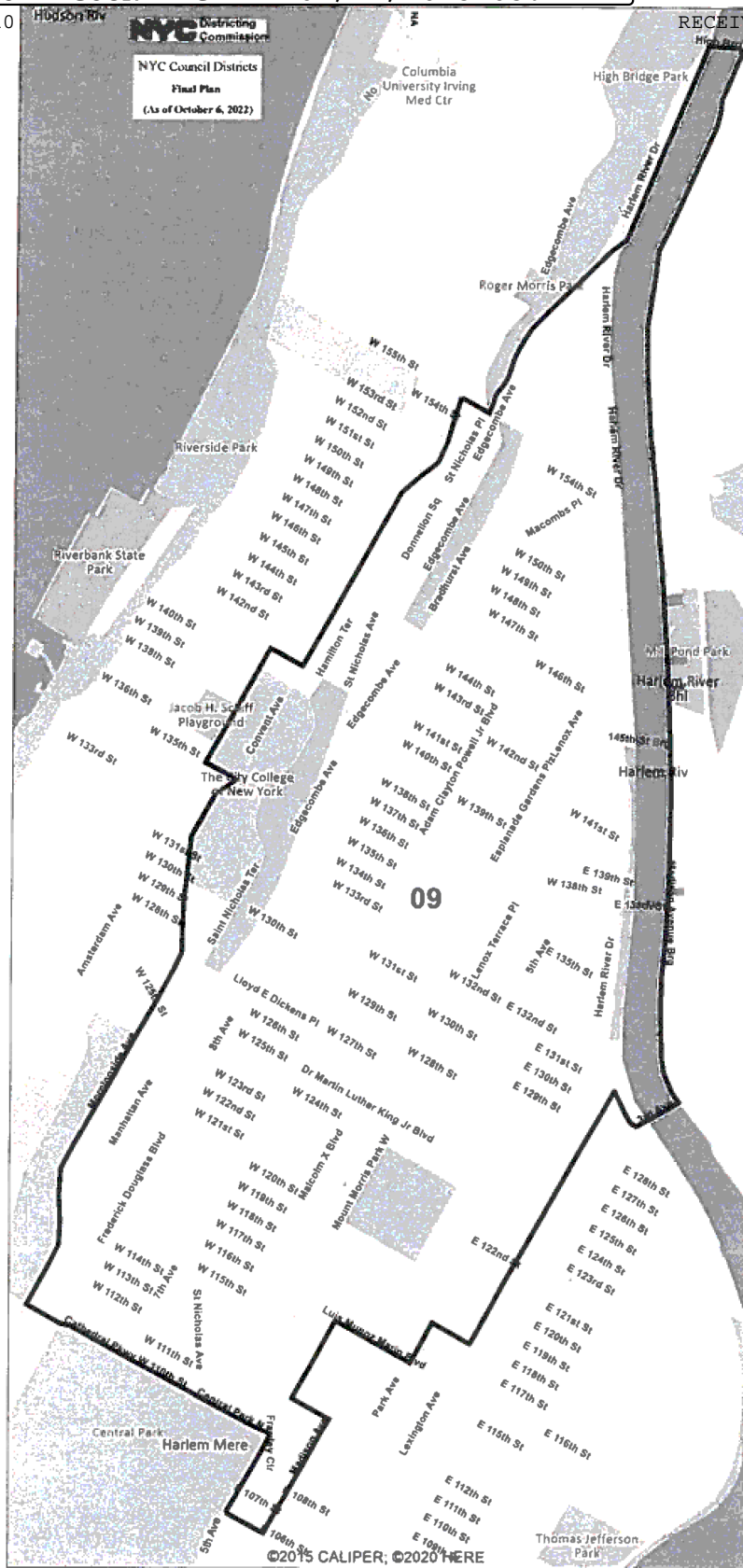




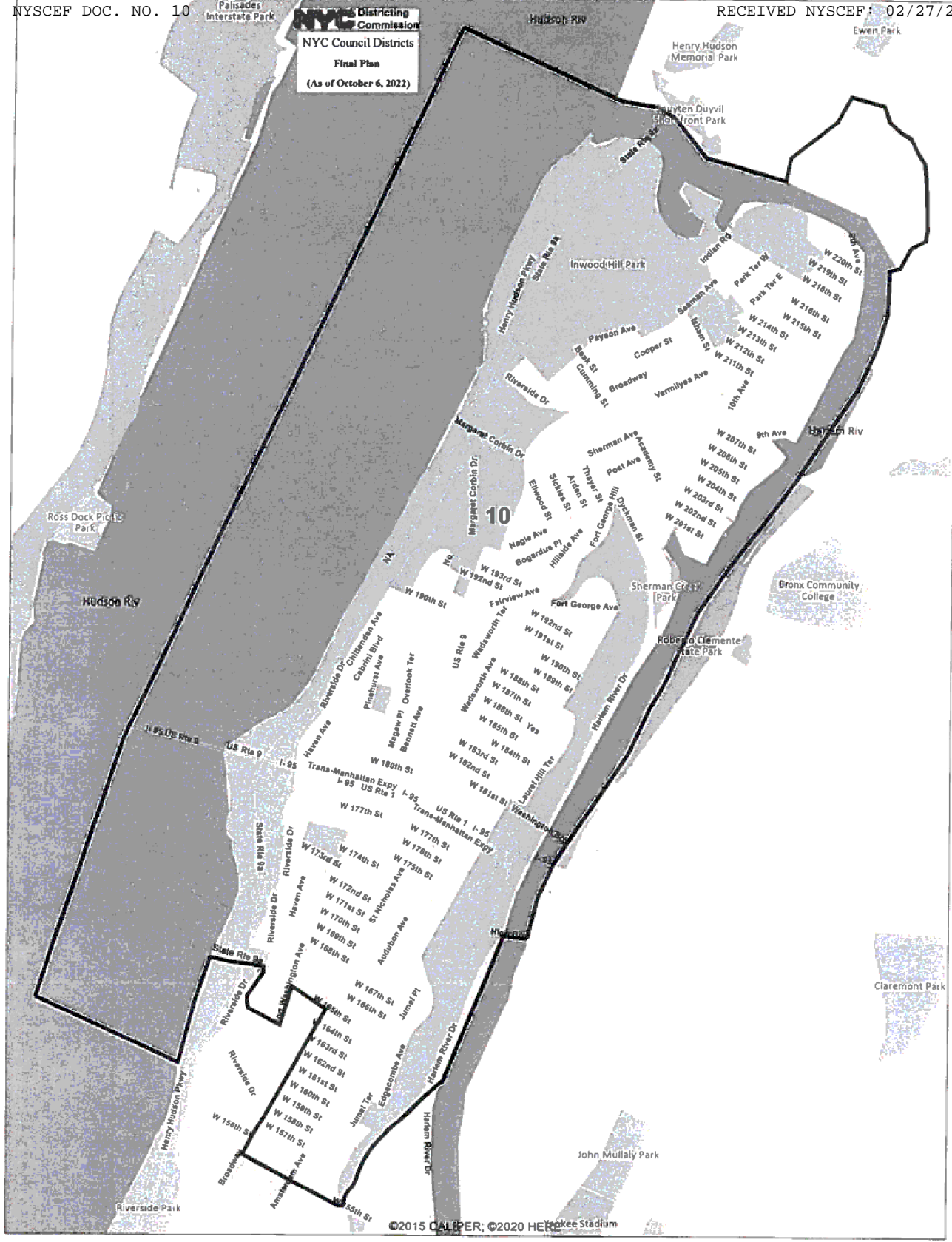








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NYC Council Districts
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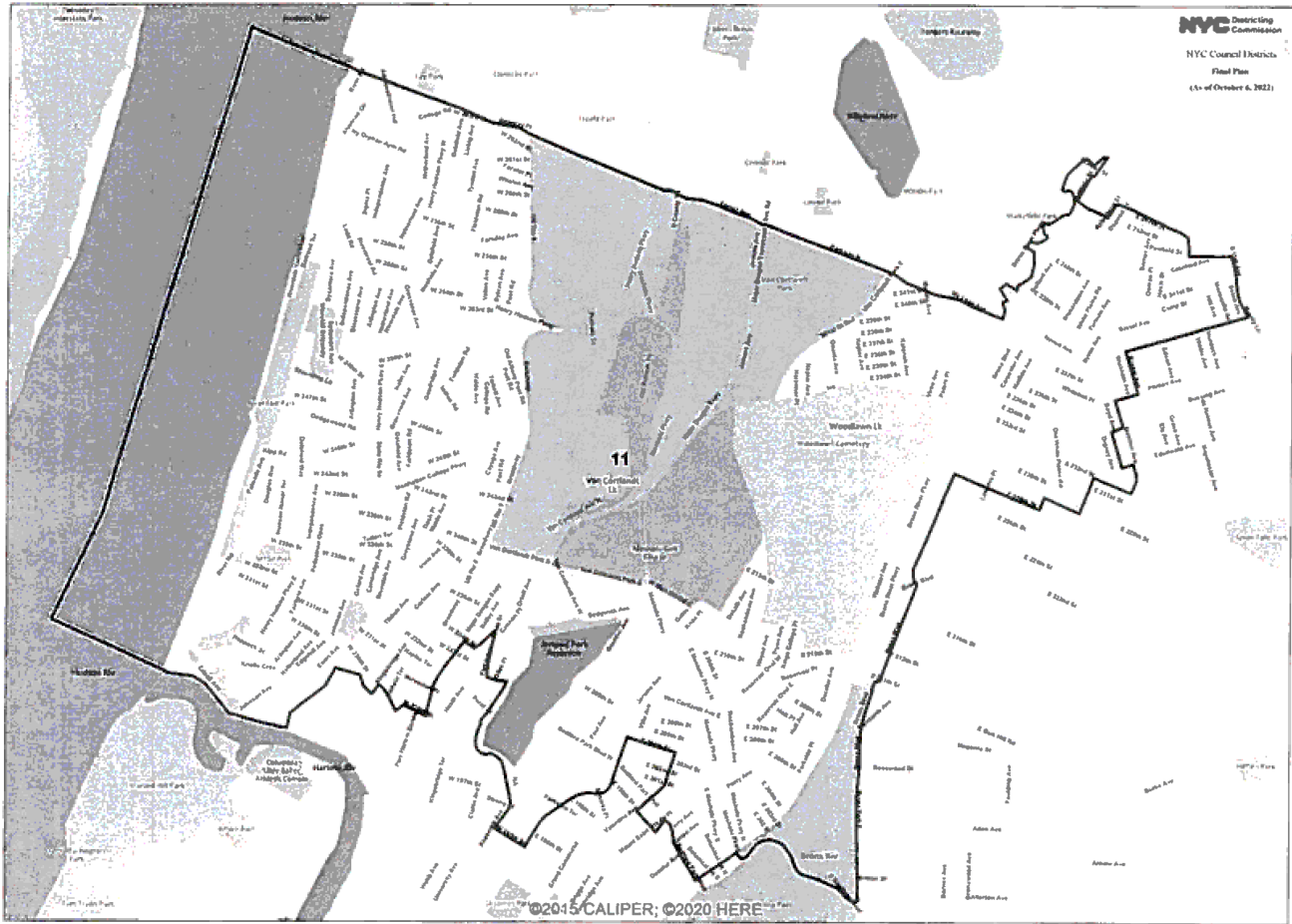


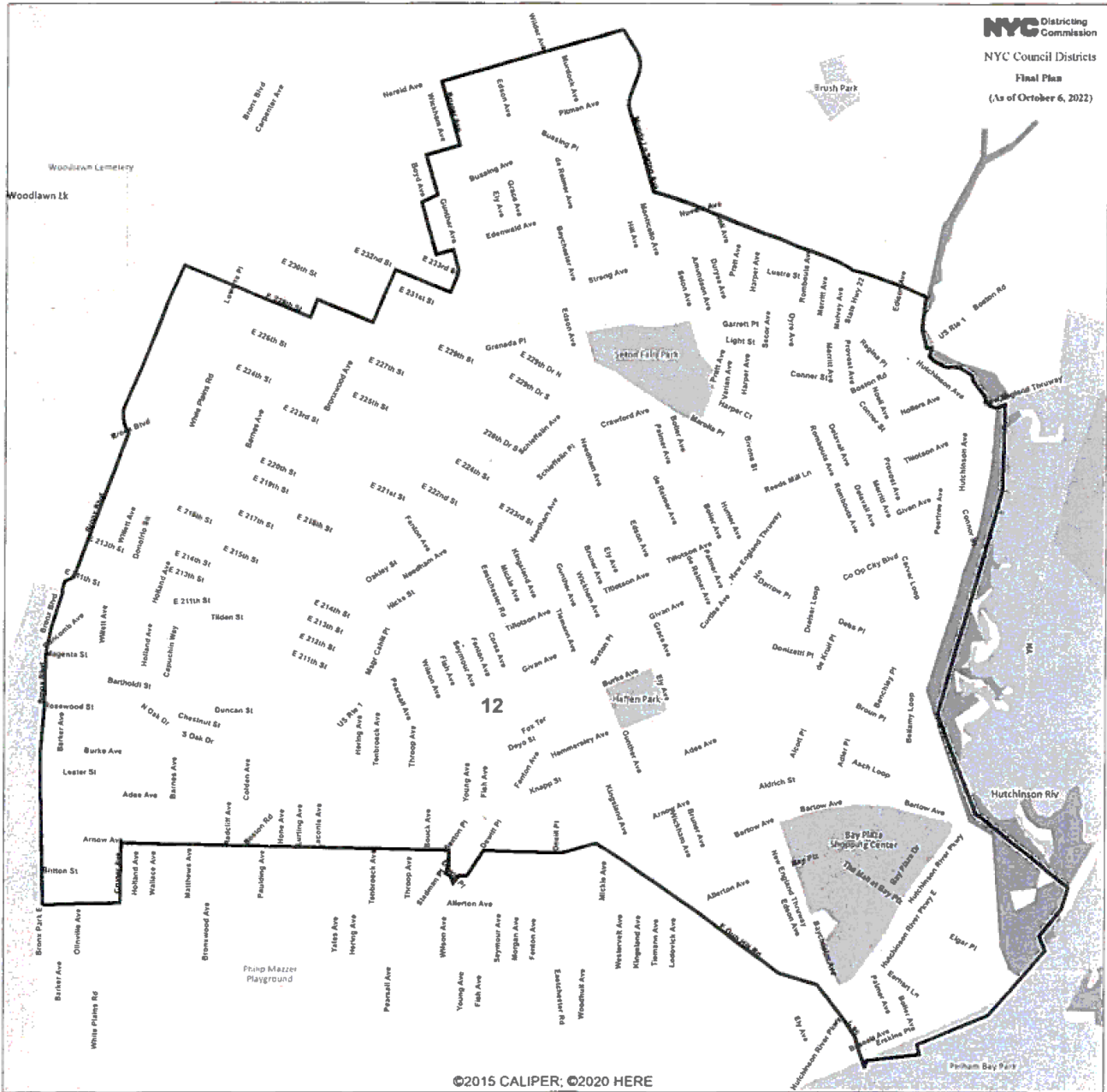
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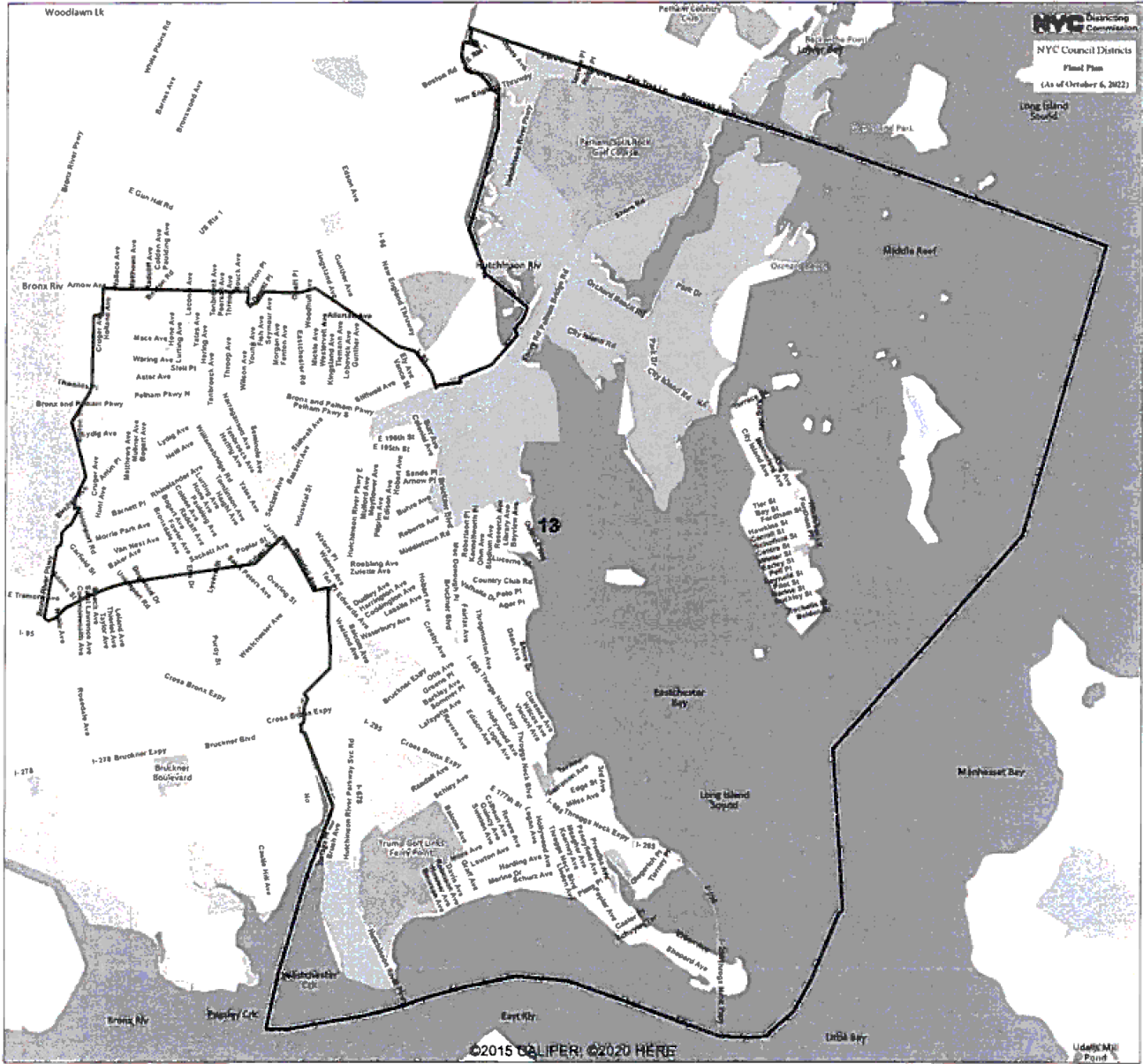
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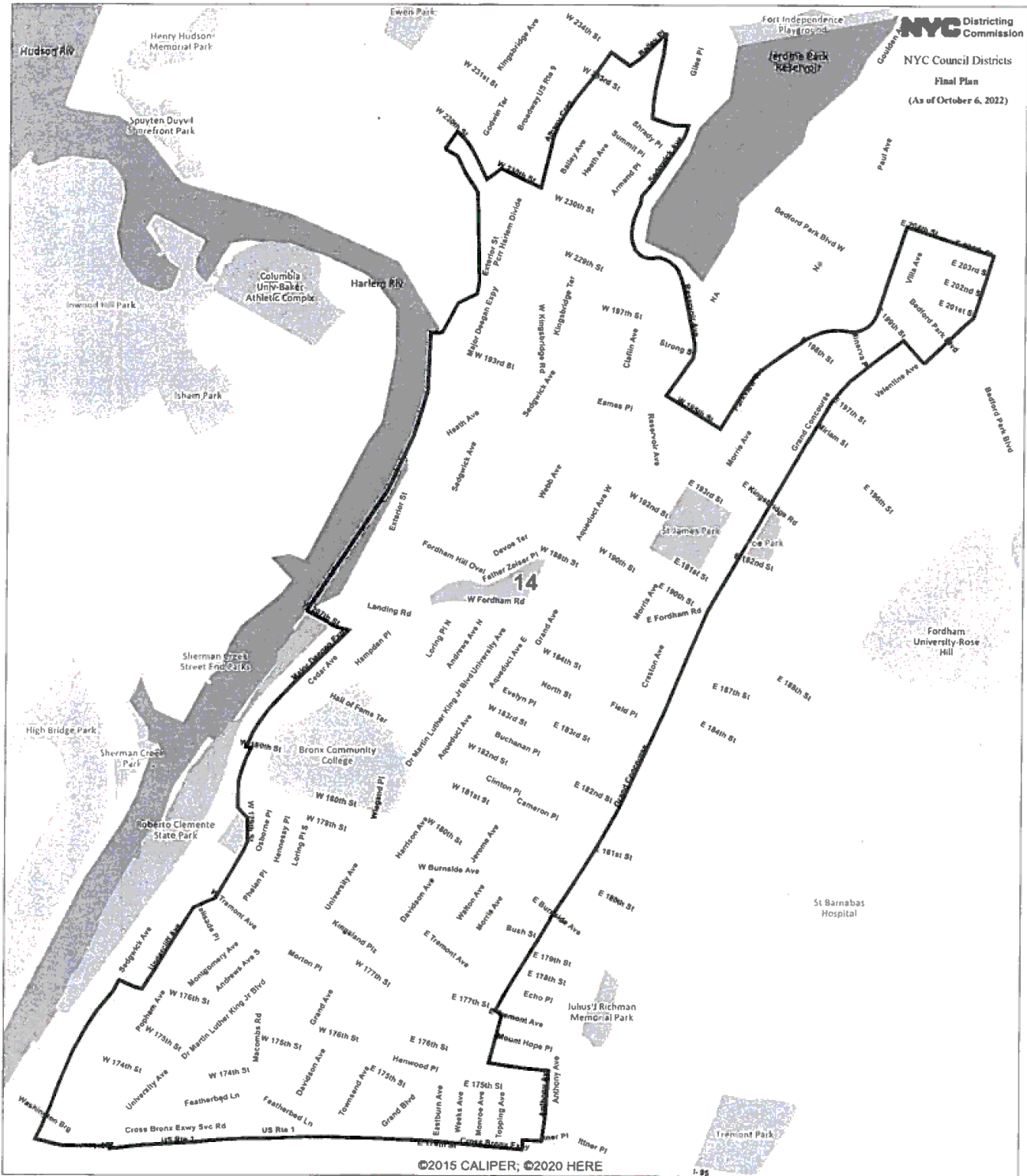
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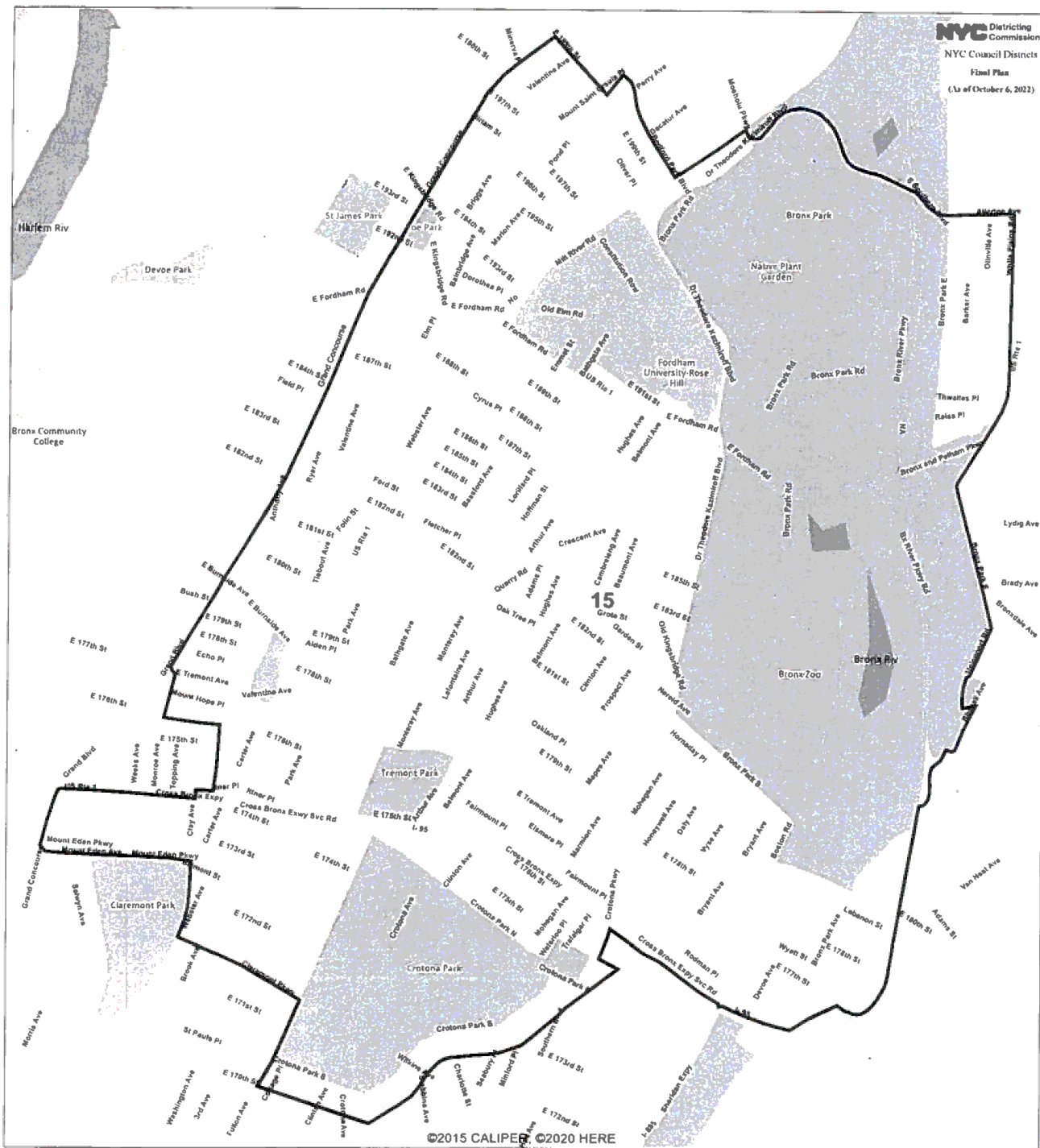
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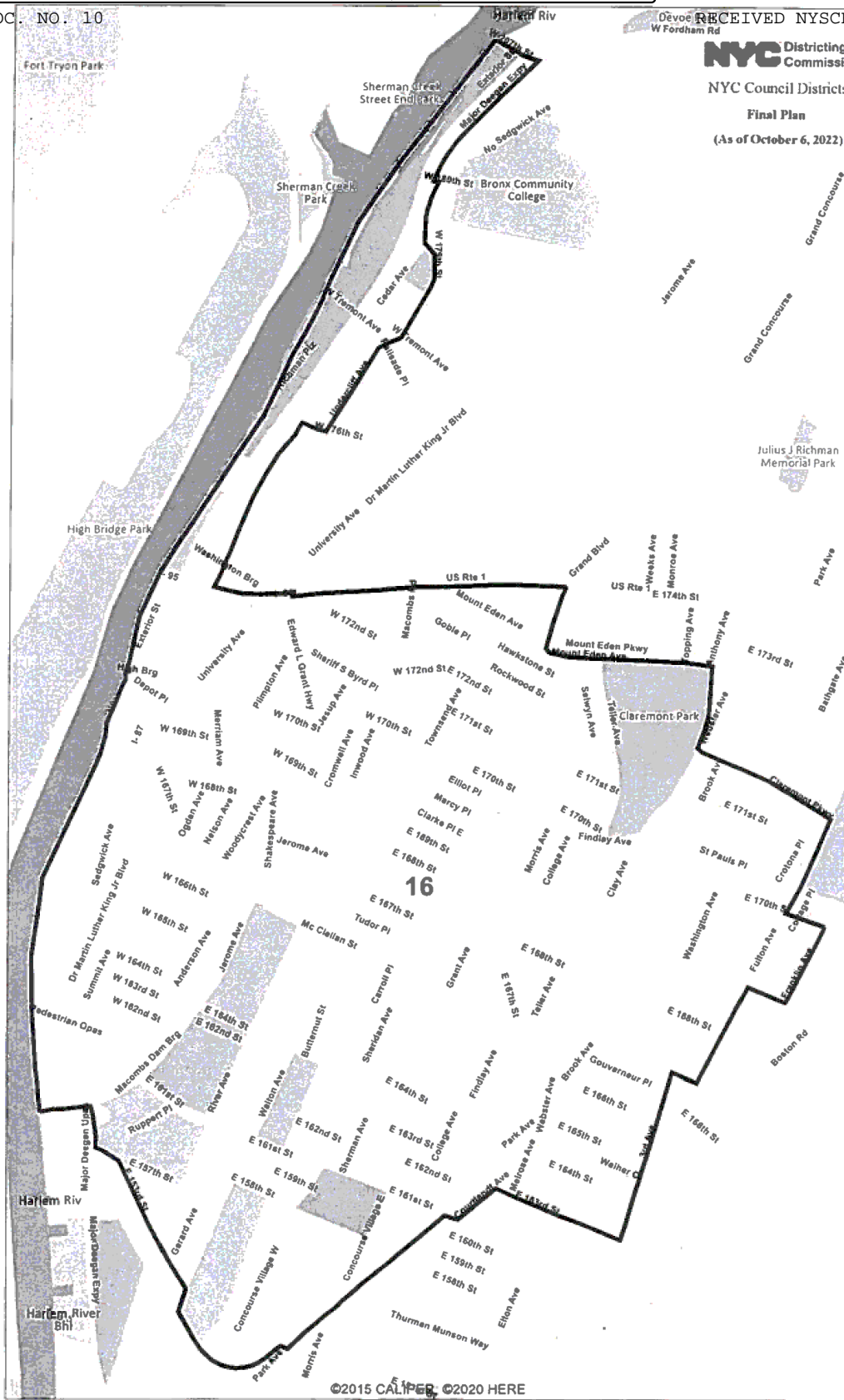








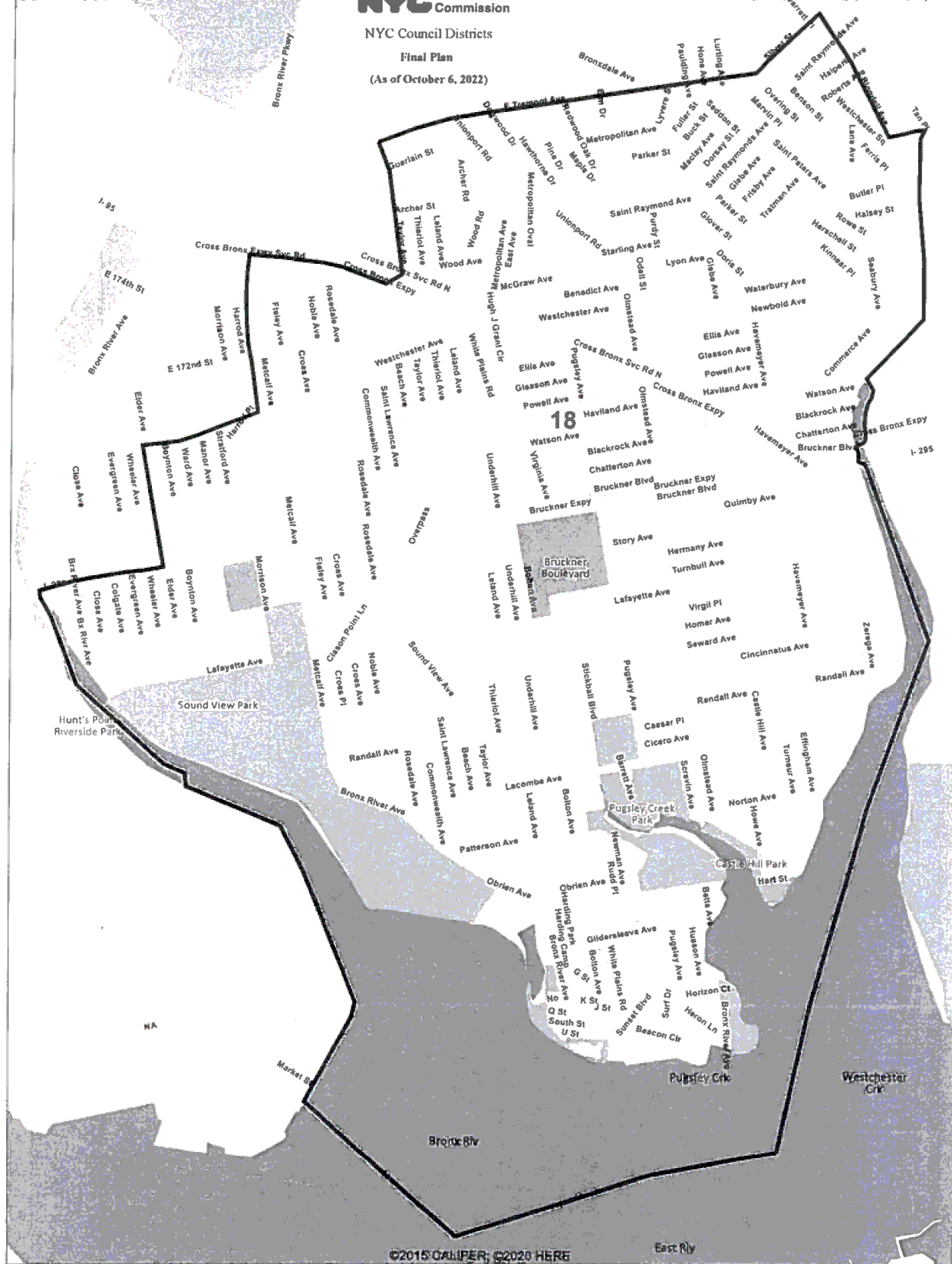


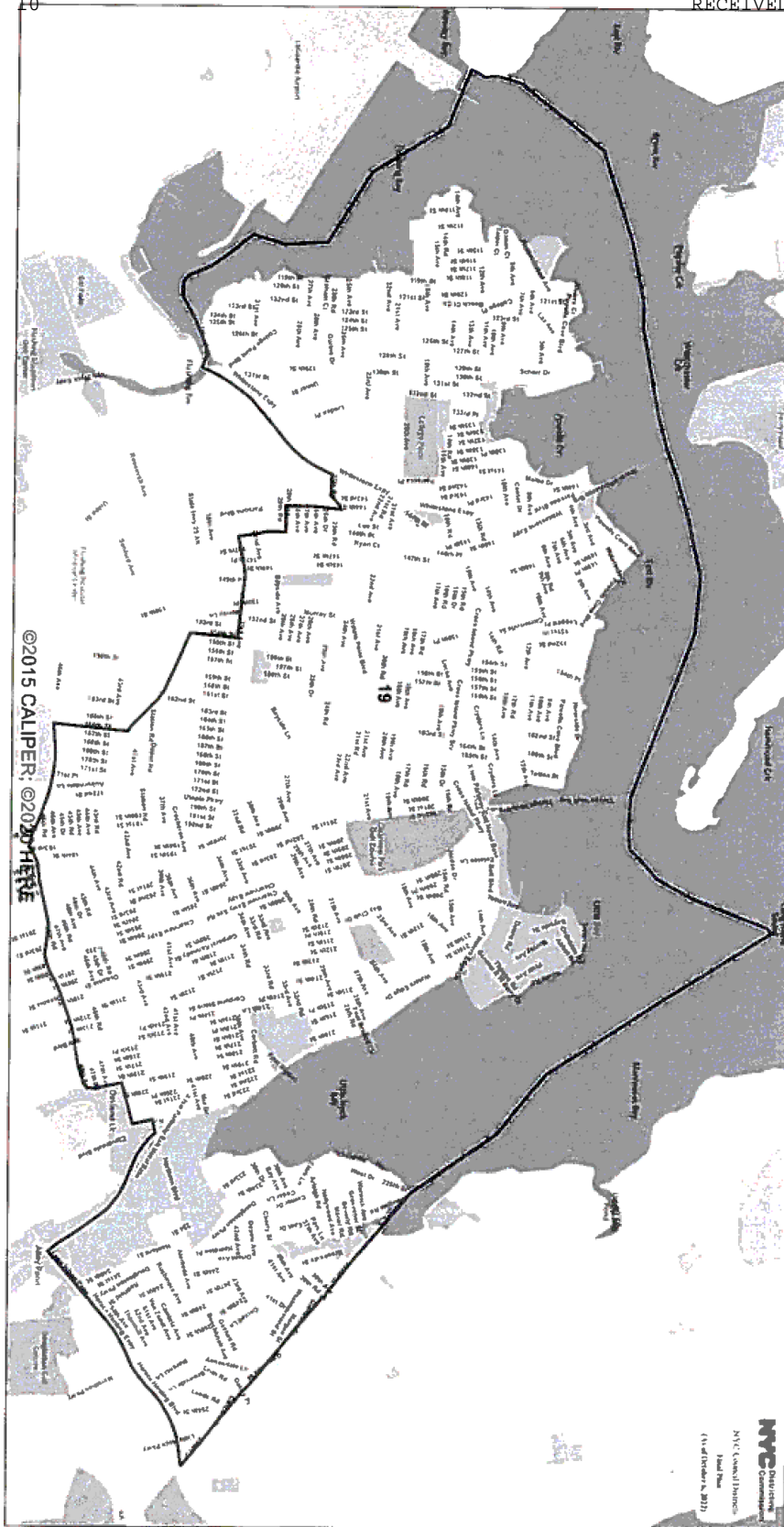


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 NYC Council Districts
 Final Plan
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NYC Council Districts
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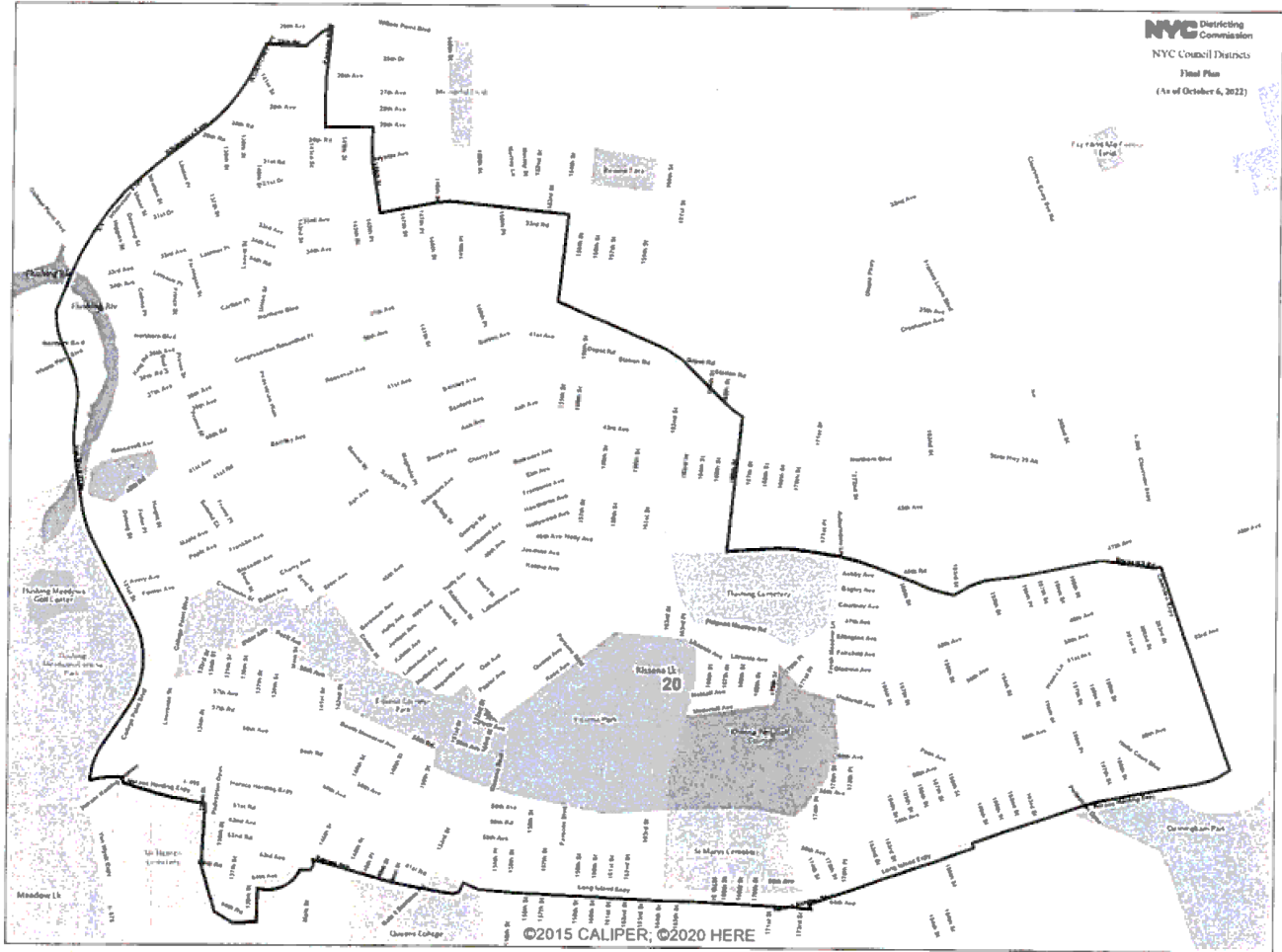


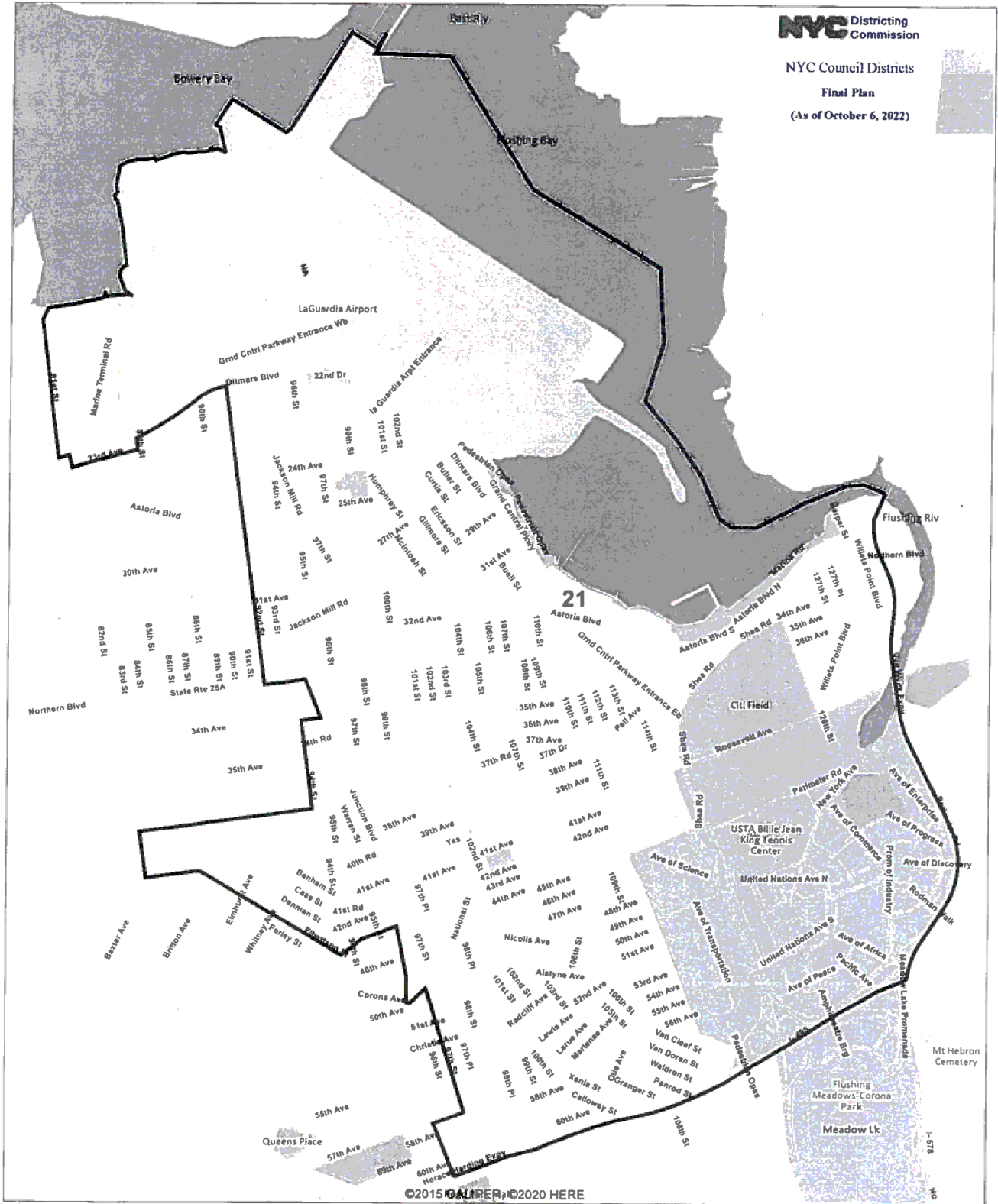
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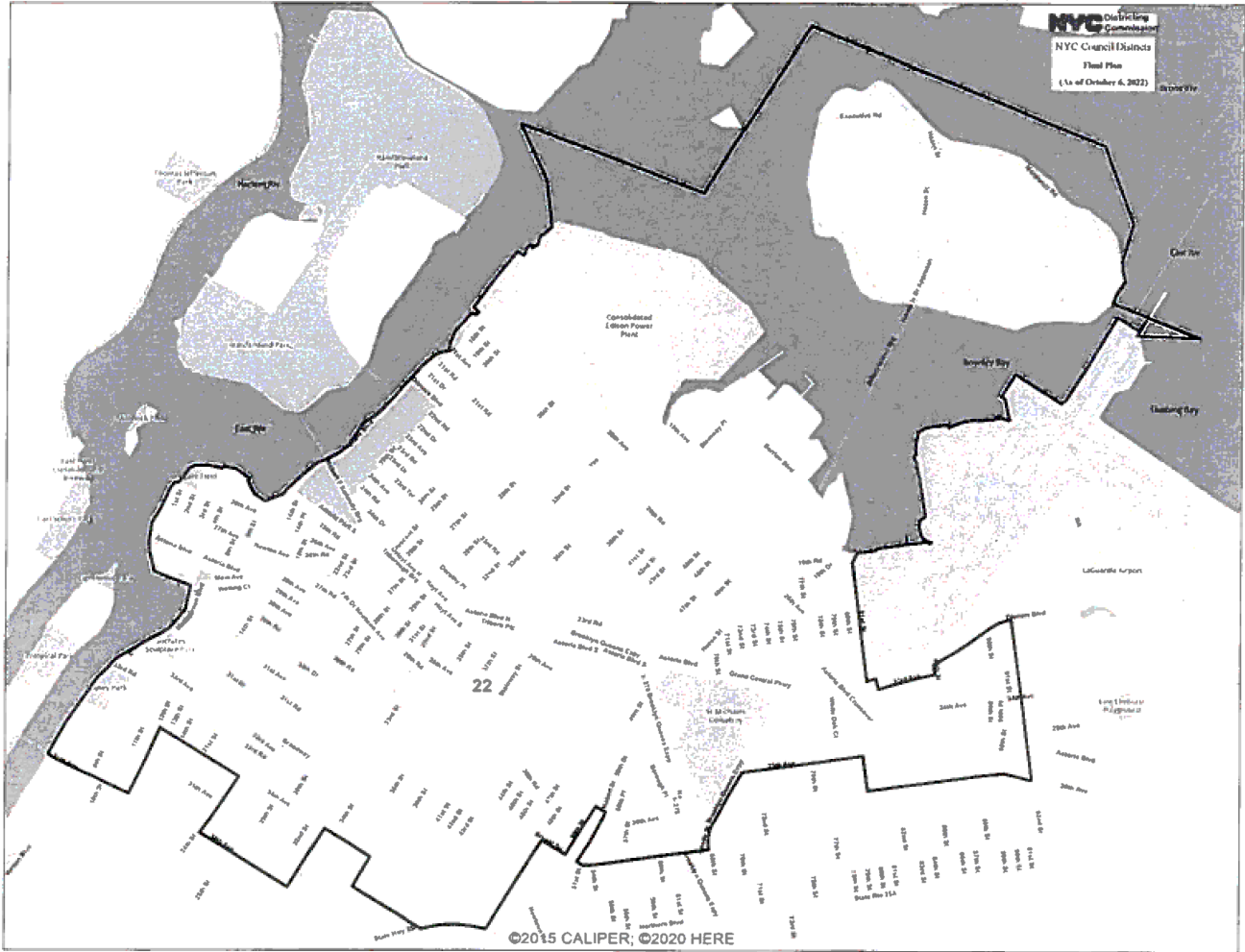
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NYC Districting Commission

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3rd Floor
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Chair
Dennis M. Walcott

Commissioners
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Hon. Marilyn D. Go
Kevin John Hanratty
Maria Mateo, Esq.
Joshua Schneps
Lisa Sorin
Msgr. Kevin Sullivan
Kai-Ki Wong
Maf Misbah Uddin
Michael Schnall
Kristen Johnson
Gregory W. Kirschenbaum
Marc Wurzel
Dr. Darrin K. Porcher

Executive Director
John Flateau, Ph.D.

1 212 676 3090 tel.
nyc.gov/districting

October 6, 2022

BY HAND

Speaker Adrienne Adams
Council of the City of New York
City Hall
New York, NY 10007

Dear Speaker Adams and City Council Members,

The City of New York 2022-2023 Districting Commission (the "Commission") hereby submits for the Council's review, its plan for dividing New York City into fifty-one districts for the election of Members of the New York City Council.

The public's interest and participation in the City Council redistricting process has been unprecedented. From June to September, the Commission held two rounds of public hearings in each of the five boroughs for over 35 hours of total in-person and virtual testimony. After the release of the Preliminary Plan on July 15, 2022, the Commission made the maps available for the public's inspection and comment on its website as well as in public spaces across the five boroughs. The Commission also conducted extensive outreach of the local community on the Commission's process including leading public engagement sessions and running a media campaign in 70 of the city's community and ethnic weekly newspapers in ten languages. In addition, the Commission opened its mapping sessions to the public for further access to the Commission's redistricting process and provided free mapping software, Districtr, for the public to draw their own maps.

In total to date, the Commission has received over 12,500 submissions of public testimony in both hard copies and electronic submissions, which have been made available to the Commissioners for their consideration. The public testimony spans across all five boroughs from individuals, community organizations, and Council members. The Commission has carefully reviewed and considered the public testimony and the public's valuable input was incorporated to the

NYC Districting Commission

253 Broadway
3rd Floor
New York, NY 10007

Chair
Dennis M. Walcott

Commissioners
Yovan Samuel Collado
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Kevin John Hanratty
Maria Mateo, Esq.
Joshua Schneps
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Marc Wurzel
Dr. Darrin K. Porcher

Executive Director
John Flateau, Ph.D.

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extent practicable into this updated revised plan¹ being submitted to the Council herewith (“Updated Revised Plan”).

Under the provisions of the New York City Charter, Chapter 2-A, the Commission now submits the Updated Revised Plan to the City Council for its consideration and such plan shall be deemed adopted unless “within three weeks, the council by the vote of a majority of all its members adopts its resolution objecting to such plan and returns the plan to the commission with such resolutions and a statement of its objections.” NYC Charter § 51(d). With this submission of the Updated Revised Plan to the Council, the public will also have the opportunity to inspect the Updated Revised Plan, but the Commission will not take any further action until a resolution by Council is returned or the three-week period has elapsed. Thus, the decision as to whether the plan is adopted by the Council in its current form or whether the Commission’s process of review and public comment will continue, will be based on the Council’s decision.

This Commission believes that the Updated Revised Plan complies with all applicable laws and incorporates many of the desires expressed by the public, including the Council Members, within the limitations set forth by the City Charter, voting rights law, and state law. It is a Districting Plan that fairly represents the voters and residents of this diverse and vibrant New York City.

Respectfully,

Dennis M. Walcott

Dennis M. Walcott
Chair
New York City Districting Commission 2022-2023

cc: Carlos E. Beato, Special Counsel
Council of the City of New York
City Hall, New York, NY 10007

¹ At the September 22, 2022 public meeting, a proposed revised plan to be submitted to Council was not approved by the Commission.

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Commission

253 Broadway
3rd Floor
New York, NY 10007

cc: Jonathan Etricks, Director of the Legislative Documents Unit
Council of the City of New York
City Hall, New York, NY 10007

Chair
Dennis M. Walcott

Commissioners, New York City Districting Commission
John Flateau, Ph.D., Executive Director
Grace Pyun, General Counsel

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Yovan Samuel Collado
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THE COUNCIL OF
THE CITY OF NEW YORK
CITY HALL
NEW YORK, NY 10007

ADRIENNE E. ADAMS
SPEAKER

TELEPHONE
(212) 785-7210

October 27, 2022

Dennis Walcott
Chair
New York City Districting Commission
253 Broadway, 3rd Floor
New York, NY 10007

Dear Mr. Walcott:

I write regarding the revised plan submitted by the Districting Commission (the "Commission") to the Council on October 6, 2022 (the "Plan"). The Council accepts the Plan without objection, noting that it was passed by 13 members of the Commission after extensive deliberation over legal considerations including the Voting Rights Act of 1965, population deviation limitations and the criteria set forth in the City Charter.

Accordingly, the Council urges the Commission to certify the Plan with the City Clerk and to take all necessary steps to ensure its effectuation.

I applaud the invaluable contributions of New Yorkers throughout this entire process and thank all the members and staff of the Commission for their time, their hard work and their passion in serving this great City of ours.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Adrienne Adams".

ADRIENNE E. ADAMS
Speaker

New York City Districting Commission 2022-2023
Voting Rights Act Evaluation of NYC City Council Revised Plan (for October 6, 2022)

By: Dr. Lisa Handley

In my expert opinion, the Revised Plan complies with the Voting Rights Act by maintaining the voting strength of **Black and Hispanic voters** at a comparable level to the current plan and increasing the number of districts that offer **Asian voters** – the fastest growing minority group in New York City – an opportunity to elect their candidates of choice.

Manhattan

Black Districts

Majority Black District:

Revised Plan retains 1 majority Black district (**District 9**), equally effective in current plan and Revised Plan (based on votes for Adams). (Effective district = minority opportunity district)

District 9	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams
Revised Plan	50.9	49.8	56.8	36.5
Current Plan	50.6	49.6	56.7	36.6

Hispanic Districts

Majority Hispanic Districts:

Revised Plan retains 2 majority Hispanic districts (Districts 8 and 10):

- **District 8** HVAP decreased from 59.4 to 53.4 but remains majority HVAP and HCVAP and Hispanic-preferred candidate Adams still carries the district, so it remains effective.
- **District 10** is equally or more effective in Revised Plan.

District 8	HVAP	HCVAP	Vote for Adams
Revised Plan	53.4	51.2	34.8
Current Plan	59.4	56.1	37.1

District 10	HVAP	HCVAP	Vote for Adams
Revised Plan	64.2	62.0	27.3
Current Plan	64.2	62.2	26.0

Plurality Hispanic District in current plan that is plurality white in the Revised Plan:

- **District 7** is plurality HVAP (39.6) in current plan and elected a Hispanic-preferred Hispanic candidate. It is plurality WVAP in Revised Plan (HVAP decreased to 33.4; WVAP

increased from 29.4 to 36.3). However, voting was not polarized between Hispanics and whites in 2021 or 2017 Democratic primaries (both groups supported current Hispanic incumbent in 2021).

District 7	HVAP	HCVAP	WVAP
Revised Plan	33.4	33.4	36.3
Current Plan	39.6	38.6	29.4

Bronx

Black Districts

Majority Black District:

Revised Plan retains 1 majority Black district (**District 12**), equally effective in current plan and Revised Plan (based on votes for Adams, Gibson).

District 12	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams	Vote for Gibson
Revised Plan	64.7	63.9	65.5	58.1	57.2
Current Plan	66.2	65.5	67.1	58.4	57.8

Hispanic Districts

Majority Hispanic Districts:

Revised Plan retains 5 majority Hispanic districts (**Districts 14, 15, 16, 17, and 18**):

- Three are equally effective (**Districts 14, 15, 17**) in current plan and Revised Plan (based on vote for Cabrera).

District 14	HVAP	HCVAP	Vote for Cabrera
Revised Plan	71.8	69.0	55.8
Current Plan	72.4	69.6	56.6

District 15	HVAP	HCVAP	Vote for Cabrera
Revised Plan	64.6	62.4	43.4
Current Plan	62.5	59.7	42.9

District 17	HVAP	HCVAP	Vote for Cabrera
Revised Plan	65.2	64.9	32.3
Current Plan	64.3	63.2	33.2

- **District 18** HVAP decreased from 54.3 to 51.8 but HCVAP is 53.8 and the vote for the Hispanic-preferred Hispanic candidate for Borough President (Cabrera) changes only minimally (from 29.1 to 29.0) between current plan and Revised Plan so it remains a Hispanic opportunity district.

District 18	HVAP	HCVAP	Vote for Cabrera
Revised Plan	51.8	53.8	29.0
Current Plan	54.3	56.2	29.1

- **District 16** HVAP increased from 59.5 to 61.8 (HCVAP now 57.2). District is a Black opportunity district but the slight increase in HVAP, accompanied by a slight increase in votes for Cabrera (although Gibson still easily carries the district), indicates that this district may eventually evolve into a Hispanic opportunity district.

District 16	HVAP	HCVAP	Vote for Cabrera	Vote for Gibson
Revised Plan	61.8	57.2	27.9	56.8
Current Plan	59.5	57.0	25.2	59.7

Plurality Hispanic Districts:

Revised Plan retains two plurality Hispanic districts (**Districts 11 and 13**):

- **District 13** changed only marginally from current plan. It is a Hispanic opportunity district in current plan – the Hispanic candidate elected was supported by Hispanic and white voters. It remains an effective district under Revised Plan (Cabrera easily carries the district).

District 13	HVAP	HCVAP	Vote for Cabrera
Revised Plan	42.8	44.4	37.0
Current Plan	42.1	43.8	36.7

- **District 11**, which is 42.6 HVAP in current plan is 40.4 HVAP in Revised Plan. It was not a Hispanic opportunity district – the white candidate elected was not preferred by Hispanic voters.

District 11	HVAP	HCVAP	Vote for Cabrera
Revised Plan	40.4	37.2	32.1

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Current Plan	42.6	39.6	32.7
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Queens**Black Districts****Majority Black Districts:**

Revised Plan retains 2 majority Black districts (Districts 27 and 31), both of which are equally effective in current plan and Revised Plan (based on vote for Adams, Richards).

District 27	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams	Vote for Richards
Revised Plan	62.5	61.9	75.3	65.2	71.9
Current Plan	64.5	63.9	77.2	65.1	72.0

District 31	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams	Vote for Richards
Revised Plan	64.2	63.5	70.4	65.1	77.4
Current Plan	64.5	63.8	70.8	65.5	77.8

Plurality Black District

Revised Plan retains 1 plurality Black district (District 28). The BVAP increased from 37.8 to 45.6 in Revised Plan. Votes for Black-preferred candidates also increased (votes for Adams, Richards). Black voting strength was increased in this Black opportunity district.

District 28	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams	Vote for Richards
Revised Plan	45.6	45.2	56.2	57.3	66.0
Current Plan	37.8	37.5	48.5	53.2	61.9

Hispanic Districts**Majority Hispanic District:**

Revised Plan retains 1 majority Hispanic district (District 21), equally effective in current plan and Revised Plan (vote for Adams).

District 21	HVAP	HCVAP	Vote for Adams
Revised Plan	73.1	61.9	41.1
Current Plan	72.8	61.4	40.1

Asian Districts**Majority Asian District:**

Revised Plan retains 1 majority Asian district (**District 20**), equally effective in current plan and Revised Plan.

District 20	AVAP (DOJ)	AVAP	ACVAP	Vote for Yang
Revised Plan	72.6	72.3	57.4	48.6
Current Plan	72.5	72.2	56.8	48.8

Plurality Asian Districts:

Revised Plan retains 4 plurality Asian districts (**Districts 23, 24, 25, and 26**):

- **Districts 23, 24 and 26** retain comparable AVAP and votes for Yang. Districts 23, 24, and 26 are Asian opportunity districts – all three elected Asian voters' preferred candidates (although District 24 elects a white candidate, he was preferred over other Asian candidates by Asian voters). They remain opportunity districts in Revised Plan.

District 23	AVAP (DOJ)	AVAP	ACVAP	Vote for Yang
Revised Plan	44.1	43.6	40.7	22.8
Current Plan	44.0	43.6	39.6	22.9

District 24	AVAP (DOJ)	AVAP	ACVAP	Vote for Yang
Revised Plan	37.8	36.6	30.8	27.6
Current Plan	37.4	36.5	31.1	27.8

District 26	AVAP (DOJ)	AVAP	ACVAP	Vote for Yang
Revised Plan	33.5	32.8	24.9	17.2
Current Plan	32.2	31.5	23.9	17.0

- Although **District 25** has a higher Asian VAP than Districts 24 and 26, Asian voters in this district were not able to elect their preferred candidate in 2021 – the Asian candidate elected is NOT the Asian-preferred Asian candidate. This district is not an Asian opportunity district. The AVAP decreased from 45.1 in current plan to 42.5 in Revised Plan; votes for Yang decreased from 26.3 to 22.9.

District 25	AVAP (DOJ)	AVAP	ACVAP	Vote for Yang
Revised Plan	42.5	42.1	39.2	22.9
Current Plan	45.1	44.7	41.6	26.3

Brooklyn**Black Districts****Majority Black districts:**

Revised Plan retains 6 majority Black districts, and all remain effective (**Districts 36, 40, 41, 42, 45, 46**)

- District 36 has a BVAP of only 49.5 but the BCVAP is 57.0 in the Revised Plan
- District 46 decreased BVAP from 54.5 in current plan to 50.5 in Revised Plan but Adams still easily carries the district (55.5 in current plan and 54.2 in Revised Plan)

District 36	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams
Revised Plan	49.5	48.3	57.0	37.4
Current Plan	50.2	49.1	58.0	38.6

District 40	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams
Revised Plan	50.5	49.6	56.9	44.1
Current Plan	48.7	47.9	54.6	40.4

District 41	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams
Revised Plan	71.9	70.9	77.6	67.8
Current Plan	71.9	70.9	77.9	68.2

District 42	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams
Revised Plan	65.2	64.5	74.6	71.0
Current Plan	66.0	65.2	74.7	71.4

District 45	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams
Revised Plan	60.3	59.6	64.8	63.6
Current Plan	61.7	61.0	66.7	65.0

District 46	BVAP (DOJ)	BVAP	BCVAP	Vote for Adams
Revised Plan	50.5	50.0	50.9	54.2
Current Plan	54.5	54.0	54.8	55.5

Hispanic Districts**Majority Hispanic districts:**

Revised Plan retains 1 majority Hispanic district (**District 37**), which is equally effective in the Revised and current plan.

District 37	HVAP	HCVAP	Vote for Reynoso
Revised Plan	50.3	45.5	33.1
Current Plan	50.3	45.0	30.5

Asian Districts**Majority Asian District:**

Revised Plan creates new majority Asian opportunity district. **District 43** is 55.0 AVAP and Yang carries the district easily with 50.6 % of the vote.

District 43	AVAP (DOJ)	AVAP	ACVAP	Vote for Yang
Revised Plan	55.0	53.9	48.5	50.6

Plurality Asian District in current plan that is plurality Hispanic in the Revised Plan:

- **District 38** is a plurality Asian district in current plan but elected a Hispanic-preferred Hispanic candidate (not supported by Asian voters). Revised Plan retains essentially the same HVAP but decreased the AVAP and increased the WVAP. The current Hispanic incumbent was supported by both Hispanic and white voters in the 2021 Democratic primary. In 2017, the winning Hispanic candidate was also supported by Hispanic and white voters (but not by Asian voters).

District 38	AVAP (DOJ)	AVAP	HVAP	WVAP
Revised Plan	32.3	31.6	35.3	26.3
Current Plan	41.0	40.6	35.1	18.1

Staten Island

Revised Plan retains 1 combined majority minority district (**District 49**) with BVAP, HVAP, and AVAP percentages very close to current plan.

District 49	BVAP (DOJ)	BVAP	HVAP	AVAP (DOJ)	AVAP	WVAP
Revised Plan	24.1	23.3	30.2	12.2	11.3	30.9
Current Plan	23.8	23.1	29.9	12.3	11.9	31.4

New York City Districting Commission Updated Revised Plan for City Council (October 6, 2022)

District	Updated Revised Plan		Current (2013) Lines		Updated Revised Plan VAP								
	2020 Pop	Deviation	2020 Pop	Deviation	Total	Latino	% Latino	Asian	% Asian	Black	% Black	Other	% Other
1	177,159	2.5%	184,718	6.8%	151,918	19,642	12.9%	49,392	32.5%	7,069	4.7%	75,815	49.9%
2	177,066	2.4%	173,721	0.5%	160,596	27,474	17.1%	23,724	14.8%	9,644	6.0%	99,754	62.1%
3	177,136	2.5%	202,727	17.3%	161,217	24,069	14.9%	25,122	15.6%	9,493	5.9%	102,533	63.6%
4	177,190	2.5%	184,153	6.5%	156,901	11,441	7.3%	25,153	16.0%	4,777	3.0%	115,530	73.6%
5	177,075	2.4%	181,561	5.0%	152,695	11,980	7.8%	19,382	12.7%	4,308	2.8%	117,025	76.6%
6	176,623	2.2%	181,575	5.0%	151,113	17,067	11.3%	17,318	11.5%	7,557	5.0%	109,171	72.2%
7	176,905	2.3%	165,523	-4.3%	152,716	50,967	33.4%	16,472	10.8%	23,114	15.1%	62,163	40.7%
8	176,465	2.1%	177,732	2.8%	137,544	73,415	53.4%	8,517	6.2%	32,859	23.9%	22,753	16.5%
9	176,831	2.3%	178,609	3.3%	144,269	34,855	24.2%	6,590	4.6%	71,831	49.8%	30,993	21.5%
10	175,271	1.4%	158,815	-8.1%	146,999	94,384	64.2%	4,932	3.4%	11,499	7.8%	36,184	24.6%
11	175,470	1.5%	165,732	-4.1%	139,072	56,208	40.4%	10,130	7.3%	29,822	21.4%	42,912	30.9%
12	175,452	1.5%	176,924	2.3%	138,257	37,476	27.1%	2,585	1.9%	88,413	63.9%	9,783	7.1%
13	175,210	1.3%	167,518	-3.1%	138,889	59,463	42.8%	11,455	8.2%	16,866	12.1%	51,105	36.8%
14	175,592	1.6%	169,071	-2.2%	132,903	95,365	71.8%	3,540	2.7%	26,765	20.1%	7,233	5.4%
15	173,536	0.4%	174,736	1.1%	129,432	83,639	64.6%	2,578	2.0%	32,631	25.2%	10,584	8.2%
16	175,413	1.5%	170,718	-1.3%	130,131	80,377	61.8%	2,002	1.5%	42,056	32.3%	5,696	4.4%
17	175,486	1.5%	173,957	0.6%	128,856	83,955	65.2%	1,667	1.3%	37,413	29.0%	5,821	4.5%
18	175,681	1.6%	181,838	5.2%	133,975	69,460	51.8%	18,227	13.6%	36,436	27.2%	9,852	7.4%
19	170,692	-1.3%	167,787	-2.9%	140,177	24,490	17.5%	52,202	37.2%	2,288	1.6%	61,197	43.7%
20	172,944	0.0%	171,873	-0.6%	144,989	20,853	14.4%	104,759	72.3%	3,539	2.4%	15,838	10.9%
21	170,397	-1.4%	171,182	-1.0%	129,663	94,734	73.1%	15,816	12.2%	11,226	8.7%	7,887	6.1%
22	168,889	-2.3%	159,611	-7.7%	146,157	35,177	24.1%	20,489	14.0%	7,191	4.9%	83,300	57.0%
23	169,886	-1.7%	160,638	-7.1%	139,812	19,443	13.9%	61,026	43.6%	15,197	10.9%	44,146	31.6%
24	169,157	-2.2%	166,004	-4.0%	134,919	26,926	20.0%	49,443	36.6%	14,280	10.6%	44,270	32.8%
25	169,541	-1.9%	171,230	-1.0%	138,436	58,704	42.4%	58,252	42.1%	2,271	1.6%	19,209	13.9%
26	169,044	-2.2%	183,859	6.3%	141,920	41,262	29.1%	46,511	32.8%	8,843	6.2%	45,304	31.9%
27	169,452	-2.0%	172,459	-0.2%	135,210	21,680	16.0%	15,759	11.7%	83,722	61.9%	14,049	10.4%
28	170,068	-1.6%	182,991	5.8%	136,039	20,849	15.3%	21,865	16.1%	61,446	45.2%	31,879	23.4%
29	172,422	-0.3%	164,323	-5.0%	140,118	32,924	23.5%	38,815	27.7%	8,556	6.1%	59,823	42.7%
30	169,598	-1.9%	167,100	-3.3%	137,957	38,920	28.2%	27,807	20.2%	2,697	2.0%	68,533	49.7%
31	169,778	-1.8%	173,532	0.4%	129,810	22,628	17.4%	3,449	2.7%	82,486	63.5%	21,247	16.4%
32	168,905	-2.3%	165,779	-4.1%	135,364	46,450	34.3%	19,119	14.1%	7,868	5.8%	61,927	45.7%
33	176,506	2.1%	207,870	20.2%	132,233	15,375	11.6%	12,231	9.2%	5,920	4.5%	98,707	74.6%
34	168,745	-2.4%	167,112	-3.3%	140,575	54,965	39.1%	13,036	9.3%	10,673	7.6%	61,901	44.0%
35	172,009	-0.5%	177,926	2.9%	142,290	17,791	12.5%	12,544	8.8%	50,243	35.3%	61,712	43.4%
36	170,261	-1.5%	168,475	-2.5%	140,370	24,779	17.7%	6,899	4.9%	67,861	48.3%	40,831	29.1%
37	168,631	-2.5%	163,520	-5.4%	133,459	67,097	50.3%	11,397	8.5%	28,671	21.5%	26,294	19.7%
38	175,131	1.3%	175,840	1.7%	134,344	47,467	35.3%	42,510	31.6%	5,570	4.1%	38,797	28.9%
39	174,708	1.1%	174,284	0.8%	134,785	19,992	14.8%	17,582	13.0%	8,446	6.3%	88,765	65.9%
40	172,245	-0.4%	155,574	-10.0%	138,752	20,244	14.6%	9,229	6.7%	68,791	49.6%	40,488	29.2%
41	169,449	-2.0%	163,948	-5.2%	131,719	19,824	15.1%	2,111	1.6%	93,402	70.9%	16,382	12.4%

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District	Updated Revised Plan		Current (2013) Lines		Updated Revised Plan VAP								
	2020 Pop	Deviation	2020 Pop	Deviation	Total	Latino	% Latino	Asian	% Asian	Black	% Black	Other	% Other
42	168,746	-2.4%	168,243	-2.7%	129,937	28,217	21.7%	4,803	3.7%	83,750	64.5%	13,167	10.1%
43	175,545	1.5%	184,497	6.7%	136,740	19,298	14.1%	73,737	53.9%	1,329	1.0%	42,376	31.0%
44	175,698	1.6%	172,081	-0.5%	114,799	11,253	9.8%	16,073	14.0%	2,390	2.1%	85,083	74.1%
45	168,780	-2.4%	157,012	-9.2%	133,117	11,775	8.8%	9,196	6.9%	79,350	59.6%	32,796	24.6%
46	170,410	-1.4%	177,263	2.5%	135,235	11,369	8.4%	10,701	7.9%	67,573	50.0%	45,592	33.7%
47	171,863	-0.6%	178,215	3.1%	137,114	23,727	17.3%	27,829	20.3%	11,160	8.1%	74,398	54.3%
48	176,752	2.2%	180,660	4.5%	141,626	10,664	7.5%	24,453	17.3%	3,016	2.1%	103,493	73.1%
49	168,682	-2.4%	171,708	-0.7%	128,906	38,894	30.2%	15,159	11.8%	30,200	23.4%	44,653	34.6%
50	173,264	0.2%	165,182	-4.5%	137,690	17,321	12.6%	22,709	16.5%	3,956	2.9%	93,704	68.1%
51	169,200	-2.1%	159,553	-7.7%	135,070	13,500	10.0%	12,061	8.9%	1,529	1.1%	107,980	79.9%

District	Updated Revised Plan		Current (2013) Lines		Updated Revised Plan CVAP								
	2020 Pop	Deviation	2020 Pop	Deviation	Total	Latino	% Latino	Asian	% Asian	Black	% Black	Other	% Other
1	177,159	2.5%	184,718	6.8%	118,514	15,851	13.4%	36,000	30.4%	6,435	5.4%	60,228	50.8%
2	177,066	2.4%	173,721	0.5%	133,712	22,169	16.6%	17,373	13.0%	10,997	8.2%	83,173	62.2%
3	177,136	2.5%	202,727	17.3%	119,655	18,110	15.1%	14,177	11.8%	6,087	5.1%	81,280	67.9%
4	177,190	2.5%	184,153	6.5%	121,071	8,593	7.1%	13,830	11.4%	4,143	3.4%	94,504	78.1%
5	177,075	2.4%	181,561	5.0%	122,086	10,715	8.8%	11,060	9.1%	3,687	3.0%	96,624	79.1%
6	176,623	2.2%	181,575	5.0%	121,321	12,912	10.6%	10,011	8.3%	5,708	4.7%	92,690	76.4%
7	176,905	2.3%	165,523	-4.3%	127,364	42,602	33.4%	7,782	6.1%	23,126	18.2%	53,854	42.3%
8	176,465	2.1%	177,732	2.8%	107,037	54,846	51.2%	6,129	5.7%	30,764	28.7%	15,298	14.3%
9	176,831	2.3%	178,609	3.3%	124,250	27,235	21.9%	4,747	3.8%	70,542	56.8%	21,726	17.5%
10	175,271	1.4%	158,815	-8.1%	127,702	79,181	62.0%	4,057	3.2%	11,544	9.0%	32,920	25.8%
11	175,470	1.5%	165,732	-4.1%	108,153	40,202	37.2%	5,894	5.4%	26,709	24.7%	35,349	32.7%
12	175,452	1.5%	176,924	2.3%	119,116	32,878	27.6%	2,217	1.9%	77,970	65.5%	6,050	5.1%
13	175,210	1.3%	167,518	-3.1%	114,140	50,694	44.4%	6,988	6.1%	15,237	13.3%	41,221	36.1%
14	175,592	1.6%	169,071	-2.2%	88,784	61,291	69.0%	2,314	2.6%	21,316	24.0%	3,863	4.4%
15	173,536	0.4%	174,736	1.1%	90,751	56,657	62.4%	1,747	1.9%	25,567	28.2%	6,780	7.5%
16	175,413	1.5%	170,718	-1.3%	95,050	54,392	57.2%	1,016	1.1%	35,991	37.9%	3,651	3.8%
17	175,486	1.5%	173,957	0.6%	95,882	62,234	64.9%	931	1.0%	30,289	31.6%	2,428	2.5%
18	175,681	1.6%	181,838	5.2%	102,501	55,190	53.8%	9,131	8.9%	33,198	32.4%	4,983	4.9%
19	170,692	-1.3%	167,787	-2.9%	107,285	17,830	16.6%	29,326	27.3%	2,212	2.1%	57,917	54.0%
20	172,944	0.0%	171,873	-0.6%	77,537	13,590	17.5%	44,532	57.4%	2,819	3.6%	16,596	21.4%
21	170,397	-1.4%	171,182	-1.0%	62,754	38,825	61.9%	9,358	14.9%	9,941	15.8%	4,630	7.4%
22	168,889	-2.3%	159,611	-7.7%	107,762	23,837	22.1%	13,176	12.2%	7,757	7.2%	62,991	58.5%
23	169,886	-1.7%	160,638	-7.1%	116,545	17,921	15.4%	47,388	40.7%	14,634	12.6%	36,601	31.4%
24	169,157	-2.2%	166,004	-4.0%	103,927	20,263	19.5%	32,016	30.8%	14,937	14.4%	36,710	35.3%
25	169,541	-1.9%	171,230	-1.0%	78,129	28,990	37.1%	30,651	39.2%	2,889	3.7%	15,599	20.0%
26	169,044	-2.2%	183,859	6.3%	78,477	22,047	28.1%	19,544	24.9%	6,140	7.8%	30,747	39.2%
27	169,452	-2.0%	172,459	-0.2%	108,867	13,260	12.2%	8,632	7.9%	82,027	75.3%	4,948	4.5%
28	170,068	-1.6%	182,991	5.8%	108,361	16,500	15.2%	22,109	20.4%	60,923	56.2%	8,828	8.1%

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District	Updated Revised Plan		Current (2013) Lines		Updated Revised Plan CVAP								
	2020 Pop	Deviation	2020 Pop	Deviation	Total	Latino	% Latino	Asian	% Asian	Black	% Black	Other	% Other
29	172,422	-0.3%	164,323	-5.0%	106,383	23,178	21.8%	29,806	28.0%	7,114	6.7%	46,285	43.5%
30	169,598	-1.9%	167,100	-3.3%	106,134	29,482	27.8%	16,296	15.4%	2,536	2.4%	57,820	54.5%
31	169,778	-1.8%	173,532	0.4%	110,916	14,737	13.3%	3,522	3.2%	78,054	70.4%	14,604	13.2%
32	168,905	-2.3%	165,779	-4.1%	112,754	36,345	32.2%	15,110	13.4%	6,301	5.6%	54,997	48.8%
33	176,506	2.1%	207,870	20.2%	101,511	11,124	11.0%	8,562	8.4%	5,900	5.8%	75,926	74.8%
34	168,745	-2.4%	167,112	-3.3%	110,370	43,666	39.6%	8,926	8.1%	10,150	9.2%	47,628	43.2%
35	172,009	-0.5%	177,926	2.9%	119,844	14,833	12.4%	7,694	6.4%	48,867	40.8%	48,449	40.4%
36	170,261	-1.5%	168,475	-2.5%	121,584	19,246	15.8%	4,452	3.7%	69,327	57.0%	28,559	23.5%
37	168,631	-2.5%	163,520	-5.4%	99,299	45,212	45.5%	6,372	6.4%	31,622	31.8%	16,094	16.2%
38	175,131	1.3%	175,840	1.7%	90,294	27,942	30.9%	23,025	25.5%	6,934	7.7%	32,393	35.9%
39	174,708	1.1%	174,284	0.8%	116,666	15,055	12.9%	13,335	11.4%	8,962	7.7%	79,313	68.0%
40	172,245	-0.4%	155,574	-10.0%	106,093	11,309	10.7%	5,986	5.6%	60,407	56.9%	28,391	26.8%
41	169,449	-2.0%	163,948	-5.2%	101,062	13,805	13.7%	1,678	1.7%	78,446	77.6%	7,133	7.1%
42	168,746	-2.4%	168,243	-2.7%	105,183	19,487	18.5%	2,168	2.1%	78,471	74.6%	5,057	4.8%
43	175,545	1.5%	184,497	6.7%	80,074	8,398	10.5%	38,797	48.5%	1,327	1.7%	31,553	39.4%
44	175,698	1.6%	172,081	-0.5%	85,034	6,509	7.7%	9,214	10.8%	2,274	2.7%	67,038	78.8%
45	168,780	-2.4%	157,012	-9.2%	107,451	10,186	9.5%	5,064	4.7%	69,634	64.8%	22,567	21.0%
46	170,410	-1.4%	177,263	2.5%	113,801	9,183	8.1%	8,585	7.5%	57,877	50.9%	38,157	33.5%
47	171,863	-0.6%	178,215	3.1%	107,659	19,278	17.9%	17,616	16.4%	11,262	10.5%	59,503	55.3%
48	176,752	2.2%	180,660	4.5%	105,668	6,689	6.3%	15,653	14.8%	2,620	2.5%	80,706	76.4%
49	168,682	-2.4%	171,708	-0.7%	102,282	26,578	26.0%	8,636	8.4%	26,551	26.0%	40,517	39.6%
50	173,264	0.2%	165,182	-4.5%	117,622	14,357	12.2%	14,962	12.7%	3,789	3.2%	84,514	71.9%
51	169,200	-2.1%	159,553	-7.7%	127,655	11,853	9.3%	8,065	6.3%	1,516	1.2%	106,221	83.2%

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New York City Districting Commission
 Updated Revised Plan for City Council (October 6, 2022)
 Cross-Borough Table

District	Total Pop	% of District	VAP					Total VAP	% of Latino	% of Asian	Black	% of Black	Other	% of Other
			Latino	Asian	Black	% of Black	Other							
08	176,465	100.0%	137,544	73,415 (53.4%)	8,517 (6.3%)	32,859 (28.4%)	22,753 (11.9%)							
08 (Manhattan)	105,462	59.8%	85,783	38,423 (52.3%)	8,044 (9.4%)	19,268 (58.6%)	20,048 (88.1%)							
08 (Bronx)	71,003	40.2%	51,761	34,992 (47.7%)	473 (5.6%)	13,591 (41.4%)	2,705 (11.9%)							
22	168,889	100.0%	146,415	35,177 (24.1%)	20,489 (14.0%)	7,191 (4.9%)	83,300 (57.0%)							
22 (Queens)	165,114	97.8%	142,394	33,921 (96.4%)	20,431 (99.7%)	5,019 (69.8%)	83,023 (99.7%)							
22 (Bronx)	3,775	2.2%	3,763	1,256 (3.6%)	58 (0.3%)	2,172 (30.2%)	277 (0.3%)							
34	168,745	100.0%	140,575	54,965 (39.1%)	13,036 (9.3%)	10,673 (7.6%)	61,901 (44.0%)							
34 (Brooklyn)	137,549	81.5%	115,185	41,878 (76.2%)	9,937 (76.2%)	9,655 (90.5%)	53,715 (86.8%)							
34 (Queens)	31,196	18.5%	25,390	13,087 (23.8%)	3,099 (23.8%)	1,018 (9.5%)	8,186 (13.2%)							
50	173,264	100.0%	137,690	17,321 (12.6%)	22,709 (16.5%)	3,956 (2.9%)	93,704 (68.1%)							
50 (Staten Island)	158,561	91.5%	126,112	16,022 (92.5%)	19,020 (83.8%)	3,799 (96.0%)	87,272 (93.1%)							
50 (Brooklyn)	14,703	8.5%	11,578	1,299 (7.5%)	58 (0.3%)	157 (4.0%)	6,433 (6.9%)							

District	Total Pop	% of District	CVAP					Total CVAP	% of Latino	% of Asian	Black	% of Black	Other	% of Other
			Latino	Asian	Black	% of Black	Other							
08	176,465	100.0%	108,037	54,846 (51.2%)	6,129 (5.7%)	30,764 (28.7%)	15,298 (14.3%)							
08 (Manhattan)	105,462	59.8%	70,374	30,399 (55.4%)	5,963 (9.3%)	19,783 (64.3%)	14,229 (93.0%)							
08 (Bronx)	71,003	40.2%	36,663	24,447 (44.6%)	166 (2.7%)	10,980 (35.7%)	1,069 (7.0%)							
22	168,889	100.0%	107,763	23,837 (22.1%)	13,176 (12.2%)	7,757 (7.2%)	62,991 (58.5%)							
22 (Queens)	165,114	97.8%	102,087	22,022 (92.4%)	13,127 (99.6%)	4,697 (60.6%)	62,240 (98.8%)							
22 (Bronx)	3,775	2.2%	5,675	1,815 (7.6%)	49 (0.4%)	3,060 (39.4%)	751 (1.2%)							
34	168,745	100.0%	110,370	43,666 (39.6%)	8,926 (8.1%)	10,150 (9.2%)	47,628 (43.2%)							
34 (Brooklyn)	137,549	81.5%	90,729	33,835 (77.5%)	6,917 (77.5%)	9,342 (92.0%)	40,636 (85.3%)							
34 (Queens)	31,196	18.5%	19,641	9,830 (22.5%)	2,009 (22.5%)	809 (8.0%)	6,992 (14.7%)							
50	173,264	100.0%	117,622	14,357 (12.2%)	14,962 (12.7%)	3,789 (3.2%)	84,514 (71.9%)							
50 (Staten Island)	158,561	91.5%	107,363	13,052 (90.9%)	12,287 (82.1%)	3,364 (88.8%)	78,664 (93.1%)							
50 (Brooklyn)	14,703	8.5%	10,255	1,304 (9.1%)	2,675 (17.9%)	425 (11.2%)	5,851 (6.9%)							

New York City Districting Commission
 Updated Revised Plan for City Council (October 6, 2022)

District	Updated Revised Plan		Compactness Score	
	2020 Pop	Deviation	Polsby Popper	Reock
1	177,159	2.5%	0.43	0.38
2	177,066	2.4%	0.40	0.42
3	177,136	2.5%	0.59	0.46
4	177,190	2.5%	0.27	0.21
5	177,075	2.4%	0.36	0.33
6	176,623	2.2%	0.51	0.45
7	176,905	2.3%	0.38	0.28
8	176,465	2.1%	0.35	0.46
9	176,831	2.3%	0.36	0.23
10	175,271	1.4%	0.46	0.41
11	175,470	1.5%	0.33	0.45
12	175,452	1.5%	0.49	0.56
13	175,210	1.3%	0.43	0.56
14	175,592	1.6%	0.27	0.28
15	173,536	0.4%	0.52	0.59
16	175,413	1.5%	0.33	0.32
17	175,486	1.5%	0.24	0.39
18	175,681	1.6%	0.59	0.53
19	170,692	-1.3%	0.44	0.34
20	172,944	0.0%	0.48	0.45
21	170,397	-1.4%	0.39	0.53
22	168,889	-2.3%	0.29	0.44
23	169,886	-1.7%	0.55	0.51
24	169,157	-2.2%	0.40	0.33
25	169,541	-1.9%	0.36	0.38
26	169,044	-2.2%	0.41	0.51
27	169,452	-2.0%	0.36	0.40
28	170,068	-1.6%	0.62	0.50
29	172,422	-0.3%	0.42	0.41
30	169,598	-1.9%	0.39	0.57

District	Updated Revised Plan		Compactness Score	
	2020 Pop	Deviation	Polsby Popper	Reock
33	176,506	2.1%	0.15	0.27
34	168,745	-2.4%	0.26	0.33
35	172,009	-0.5%	0.35	0.25
36	170,261	-1.5%	0.63	0.56
37	168,631	-2.5%	0.29	0.32
38	175,131	1.3%	0.28	0.33
39	174,708	1.1%	0.29	0.29
40	172,245	-0.4%	0.32	0.31
41	169,449	-2.0%	0.38	0.40
42	168,746	-2.4%	0.38	0.41
43	175,545	1.5%	0.28	0.23
44	175,698	1.6%	0.32	0.32
45	168,780	-2.4%	0.46	0.54
46	170,410	-1.4%	0.51	0.50
47	171,863	-0.6%	0.23	0.29
48	176,752	2.2%	0.40	0.46
49	168,682	-2.4%	0.32	0.29
50	173,264	0.2%	0.25	0.36
51	169,200	-2.1%	0.52	0.50

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31	169,778	-1.8%	0.32	0.32
32	168,905	-2.3%	0.22	0.27

New York City Districting Commission Updated Revised Plan for City Council (October 6, 2022) vs. 2013 Lines Data Table

District	Updated Revised Plan		Current (2013) Lines		Updated Revised Plan VAP								
	2020 Pop	Deviation	2020 Pop	Deviation	Total	Latino	% Latino	Asian	% Asian	Black	% Black	Other	% Other
1	177,159	2.5%	184,718	6.8%	151,918	19,642	12.9%	49,392	32.5%	7,069	4.7%	75,815	49.9%
2	177,066	2.4%	173,721	0.5%	160,596	27,474	17.1%	23,724	14.8%	9,644	6.0%	99,754	62.1%
3	177,136	2.5%	202,727	17.3%	161,217	24,069	14.9%	25,122	15.6%	9,493	5.9%	102,533	63.6%
4	177,190	2.5%	184,153	6.5%	156,901	11,441	7.3%	25,153	16.0%	4,777	3.0%	115,530	73.6%
5	177,075	2.4%	181,561	5.0%	152,695	11,980	7.8%	19,382	12.7%	4,308	2.8%	117,025	76.6%
6	176,623	2.2%	181,575	5.0%	151,113	17,067	11.3%	17,318	11.5%	7,557	5.0%	109,171	72.2%
7	176,905	2.3%	165,523	-4.3%	152,716	50,967	33.4%	16,472	10.8%	23,114	15.1%	62,163	40.7%
8	176,465	2.1%	177,732	2.8%	137,544	73,415	53.4%	8,517	6.2%	32,859	23.9%	22,753	16.5%
9	176,831	2.3%	178,609	3.3%	144,269	34,855	24.2%	6,590	4.6%	71,831	49.8%	30,993	21.5%
10	175,271	1.4%	158,815	-8.1%	146,999	94,384	64.2%	4,932	3.4%	11,499	7.8%	36,184	24.6%
11	175,470	1.5%	165,732	-4.1%	139,072	56,208	40.4%	10,130	7.3%	29,822	21.4%	42,912	30.9%
12	175,452	1.5%	176,924	2.3%	138,257	37,476	27.1%	2,585	1.9%	88,413	63.9%	9,783	7.1%
13	175,210	1.3%	167,518	-3.1%	138,889	59,463	42.8%	11,455	8.2%	16,866	12.1%	51,105	36.8%
14	175,592	1.6%	169,071	-2.2%	132,903	95,365	71.8%	3,540	2.7%	26,765	20.1%	7,233	5.4%
15	173,536	0.4%	174,736	1.1%	129,432	83,639	64.6%	2,578	2.0%	32,631	25.2%	10,584	8.2%
16	175,413	1.5%	170,718	-1.3%	130,131	80,377	61.8%	2,002	1.5%	42,056	32.3%	5,696	4.4%
17	175,486	1.5%	173,957	0.6%	128,856	83,955	65.2%	1,667	1.3%	37,413	29.0%	5,821	4.5%
18	175,681	1.6%	181,838	5.2%	133,975	69,460	51.8%	18,227	13.6%	36,436	27.2%	9,852	7.4%
19	170,692	-1.3%	167,787	-2.9%	140,177	24,490	17.5%	52,202	37.2%	2,288	1.6%	61,197	43.7%
20	172,944	0.0%	171,873	-0.6%	144,989	20,853	14.4%	104,759	72.3%	3,539	2.4%	15,838	10.9%
21	170,397	-1.4%	171,182	-1.0%	129,663	94,734	73.1%	15,816	12.2%	11,226	8.7%	7,887	6.1%
22	168,889	-2.3%	159,611	-7.7%	146,157	35,177	24.1%	20,489	14.0%	7,191	4.9%	83,300	57.0%
23	169,886	-1.7%	160,638	-7.1%	139,812	19,443	13.9%	61,026	43.6%	15,197	10.9%	44,146	31.6%
24	169,157	-2.2%	166,004	-4.0%	134,919	26,926	20.0%	49,443	36.6%	14,280	10.6%	44,270	32.8%
25	169,541	-1.9%	171,230	-1.0%	138,436	58,704	42.4%	58,252	42.1%	2,271	1.6%	19,209	13.9%
26	169,044	-2.2%	183,859	6.3%	141,920	41,262	29.1%	46,511	32.8%	8,843	6.2%	45,304	31.9%
27	169,452	-2.0%	172,459	-0.2%	135,210	21,680	16.0%	15,759	11.7%	83,722	61.9%	14,049	10.4%
28	170,068	-1.6%	182,991	5.8%	136,039	20,849	15.3%	21,865	16.1%	61,446	45.2%	31,879	23.4%
29	172,422	-0.3%	164,323	-5.0%	140,118	32,924	23.5%	38,815	27.7%	8,556	6.1%	59,823	42.7%
30	169,598	-1.9%	167,100	-3.3%	137,957	38,920	28.2%	27,807	20.2%	2,697	2.0%	68,533	49.7%
31	169,778	-1.8%	173,532	0.4%	129,810	22,628	17.4%	3,449	2.7%	82,486	63.5%	21,247	16.4%
32	168,905	-2.3%	165,779	-4.1%	135,364	46,450	34.3%	19,119	14.1%	7,868	5.8%	61,927	45.7%
33	176,506	2.1%	207,870	20.2%	132,233	15,375	11.6%	12,231	9.2%	5,920	4.5%	98,707	74.6%
34	168,745	-2.4%	167,112	-3.3%	140,575	54,965	39.1%	13,036	9.3%	10,673	7.6%	61,901	44.0%
35	172,009	-0.5%	177,926	2.9%	142,290	17,791	12.5%	12,544	8.8%	50,243	35.3%	61,712	43.4%
36	170,261	-1.5%	168,475	-2.5%	140,370	24,779	17.7%	6,899	4.9%	67,861	48.3%	40,831	29.1%
37	168,631	-2.5%	163,520	-5.4%	133,459	67,097	50.3%	11,397	8.5%	28,671	21.5%	26,294	19.7%
38	175,131	1.3%	175,840	1.7%	134,344	47,467	35.3%	42,510	31.6%	5,570	4.1%	38,797	28.9%
39	174,708	1.1%	174,284	0.8%	134,785	19,992	14.8%	17,582	13.0%	8,446	6.3%	88,765	65.9%
40	172,245	-0.4%	155,574	-10.0%	138,752	20,244	14.6%	9,229	6.7%	68,791	49.6%	40,488	29.2%
41	169,449	-2.0%	163,948	-5.2%	131,719	19,824	15.1%	2,111	1.6%	93,402	70.9%	16,382	12.4%

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District	Updated Revised Plan		Current (2013) Lines		Updated Revised Plan VAP								
	2020 Pop	Deviation	2020 Pop	Deviation	Total	Latino	% Latino	Asian	% Asian	Black	% Black	Other	% Other
42	168,746	-2.4%	168,243	-2.7%	129,937	28,217	21.7%	4,803	3.7%	83,750	64.5%	13,167	10.1%
43	175,545	1.5%	184,497	6.7%	136,740	19,298	14.1%	73,737	53.9%	1,329	1.0%	42,376	31.0%
44	173,911	0.6%	172,081	-0.5%	113,559	11,111	9.8%	15,980	14.1%	2,383	2.1%	84,085	74.0%
45	168,780	-2.4%	157,012	-9.2%	133,117	11,775	8.8%	9,196	6.9%	79,350	59.6%	32,796	24.6%
46	170,410	-1.4%	177,263	2.5%	135,235	11,369	8.4%	10,701	7.9%	67,573	50.0%	45,592	33.7%
47	173,741	0.5%	178,215	3.1%	138,809	23,765	17.1%	27,839	20.1%	11,226	8.1%	75,979	54.7%
48	176,661	2.2%	180,660	4.5%	141,171	10,768	7.6%	24,536	17.4%	2,957	2.1%	102,910	72.9%
49	168,682	-2.4%	171,708	-0.7%	128,906	38,894	30.2%	15,159	11.8%	30,200	23.4%	44,653	34.6%
50	173,264	0.2%	165,182	-4.5%	137,690	17,321	12.6%	22,709	16.5%	3,956	2.9%	93,704	68.1%
51	169,200	-2.1%	159,553	-7.7%	135,070	13,500	10.0%	12,061	8.9%	1,529	1.1%	107,980	79.9%

District	Updated Revised Plan		Current (2013) Lines		Current (2013) Lines VAP								
	2020 Pop	Deviation	2020 Pop	Deviation	Total	Latino	% Latino	Asian	% Asian	Black	% Black	Other	% Other
1	177,159	2.5%	184,718	6.8%	159,098	18,955	11.9%	50,090	31.5%	6,953	4.4%	83,100	52.2%
2	177,066	2.4%	173,721	0.5%	157,303	28,729	18.3%	24,603	15.6%	10,154	6.5%	93,817	59.6%
3	177,136	2.5%	202,727	17.3%	184,994	25,930	14.0%	28,529	15.4%	9,895	5.3%	120,640	65.2%
4	177,190	2.5%	184,153	6.5%	161,764	12,043	7.4%	24,923	15.4%	5,172	3.2%	119,626	74.0%
5	177,075	2.4%	181,561	5.0%	156,823	14,176	9.0%	20,873	13.3%	5,631	3.6%	116,143	74.1%
6	176,623	2.2%	181,575	5.0%	154,309	18,125	11.7%	15,896	10.3%	8,331	5.4%	111,957	72.6%
7	176,905	2.3%	165,523	-4.3%	142,625	56,437	39.6%	14,628	10.3%	23,637	16.6%	47,923	33.6%
8	176,465	2.1%	177,732	2.8%	136,625	81,092	59.4%	6,276	4.6%	34,337	25.1%	14,920	10.9%
9	176,831	2.3%	178,609	3.3%	145,672	35,916	24.7%	6,625	4.5%	72,224	49.6%	30,907	21.2%
10	175,271	1.4%	158,815	-8.1%	133,120	85,468	64.2%	4,481	3.4%	9,355	7.0%	33,816	25.4%
11	175,470	1.5%	165,732	-4.1%	131,556	56,104	42.6%	9,944	7.6%	23,070	17.5%	42,438	32.3%
12	175,452	1.5%	176,924	2.3%	139,606	35,579	25.5%	2,656	1.9%	91,412	65.5%	9,959	7.1%
13	175,210	1.3%	167,518	-3.1%	133,252	56,117	42.1%	12,284	9.2%	15,309	11.5%	49,542	37.2%
14	175,592	1.6%	169,071	-2.2%	128,011	92,708	72.4%	3,279	2.6%	25,448	19.9%	6,576	5.1%
15	173,536	0.4%	174,736	1.1%	130,897	81,777	62.5%	3,485	2.7%	32,843	25.1%	12,792	9.8%
16	175,413	1.5%	170,718	-1.3%	125,782	74,820	59.5%	1,693	1.3%	44,031	35.0%	5,238	4.2%
17	175,486	1.5%	173,957	0.6%	128,050	82,354	64.3%	1,339	1.0%	38,774	30.3%	5,583	4.4%
18	175,681	1.6%	181,838	5.2%	138,053	74,915	54.3%	17,188	12.5%	35,986	26.1%	9,964	7.2%
19	170,692	-1.3%	167,787	-2.9%	137,848	24,097	17.5%	50,868	36.9%	2,278	1.7%	60,605	44.0%
20	172,944	0.0%	171,873	-0.6%	144,111	20,675	14.3%	104,091	72.2%	3,480	2.4%	15,865	11.0%
21	170,397	-1.4%	171,182	-1.0%	130,262	94,777	72.8%	16,143	12.4%	11,230	8.6%	8,112	6.2%
22	168,889	-2.3%	159,611	-7.7%	137,502	34,920	25.4%	19,813	14.4%	6,858	5.0%	75,911	55.2%
23	169,886	-1.7%	160,638	-7.1%	132,423	17,906	13.5%	57,711	43.6%	14,398	10.9%	42,408	32.0%
24	169,157	-2.2%	166,004	-4.0%	131,697	28,879	21.9%	48,119	36.5%	15,987	12.1%	38,712	29.4%
25	169,541	-1.9%	171,230	-1.0%	139,823	56,942	40.7%	62,469	44.7%	2,383	1.7%	18,029	12.9%
26	169,044	-2.2%	183,859	6.3%	155,336	43,446	28.0%	48,914	31.5%	9,224	5.9%	53,752	34.6%
27	169,452	-2.0%	172,459	-0.2%	138,055	18,269	13.2%	16,339	11.8%	88,234	63.9%	15,213	11.0%
28	170,068	-1.6%	182,991	5.8%	146,226	25,446	17.4%	29,784	20.4%	54,796	37.5%	36,200	24.8%

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District	Updated Revised Plan		Current (2013) Lines		Current (2013) Lines VAP								
	2020 Pop	Deviation	2020 Pop	Deviation	Total	Latino	% Latino	Asian	% Asian	Black	% Black	Other	% Other
29	172,422	-0.3%	164,323	-5.0%	135,346	27,319	20.2%	39,090	28.9%	5,950	4.4%	62,987	46.5%
30	169,598	-1.9%	167,100	-3.3%	134,782	44,613	33.1%	16,499	12.2%	2,769	2.1%	70,901	52.6%
31	169,778	-1.8%	173,532	0.4%	132,749	22,903	17.3%	3,524	2.7%	84,742	63.8%	21,580	16.3%
32	168,905	-2.3%	165,779	-4.1%	132,695	44,256	33.4%	21,826	16.4%	9,360	7.1%	57,253	43.1%
33	176,506	2.1%	207,870	20.2%	155,347	20,961	13.5%	13,517	8.7%	9,207	5.9%	111,662	71.9%
34	168,745	-2.4%	167,112	-3.3%	142,083	57,779	40.7%	13,385	9.4%	12,648	8.9%	58,271	41.0%
35	172,009	-0.5%	177,926	2.9%	146,946	18,634	12.7%	12,922	8.8%	51,984	35.4%	63,406	43.1%
36	170,261	-1.5%	168,475	-2.5%	138,958	24,398	17.6%	6,611	4.8%	68,207	49.1%	39,742	28.6%
37	168,631	-2.5%	163,520	-5.4%	128,023	64,388	50.3%	11,154	8.7%	28,938	22.6%	23,543	18.4%
38	175,131	1.3%	175,840	1.7%	134,067	47,011	35.1%	54,365	40.6%	5,377	4.0%	27,314	20.4%
39	174,708	1.1%	174,284	0.8%	132,105	18,925	14.3%	18,034	13.7%	6,263	4.7%	88,883	67.3%
40	172,245	-0.4%	155,574	-10.0%	126,718	19,664	15.5%	10,721	8.5%	60,666	47.9%	35,667	28.1%
41	169,449	-2.0%	163,948	-5.2%	127,853	18,123	14.2%	2,089	1.6%	90,667	70.9%	16,974	13.3%
42	168,746	-2.4%	168,243	-2.7%	129,127	27,532	21.3%	4,397	3.4%	84,160	65.2%	13,038	10.1%
43	175,545	1.5%	184,497	6.7%	146,585	22,475	15.3%	42,948	29.3%	2,349	1.6%	78,813	53.8%
44	173,911	0.6%	172,081	-0.5%	113,552	11,843	10.4%	20,516	18.1%	2,188	1.9%	79,005	69.6%
45	168,780	-2.4%	157,012	-9.2%	124,234	10,515	8.5%	7,117	5.7%	75,787	61.0%	30,815	24.8%
46	170,410	-1.4%	177,263	2.5%	141,090	11,438	8.1%	9,943	7.0%	76,125	54.0%	43,584	30.9%
47	173,741	0.5%	178,215	3.1%	139,713	20,983	15.0%	44,647	32.0%	10,466	7.5%	63,617	45.5%
48	176,661	2.2%	180,660	4.5%	144,183	11,074	7.7%	25,821	17.9%	3,319	2.3%	103,969	72.1%
49	168,682	-2.4%	171,708	-0.7%	131,212	39,184	29.9%	15,587	11.9%	30,309	23.1%	46,132	35.2%
50	173,264	0.2%	165,182	-4.5%	131,435	16,688	12.7%	20,555	15.6%	3,901	3.0%	90,291	68.7%
51	169,200	-2.1%	159,553	-7.7%	127,441	12,544	9.8%	10,098	7.9%	1,318	1.0%	103,481	81.2%

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Exhibit B to Lulich Affirmation-
2023 Political Calendar

[pp. 339 - 340]

****2023 POLITICAL CALENDAR****
40 NORTH PEARL STREET – SUITE 5,
ALBANY, NEW YORK 12207 (518) 474-6220
For TDD/TTY, call the NYS Relay 711
www.elections.ny.gov



Primary Election **General Election**
June 27, 2023 **November 7, 2023**

FILING REQUIREMENTS: All certificates and petitions of designation or nomination, certificates of acceptance or declination of such designations or nominations, certificates of authorization for such designations or nominations, certificates of disqualification, certificates of substitution for such designations or nominations and objections and specifications of objections to such certificates and petitions required to be filed with the State Board of Elections or a board of elections outside of the city of New York shall be deemed timely filed and accepted for filing if sent by mail or overnight delivery service, in an envelope postmarked or showing receipt by the overnight delivery service prior to midnight of the last day of filing, and received no later than two business days after the last day to file such certificates, petitions, objections or specifications. Failure of the post office or authorized overnight delivery service to deliver any such petition, certificate, or objection to such board of elections outside the city of New York no later than two business days after the last day to file such certificates, petitions, objections, or specifications shall be a fatal defect per NY Election Law §1-106.

All papers required to be filed, unless otherwise provided, shall be filed between the hours of 9 AM – 5 PM. If the last day for filing shall fall on a Saturday, Sunday or legal holiday, the next business day shall become the last day for filing. NYEL §1-106

Within NYC, all such certificates, petitions and specifications of objections required to be filed with the board of elections of the city of New York must be actually received on or before the last day to file. The New York City Board of Elections is open for the receipt of such petitions, certificates and objections until midnight on the last day to file.

**All Dates Subject to Change
by the State Legislature**

PRIMARY ELECTION DATES	
June 27	Primary Election §8-100(1)(a)
June 17 – 25	Days of Early Voting for the Primary Election. §8-600(1) (6/19 Holiday)

Feb 1	Certification of offices to be filed at 2023 General Election by SBOE and CBOE. §4-106 (1&2)
Feb 14	PARTY CALLS: Last day for State & County party chairs to file a statement of party positions to be filed at the Primary Election. §2-120(1)

CERTIFICATION OF PRIMARY	
May 3	Certification of primary ballot by SBOE of designations filed in its office. §4-110
May 4	Certification of primary ballot by CBOE of designations filed in its office. §4-114

CANVASS OF PRIMARY RESULTS	
July 10	Canvass of Primary returns by County Board of Elections. §9-200(1)
July 10	Verifiable Audit of Voting Systems. §9-211(1)
July 17	Recanvass of Primary returns. §9-208(1)

GENERAL ELECTION DATES	
Nov 7	General Election. §8-100(1)(c)
Oct 28 – Nov 5	Days of Early Voting for the General Election. §8-600(1)

CERTIFICATION OF GENERAL ELECTION BALLOT	
Sept 13	Certification of general election ballot by SBOE of nominations filed in its office. §4-112(1)
Sept 14	Certification of general election ballot by CBOE of nominations and questions; CBOEs. §4-114

CANVASS OF GENERAL ELECTION RESULTS	
Nov 22	Recanvass of General Election returns to occur no later than Nov. 23. §9-208(1)
Nov 22	Verifiable Audit of Voting Systems to occur no later than Nov. 23. §9-211(1)
Dec 2	Certification and transmission of Canvass of General Election returns by County Board of Elections §9-214(1)
Dec 15	Last day for State Board of Canvassers to meet to certify General Election. §9-216(2)

DESIGNATING PETITIONS FOR PRIMARY	
Feb 28	First day for signing designating petitions. §6-134(4)
Apr 3-6	Dates for filing designating petitions. §6-158(1)
Apr 10	Last day to authorize designations. §6-120(3)
Apr 10	Last day to accept or decline designations. §6-158(2)
Apr 14	Last day to fill a vacancy after a declination. §6-158(3)
Apr 18	Last day to file authorization of substitution after declination of a designation. §6-120(3)

PARTY NOMINATION OTHER THAN PRIMARY	
Feb 7 – 28	Dates for holding state committee meeting to nominate candidates for statewide office. §6-104(6)
Feb 28	First day to hold a town caucus. §6-108
July 7	Last day to decline all party nominations after primary loss. § 6-146(6)
July 11	Last day to fill vacancy after declination by primary loser. § 6-158(3)
July 17	Last day to file authorization of substitution after declination by primary loser. § 6-120(3)
July 27	Last day for filing nominations made at a town or village caucus or by a party committee. §6-158(6)
July 27	Last day to file certificates of nomination to fill vacancies created pursuant to § 6-116, §6-104 & §6-158(6)
July 31	Last day to accept or decline a nomination for office made based on § 6-116 & §6-158(7)
July 31	Last day to file authorization of nomination made based on § 6-116. § 6-120(3)
Aug 4	Last day to fill a vacancy after a declination made based on § 6-116. § 6-158(8)

INDEPENDENT PETITIONS	
April 18	First day for signing nominating petitions. §6-138(4)
May 23-30	Dates for filing independent nominating petitions. §6-158(9)
June 2	Last day to accept or decline a nomination. §6-158(11)
June 5	Last day to fill vacancy after a declination. §6-158(12)
June 30	Last day to decline after acceptance if nominee loses party primary. §6-158(11)

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active enrolled voters the following, whichever office to be filled by all are states at least .100 or 5% of enrollees in the county or borough of NYC municipal court district within any council district within the county having more than 100,000 inhabitants, county, councilman or woman, except as herein provided, shall be filed with the board of elections of the city of New York no later than two business days after the last day to file such certificates, petitions, objections, or specifications shall be a fatal defect per NY Election Law §1-106.

rk Election Law B, petitions and Independe to certain NY City office

<p>SIGNATURE REQUIREMENTS FOR INDEPENDENT NOMINATING PETITIONS §6-142</p> <p>1% of the total number of votes excluding blank and void cast for the office of governor at the last gubernatorial election in the political unit for any office to be voted for by all the voters of the entire state.....45,000 (with at least 500 or 1% of enrolled voters from each of one-half of the congressional districts)</p> <p>5% of the total number of votes excluding blank and void cast for the office of governor at the last gubernatorial election in the political unit except that not more than 3,500 signatures shall be required on a petition for an office to be filled in any political subdivision outside the City of New York, and not more than the following for any office to be voted for by all the voters of:</p> <p>Any county or portion thereof outside NYC.....1,500 *New York City7,500 *Any county or borough or any two counties or boroughs within New York City4,000 Any municipal court district3,000 *Any city council district within NYC2,700 Any congressional district.....3,500 Any state senatorial district3,000 Any assembly district.....1,500</p> <p>Any political subdivision contained within another political subdivision, except as herein provided, requirement is not to exceed the number for the larger subdivision.</p> <p>*NOTE: Section 1057-b of the New York City Charter supersedes New York Election Law signature requirements for Designating and OTB petitions and independent nominating petitions with respect to certain NY City offices.</p>

<p>VOTER REGISTRATION FOR GENERAL</p> <p>Oct 28 Viewer Registration Deadline registration for General: Last day application must be received by board of elections to be eligible to vote in general election. §§5-210, 5-211, 5-212</p> <p>Oct 28 Changes of address for General received by this date must be processed. §5-208(3)</p>

<p>ABSENTEE VOTING FOR PRIMARY</p> <p>June 12 Last day for board of elections to RECEIVE application or letter of application by mail or online portal for primary ballot. §8-400(2)(c).</p> <p>June 26 Last day to apply in person for primary ballot. §8-400(2)(c)</p> <p>June 27 Last day to postmark primary election ballot. Must be received by the county board no later than July 4th. §8-412(1)</p> <p>June 27 Last day to deliver primary ballot in person to your county board or your poll site, by close of polls. §8-412(1)</p>

<p>MILITARY/SPECIAL FEDERAL VOTERS FOR PRIMARY</p> <p>May 12 Deadline to transmit ballots to eligible Military/Special Federal/UOCAVA Voters. §10-108(1) & §11-204(4)</p> <p>June 17 Last day for a board of elections to RECEIVE application for Military/Special Federal/UOCAVA absentee ballot for primary if not previously registered. §10-106(5) & §11-202(1)(a)</p> <p>June 20 Last day for a board of elections to RECEIVE application for Military/Special Federal/UOCAVA absentee ballot for primary if already registered. §10-106(5) & §11-202(1)(b)</p> <p>June 26 Last day to apply personally for Military ballot for primary if previously registered. §10-106(5)</p> <p>June 27 Last day to postmark Military/Special Federal/UOCAVA ballot for primary. Date by which it must be received by the board of elections is July 4th. §10-114(1) & §11-212</p>
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<p>ABSENTEE VOTING FOR GENERAL ELECTION</p> <p>Oct 23 Last day for board of elections to RECEIVE application or letter of application by mail or online portal for general election ballot. §8-400(2)(c)</p> <p>Nov 6 Last day to apply in person for general election ballot. §8-400(2)(c)</p>
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<p>VOTER REGISTRATION FOR PRIMARY</p> <p>Feb 21 List of Registered Voters: Such lists shall be published before the twenty-first day of February. § 5-604</p> <p>June 17 Viewer Registration Deadline for Primary: Last day application must be received by board of elections to be eligible to vote in primary election. §§5-210, 5-211, 5-212</p> <p>June 17 Changes of address for Primary received by this date must be processed. §5-208(3)</p>
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<p>CHANGE OF ENROLLMENT</p> <p>Feb 14 A change of enrollment rec'd by the BOE not later than Feb. 14th or after July 5th is effective immediately. Any change of enrollment made between Feb 15-July 5th, shall be effective July 5th. §5-304(3)</p>
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<p>Nov 7 Last day to postmark general election ballot. Must be received by the county board no later than Nov 14th. §8-412(1)</p> <p>Nov 7 Last day to deliver general election ballot in person to your county board or your poll site, by close of polls on election day. §8-412(1)</p>
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<p>MILITARY/SPECIAL FEDERAL VOTERS FOR GENERAL</p> <p>Sept 22 Deadline to transmit ballots to eligible Military/Special Federal/UOCAVA voters. §10-108(1) & §11-204(4)</p> <p>Oct 28 Last day for a board of elections to receive application for Special Federal/UOCAVA absentee ballot for general if not previously registered. §11-202(1)(a) & §10-106(5)</p> <p>Oct 28 Last day for a board of elections to receive application for Military absentee ballot for general if not previously registered. §10-106(5)</p> <p>Oct 31 Last day for a board of elections to receive application for Military/Special Federal absentee ballot for general if already registered. §10-106(5) & §11-202(1)(b)</p> <p>Nov 6 Last day to apply personally for a Military absentee ballot for general if previously registered. §10-106(5)</p> <p>Nov 7 Last day to postmark Military/Special Federal/UOCAVA ballot for general. Date by which it must be received by the board of elections is Nov. 20th. §10-114(1) & §11-212</p>

<p>VACANCY IN OFFICE</p> <p>Aug 7 A vacancy occurring three (3) months before a General Election in any year in any office are authorized to be filed at a General Election. §6-158(14)</p>

<p>REFERENDUMS/PROPOSITIONS/PROPOSALS</p> <p>Aug 7 For any election conducted by a BOE, the clerk of such subdivision shall provide the BOE with a certified text copy of any proposal, proposition, or referendum at least three (3) months before the General Election. §4-108</p>
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Affidavit of Georgia Kontzamanis in Opposition to Petitioners' Motion for a Temporary Restraining Order, sworn to February 27, 2023 [pp. 341 - 344]

FILED: NEW YORK COUNTY CLERK 02/27/2023 03:11 PM NYSCEF DOC. NO. 12

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SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK

----- x In the Matter of the Application of :

DESI RISING UP AND MOVING, AARON FERNANDO, PAUL PERSAUD, SARWAN PERSAUD, NADIA PERSAUD, NADIRA PERSAUD, BISHAM PERSAUD, HARBHAJAN S. SURI, CHARANJIT S. SURI, DAVINDER S. SURI, SUKHVIR SINHG, SWARAN SINHG, LOVEDEEP MULTANI, PRINTHPAL S. BAWA, KAMLESH TANEJA, RAJWINDER KAUR, INDERBIR SINGH, PARAMJIT KAUR, and RAJBIR SINGH

Index No. 151762/2023

AFFIDAVIT OF GEORGIA KONTZAMANIS

Petitioners,

- against -

NEW YORK CITY DISTRICTING COMMISSION, CHAIR DENNIS M. WALCOTT, HON. MARILYN D. GO, MARIA MATEO, JOSHUA SCHNEPS, LISA SORIN, MSGR. KEVIN SULLIVAN, KAI-KI WONG, MAF MISBAH UDDIN, MICHAEL SCHNALL, KRISTEN A. JOHNSON, YOVAN SAMUEL COLLADO, GREGORY W. KIRSCHENBAUM, MARC WURZEL, KEVIN JOHN HANRATTY, and DR. DARRIN K. PORCHER each in their capacity as members of the New York City Districting Commission, BOARD OF ELECTIONS IN THE CITY OF NEW YORK, NEW YORK STATE BOARD OF ELECTIONS, Respondents.,

Respondents.

----- x

STATE OF NEW YORK)

:SS.

COUNTY OF NEW YORK)

Georgia Kontzamanis, being duly sworn, deposes and says

1. I am the Operations Manager for the Board of Elections in the City of

New York ("City BOE"). As such, I have personal knowledge of the facts and

circumstances set forth herein.

2. The City BOE prepares for the filing of petitions by updating procedures, updating computer systems, and planning staffing.
3. Upon certification of the New York City Districting Commission's election district maps, City BOE conducted its process of drawing election district maps for use in administering the 2023 elections.
4. When new election district maps are created, City BOE staff draws Election Districts ("ED"), which are the basic blocks for organizing elections.
5. In drawing each ED, our staff must consider the relevant Assembly Districts, State Senate Districts, and the topography of the area.
6. There is also a cap on the maximum number of voters who can be assigned to each ED.
7. Thus, a change to one ED impacts the surrounding EDs based upon the size, population, and physicality of that area. The impact then spreads from ED to ED throughout the entire election map.
8. The drawing of EDs is a multi-day process which involves numerous staff members with a particular understanding of the process.
9. Once the staff have ensured that each ED meets each requirement, the ED map is sent to the New York City Department of City Planning ("City Planning").
10. City Planning is responsible for geocoding the EDs with the actual addresses located therein. This process takes, at minimum, a week.
11. Once the addresses are geocoded with the ED maps, City BOE staff check them for mistakes. City Planning must then correct any errors.

12. Once the ED maps are geocoded accurately, the Archived Voter Information Database (“AVID”), City BOE’s voter database, must be updated. The entire AVID system must be shut down for 48 to 72 hours in order update (or “resync”) the voter database to the new ED maps.

13. Once AVID is updated, City BOE generates new maps and new enrollment books for the campaigns to use.

14. If the Council election district boundaries are changed, the ED process would have to be redone.

15. Each change to one ED has a ripple effect on surrounding EDs and then throughout the entire ED map. No one ED operates in a silo.

16. If one ED is changed, the entire ED drawing process must be redone for the entire ED map. At a minimum, this process takes one month.

17. This year, the primary ballot includes races for City Council members, District Attorney, Civil Court Judges, and political party organizations in various boroughs including Queens.

18. Federal and State Law require that we send out military and Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”) ballots 45 days before an election. Therefore, if the City Council primaries are delayed, City BOE would still be required to move forward with the other contests, raising the possibility of two separate primaries.

19. Further, City BOE has prepared for the filing of petitions from April 3, 2023 through April 6, 2023 by updating its procedures and computer systems and planning the significant staffing needs required during that time. Due to these staffing

FILED: NEW YORK COUNTY CLERK 02/27/2023 03:11 PM

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needs, City BOE staff is required to prioritize the needs of the agency when planning vacations or nonessential time off and to be available for overtime during key time periods such as the filing of petitions. While a delay in petitioning would not require that all of this planning be redone, it would create a significant staffing challenge for the City BOE both financially and logistically.

Dated: New York, New York
February 27, 2023



Georgea Kontzamanis
Operations Manager
Board of Elections in the
City of New York

Sworn to before me this
27 day of February 2023


NOTARY PUBLIC

HEMALEE J. PATEL
NOTARY PUBLIC, STATE OF NEW YORK
NO. 02PA4994847
QUALIFIED IN KINGS COUNTY
COMMISSION EXPIRES JULY 5, 2026

Affirmation of Grace Pyun in Opposition to Petitioners' Motion for a Temporary Restraining Order, dated February 27, 2023

[pp. 345 - 347]

FILED: NEW YORK COUNTY CLERK 02/27/2023 03:11 PM

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RECEIVED NYSCEF: 02/27/2023

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----- x
In the Matter of the Application of :

DESIS RISING UP AND MOVING, AARON :
FERNANDO, PAUL PERSAUD, SARWAN :
PERSAUD, NADIA PERSAUD, NADIRA :
PERSAUD, BISHAM PERSAUD, HARBHAJAN :
S. SURI, CHARANJIT S. SURI, DAVINDER S. :
SURI, SUKHVIR SINHG, SWARAN SINHG, :
LOVEDEEP MULTANI, PRINTHPAL S. BAWA, :
KAMLESH TANEJA, RAJWINDER KAUR, :
INDERBIR SINGH, PARAMJIT KAUR, and :
RAJBIR SINGH

Index No. 151762/2023

AFFIRMATION OF GRACE
PYUN

Petitioners,

- against -

NEW YORK CITY DISTRICTING
COMMISSION, CHAIR DENNIS M. WALCOTT,
HON. MARILYN D. GO, MARIA MATEO,
JOSHUA SCHNEPS, LISA SORIN, MSGR.
KEVIN SULLIVAN, KAI-KI WONG, MAF
MISBAH UDDIN, MICHAEL SCHNALL,
KRISTEN A. JOHNSON, YOVAN SAMUEL
COLLADO, GREGORY W. KIRSCHENBAUM,
MARC WURZEL, KEVIN JOHN HANRATTY,
and DR. DARRIN K. PORCHER each in their
capacity as members of the New York City
Districting Commission, BOARD OF ELECTIONS
IN THE CITY OF NEW YORK, NEW YORK
STATE BOARD OF ELECTIONS,
Respondents.,

Respondents.

----- x

1. I, Grace Pyun, an attorney duly admitted to practice before the Courts of the State of New York, affirm under penalty of perjury as follows:

2. I am the General Counsel and Acting Executive Director of the New York City Districting Commission ("Commission").

3. At the Commission, I am responsible for managing the legal and day-to-day operations of the Commission. I submit this affidavit based on my personal knowledge of the facts of this matter.

4. The Commission as a city agency is in minimal operational mode. There are only 2 agency staff remaining to carry out the operations from the original 15 that was necessary to support the mapping of the City Council Plans.

5. Further, there are Commissioners who may become ineligible to serve on the Commission due to their change in employment status and/or who may resign from their positions while this matter is pending. In order for the Commission to become fully constituted as a public body, the Mayor and City Council may need time to appoint new Commissioners to fill vacancies.

6. If the Court were to vacate the Final Plan that was certified and filed with the City Clerk on November 2, 2022 and require the mapping of a new City Council plan, then at least two additional months would be required reconstitute the Commission with new appointees and become a fully operational agency prepared for mapping, including negotiating an agency budget.

7. The Commission would need to convene as a public body to approve the budget and hire sufficient levels of staff to manage the mapping operations.

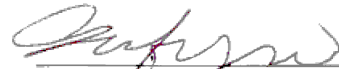
8. The Commission would also need to contract with mapping, data, and Voting Rights Act vendors. Even if done on an emergency basis, the contracting process is at least one to two months before the contracts can be executed for services to be provided.

9. Once the Commission has been reconstituted and convenes as an agency, the mapping process itself would take an additional several months, similar to the timeframe laid forth in the New York City Charter—an approximate 5-6 months.

10. Given the multiple legal criteria that the Commission must adhere to, especially the primary and foremost criteria under City Charter, which has been modified by the State law requiring that all districts must be within 5% deviation, one minor change made to a council district has shown to have a cascading effect on other districts of the Plan. As such, the Commission may opt to hold public hearings from affected communities to any New City Council plan and in accordance with Open Meetings Laws before certifying a new Plan.

11. Based on the facts of the above, if the Court were to remand the Commission to draw a new plan at this time while enjoining the petitioning and primary deadlines, the November 2023 City Council elections would be greatly imperiled.

Dated: New York, New York
February 27, 2023



Grace Pyun, Esq.
General Counsel and Acting
Executive Director
New York City Districting
Commission

Affirmation of Joseph T. Gallagher in Opposition to Petitioners' Motion for a Temporary Restraining Order, dated February 26, 2023 [pp. 348 - 353]

FILED: NEW YORK COUNTY CLERK 02/27/2023 03:11 PM NYSCEF DOC. NO. 14

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SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK

----- x In the Matter of the Application of :

DESIS RISING UP AND MOVING, AARON FERNANDO, PAUL PERSAUD, SARWAN PERSAUD, NADIA PERSAUD, NADIRA PERSAUD, BISHAM PERSAUD, HARBHAJAN S. SURI, CHARANJIT S. SURI, DAVINDER S. SURI, SUKHVIR SINHG, SWARAN SINHG, LOVEDEEP MULTANI, PRINTHPAL S. BAWA, KAMLESH TANEJA, RAJWINDER KAUR, INDERBIR SINGH, PARAMJIT KAUR, and RAJBIR SINGH

Index No. 151762/2023

AFFIRMATION OF JOSEPH T. GALLAGHER

Petitioners,

- against -

NEW YORK CITY DISTRICTING COMMISSION, CHAIR DENNIS M. WALCOTT, HON. MARILYN D. GO, MARIA MATEO, JOSHUA SCHNEPS, LISA SORIN, MSGR. KEVIN SULLIVAN, KAI-KI WONG, MAF MISBAH UDDIN, MICHAEL SCHNALL, KRISTEN A. JOHNSON, YOVAN SAMUEL COLLADO, GREGORY W. KIRSCHENBAUM, MARC WURZEL, KEVIN JOHN HANRATTY, and DR. DARRIN K. PORCHER each in their capacity as members of the New York City Districting Commission, BOARD OF ELECTIONS IN THE CITY OF NEW YORK, NEW YORK STATE BOARD OF ELECTIONS, Respondents.,

Respondents.

----- x

1. I, Joseph T. Gallagher, an attorney duly admitted to practice before the Courts of the State of New York, affirm under penalty of perjury as follows:

2. I am Senior Counsel for the New York City Campaign Finance Board (the “CFB”) and have personal knowledge of New York City Campaign Finance Program (the “Program”) and the Voter Guide process.

3. The CFB is an independent, non-partisan agency of the City of New York established by the New York City Campaign Finance Act (the “Act”) as codified in the New York City Administrative Code (the “Admin. Code”) Title 3, Chapter 7, sections 3-701 *et seq.* and the New York City Charter (the “Charter”), Chapter 46. The CFB promulgates the New York City Campaign Finance Board Rules (the “Rules”), which are codified in Title 52 of the Rules of the City of New York.

The Public Matching Funds Program

4. The New York City Campaign Finance Program (the “Program”) is a voluntary government reform program administered by the CFB. Through the Program, the CFB provides public matching funds to candidates running for Mayor, Comptroller, Public Advocate, Borough President, and City Council. Political candidates who participate in the Program (“participants”) can qualify to have New York City residents’ contributions matched with public taxpayer funds at a rate of \$8:\$1 up to certain caps based on office.

5. In order to qualify for public matching funds, candidates must demonstrate, *inter alia*, that they are (a) on the ballot, (b) are opposed by another candidate who is also on the ballot, and (c) have adequate support from the public by meeting a “threshold” that sets minimum requirements for (i) the amount of money raised and (ii) the number of New York City individuals, who must reside in the candidate’s district, who have given monetary contributions to the campaign. Admin. Code § 3-703.

6. In the 2023 election cycle, in order for a participant running for City Council to receive public matching funds, they must, *inter alia*, raise \$5,000 from 75 individuals residing in their district.

7. In the 2023 election cycle, public funds are remitted on thirteen payment dates set by the CFB in accordance with the Act and Rules. See Admin Code 3-705(4); 52 R.C.N.Y. § 7-02. To date, there have been three public funds payment dates. The next payment date is March 15, 2023, and nine additional payment dates will follow.

8. One-hundred and nineteen candidates have registered with the CFB for the 2023 election cycle, 113 of whom have elected to participate in the Program.

9. In the 2023 election cycle, the Program has, to date, dispensed \$1,146,030 in public funds to twelve City Council candidates.

Voter Guide

10. Pursuant to the Charter, the CFB publishes a voter guide (“VG”) for elections held in New York City. The VG seeks to improve public awareness of candidates, ballot proposals, and referenda. *See* Charter §§ 1052(b), 1053.

11. The VG provides information about candidates for public office. In contested elections for CFB-covered offices, the VG is published in print, video, and online formats.

12. To be included in the VG, candidates must submit information to the CFB for legal review, translation, production, and publishing. Only candidates who appear on the ballot are included in the VG. *See* 52 R.C.N.Y. § 16-02(b)(iii).

13. The Charter requires that the CFB ensure that the VG “and its distribution will serve to fully, fairly and impartially inform the public about the issues and candidates appearing on the ballot.” NYC Charter § 1053(d). To satisfy this mandate, the CFB must publish the VG

far enough in advance of the election to allow the voters to review the VG and make an informed choice.

14. In previous election cycles, the VG was typically mailed approximately two weeks before the election. Since the advent of early voting in 2019, the CFB has mailed the VG approximately two weeks prior to the first day of early voting.

15. Early voting for the 2023 city council election is scheduled to begin on June 17, 2023. The VG is scheduled to begin to be mailed on June 2, 2023.

16. Pursuant to Charter § 1053(d), the CFB formats and designs multiple editions of the VG in thirteen different languages.

17. The CFB notifies candidates of the deadlines for inclusion in the VG through direct electronic communications.

18. Candidates have approximately two weeks to submit content for the VG.

19. The CFB works with multiple vendors to produce and distribute the VG.

20. The VG is formatted into at least five different editions ranging from 16 to 40 pages each.

21. The printing, binding, bagging, and mailing of the VG takes approximately six weeks to complete once the format is finalized.

22. The costs of producing, printing, and mailing the VG is approximately \$4 million dollars with penalties for cancellation or alteration of the production schedule.

23. The CFB also produces a video voter guide (“VVG”) of videotaped candidate statements.

24. The CFB conducts the filming of the video statements over the course of five days with 20 to 25 candidates scheduled per day.

25. The CFB works with a vendor on post-production of the VVG which includes American Sign Language translation and captioning in thirteen languages. This process takes approximately four weeks.
26. The costs of producing the VVG are approximately \$1 million dollars with penalties for cancellation or alteration of the production schedule.
27. Candidates can begin submitting applications for the VG and VVG on February 27, 2023. The deadline to submit a VG content and VVG script is March 10, 2023.
28. Candidates are required to submit a substantial amount of content for the VG or risk losing up to five percent of public funds received. *See* Admin. Code § 3-705(4).
29. At this point, changes to the schedule of the 2023 election cycle would create administrative difficulties for the CFB.
30. The CFB may have to redetermine a participant's eligibility for public funds.
31. This could result in, among other things, participants having to return public funds already received.
32. Changes to the schedule of the 2023 election cycle would also significantly alter the publication and mailing schedule of the VG, which is mailed to over three million New York City households.

Dated: New York, New York
February 26, 2023

FILED: NEW YORK COUNTY CLERK 02/27/2023 03:11 PM

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RECEIVED NYSCEF: 02/27/2023



Joseph T. Gallagher
Senior Counsel
NYC Campaign Finance Board

Letter from Kevin G. Murphy, Esq. to the Honorable Erika M. Edwards, dated
March 2, 2023

Peter S. Kosinski
Co-Chair

Anthony J. Casale
Commissioner

Vacant
Co-Executive Director



40 NORTH PEARL STREET, SUITE 5
ALBANY, N.Y. 12207-2109
Phone: 518/474-8100 Fax: 518/486-4068
<http://www.elections.ny.gov>

Douglas A. Kellner
Co-Chair

Andrew J. Spano
Commissioner

Kristen Zebrowski Stavisky
Co-Executive Director

March 2, 2023

Via NYSCEF

Hon. Erika M. Edwards
Supreme Court of the State of New York
New York County Courthouse
60 Centre Street
New City, New York 10007

Re: *Desis Rising Up and Moving et al. v. NYC Districting Commission et al.*
Index No. 151762/2023

Dear Justice Edwards:

The New York State Board of Elections submits this letter in response to the Order to Show Cause in the above-referenced matter, and in lieu of their personal appearance on the return date therein.

The petition does not allege any act or omission by the New York State Board of Elections, which takes no position in this matter and therefore will not be participating or taking a position at this juncture. However, to facilitate our continued monitoring of challenges that may impact statewide operations, we request that the parties notify us of the Court's decision.

Please let me know if the Court requires any further submission. I thank the Court for its courtesy and consideration in this matter.

Respectfully submitted,

A handwritten signature in blue ink that reads "Kevin G. Murphy". The signature is stylized and cursive.

Kevin G. Murphy
Deputy Counsel

Cc: All Counsel of Record (via NYSCEF)

**Interim Decision and Order of the Honorable Erika M. Edwards, dated
March 3, 2023
[pp. 355 - 356]**

FILED: NEW YORK COUNTY CLERK 03/03/2023 04:39 PM

NYSCEF DOC. NO. 19

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RECEIVED NYSCEF: 03/03/2023

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

<p>PRESENT: <u>HON. ERIKA M. EDWARDS</u></p> <p style="text-align: right; margin-right: 20px;"><i>Justice</i></p> <p>-----X</p> <p>DESIS RISING UP AND MOVING, AARON FERNANDO, PAUL PERSAUD, SARWAN PERSAUD, NADIA PERSAUD, NADIRA PERSAUD, BISHAM PERSAUD, HARBHAJAN S. SURI, CHARANJIT S. SURI, DAVINDER S. SURI, SUKHVIR SINGH, SWARAN SINGH, LOVEDEEP MULTANI, PRINHPAL S. BAWA, KAMLESH TANEJA, RAJWINDER KAUR, INDERBIR SINGH, PARAMJIT KAUR, and RAJBIR SINGH,</p>	<p>PART 10M</p> <p>INDEX NO. <u>151762/2023</u></p> <p>MOTION DATE <u>02/24/2023</u></p> <p>MOTION SEQ. NO. <u>001</u></p>
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Petitioners,

- v -

NEW YORK CITY DISTRICTING COMMISSION, CHAIR
DENNIS M. WALCOTT, HON. MARILYN D. GO, MARIA
MATEO, JOSHUA SCHNEPS, LISA SORIN, MSGR. KEVIN
SULLIVAN, MAF MISBAH UDDIN, MICHAEL SCHNALL,
KRISTEN A. JOHNSON, YOVAN SAMUEL COLLADO,
GREGORY W. KIRSCHENBAUM, MARC WURZEL, KEVIN
JOHN HANRATTY, DR. DARRIN K. PORCHER, each in
their capacity as members of the New York City Districting
Commission, BOARD OF ELECTIONS IN THE CITY OF
NEW YORK, NEW YORK STATE BOARD OF ELECTIONS,

Respondents.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 3, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17

were read on this motion to/for ARTICLE 78 (BODY OR OFFICER).

Since this matter was recently reassigned to the Honorable Erika Edwards, it is hereby


ORDERED that the oral argument on Petitioners' order to show cause shall remain on March 7, 2023, at 10:00 a.m., but it will be held in Part 10, located in room #412, at 60 Centre Street, New York, New York.

**INTERIM DECISION AND
ORDER ON MOTION**

This constitutes the order of the court.

3/3/2023
DATE

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>	GRANTED IN PART	<input checked="" type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>	REFERENCE
CHECK IF APPROPRIATE:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	


 ERIKA M. EDWARDS, J.S.C.
 J.S.C.

Memorandum of Law in Opposition to Petitioners Motion for a Preliminary Injunction, dated March 6, 2023 [pp. 357 - 376]

FILED: NEW YORK COUNTY CLERK 03/06/2023 05:22 PM NYSCEF DOC. NO. 20

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SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK

-----X

In the Matter of the Application of DESIS RISING UP AND MOVING, AARON FERNANDO, PAUL PERSAUD, SARWAN PERSAUD, NADIA PERSAUD, NADIRA PERSAUD, BISHAM PERSAUD, HARBHAJAN S. SURI, CHARANJIT S. SURI, DAVINDER S. SURI, SUKHVIR SINGH, SWARAN SINGH, LOVEDEEP MULTANI, PRINTHIPAL S. BAWA, KAMLESH TANEJA, RAJWINDER KAUR, INDERBIR SINGH, PARAMJIT KAUR, and RAJBIR SINGH,

Index No. 151762/2023

Petitioners,

-against-

NEW YORK CITY DISTRICTING COMMISSION, CHAIR DENNIS M. WALCOTT, HON. MARILYN D. GO, MARIA MATEO, JOSHUA SCHNEPS, LISA SORIN, MSGR. KEVIN SULLIVAN, KAI-KI WONG, MAF MISBAH UDDIN, MICHAEL SCHNALL, KRISTEN A JOHNSON, YOVAN SAMUEL COLLADO, GREGORY W. KIRSCHENBAUM, MARC WURZEL, KEVIN JOHN HANRATTY, and DR. DARRIN K. PORCHER each in their capacity as members of the New York City Districting Commission, BOARD OF ELECTIONS IN THE CITY OF NEW YORK, NEW YORK STATE BOARD OF ELECTIONS,

Respondents.

-----X

MEMORANDUM OF LAW IN OPPOSITION TO PETITIONERS' MOTION FOR A PRELIMINARY INJUNCTION

Respondents at the City of New York 2022-2023 Districting Commission (the "Commission"), Chair Dennis M. Walcott, Hon. Marilyn D. Go, Maria Mateo, Joshua Schneps, Lisa Sorin, Monsignor Kevin Sullivan, Kai-Ki Wong, MAF Misbah Uddin, Michael Schnell,

Kristen A. Johnson, Yovan Samuel Collado, Gregory W. Kirschenbaum, Marc Wurzel, Kevin John Hanratty, and Dr. Darrin K. Porcher, each of whom are named in their official capacity as members of the New York City Districting Commission (collectively, the “Commissioners”) submit this memorandum of law in opposition to petitioner’s application for a preliminary injunction.¹

PRELIMINARY STATEMENT

Petitioners, a non-profit group and several residents of the Richmond Hill/South Ozone Park area, ask this Court to enjoin the City from implementing election activities in all of the 51 election districts based on their erroneous belief that the New York City Districting Commission Plan, finalized almost four months ago, was arbitrary, capricious, and in violation of the New York City Charter. The Plan splits what petitioners call the “Richmond Hill/South Ozone Park Asian Community” among several election districts, which petitioners allege violates Charter § 52(1)(b)’s directive that the Commission, “to the maximum extent possible,” establish the districting plan “in a manner that ensures the fair and effective representation of the racial and language minority groups” protected under the Voting Rights Act (“VRA”). Not only are their claims wholly meritless, but petitioners, many of whom were active participants in the processes leading up to the Plan’s certification, have inexplicably waited until the eleventh hour to bring this application. An injunction at this late stage would result in extreme prejudice to the candidates, the voters, and the City as a whole. As set forth fully herein, because of the extreme prejudice caused by the inexcusable delay in commencing this proceeding, petitioners’ application is barred by the doctrine of Laches. Even if not barred, petitioners have failed to established entitlement to

¹ The Office of the Corporation Counsel of the City of New York also represents the Board of Elections in the City of New York (“City BOE”) in this proceeding. City BOE takes no position on the request for a preliminary injunction or the merits of the Verified Petition.

the extraordinary relief that they request. Thus, their request for a preliminary injunction must be denied.

STATUTORY FRAMEWORK

The Commission is appointed and tasked with redistricting as set forth in Chapter 2-A of the New York City Charter (“Charter”). The Commission is directed to “prepare a plan for dividing the city into districts for the election of council members. In preparing the plan, the commission shall be guided by the criteria set forth in section fifty-two” See Charter § 51(a). Section 52 sets forth the following criteria, in pertinent part:

1. In the preparation of its plan for dividing the city into districts for the election of council members, the commission shall apply the criteria set forth in the following paragraphs to the maximum extent practicable. The following paragraphs shall be applied and given priority in the order in which they are listed.

b. Such districting plan shall be established in a manner that ensures the fair and effective representation of the racial and language minority groups in New York city which are protected by the United States voting rights act of nineteen hundred sixty-five, as amended.

Charter § 52(1)(b).

Charter § 52 additionally directs that districts must be contiguous, that any portion of a district separated by water must be connected to the rest of the district by bridge, tunnel, tram or ferry, id. at § 52(2), and that “if any district includes territory in two boroughs, then no other district may also include territory from the same two boroughs, id. at § 52(3).

RELEVANT FACTS

The 2022-2023 Commission was tasked with redrawing the New York City Council Election Districts pursuant to Charter Chapter 2-A. See New York City Districting Commission Plan (“Plan”), filed with the Office of the New York City Clerk on November 2, 2022. Exhibit A.² To that end, the Commission followed the process mandated by the Charter, reviewed and considered the public’s input and testimony, and held public hearings and mapping sessions. Id.

On July 15, 2022, the Commission released its Preliminary Plan. Following release of the Preliminary Plan, the Commission had additional public hearings and received public comments regarding the Preliminary Plan. Id. Further, the Commission retained Dr. Lisa Handley, a voting rights and redistricting expert, to evaluate the redistricting Plan to determine whether it satisfies the requirements of the United States Voting Rights Act of 1965. See Racial Bloc Voting Report (“Handley Report”), Commission Website, available at: <https://www.nyc.gov/assets/districting/downloads/pdf/RBV-Report.pdf> (last visited March 3, 2023). The public comments included submission of the “Unity map” that petitioners have set forth in this proceeding as their preferred districting map and which they contend would give the Asian community in Richmond Hill/South Ozone Park a better opportunity to elect candidates of choice. See Petition at ¶¶ 64-65. The Commission reviewed and considered the Unity map along with the other public comments. See, e.g., Petitioners’ Exhibit N; Plan at p. 1. Dr. Handley also reviewed the Unity map and determined that, based upon her extensive statistical analysis, it was not likely to provide the Asian community in Richmond Hill/South Ozone Park the opportunity to elect candidates of their choice because they were not likely to vote in a manner that was aligned

² All exhibits reference herein are annexed to the Affirmation of Aimee K. Lulich, dated February 27, 2023. (NYSCEF Doc. No. 9, et seq.)

with any of the other minority communities in the proposed district. See Petition at ¶ 66; see also Petitioners' Exhibit N. On October 6, 2022, the Commission adopted the instant Plan. Plan, Lulich Aff., Exhibit A, at p. 1. Dr. Handley concluded, inter alia, that the Plan increased the number of districts that offer Asian voters an opportunity to elect their preferred candidates of choice. Id.; see also Handley Report at p. 1.

On October 6, 2022, the Commission submitted the Plan to the New York City Council ("Council") pursuant to Charter § 51(c) for the Council's consideration. Plan, Lulich Aff., Exhibit A. On October 27, 2022, the Plan was deemed adopted pursuant to Charter § 51(d) because Council did not adopt a resolution objecting to the plan, and, in fact, Council indicated in a letter to the Commission that it accepted the Plan. Id. Pursuant to Charter § 51(g), the Commission voted at a public meeting to certify the Plan by a vote of eleven to four. Id. The Commission certified, inter alia, that the requirements of Charter § 52(1)(b) were implemented in the Plan, in the Certification Statement dated November 1, 2022. Id. Specifically, the Commission certified that its process included extensive measures ensuring that "racial and language minority groups... that are protected by the [VRA]" were recognized, included in the process, and, ultimately, that the Commission "drew Council district lines to ensure opportunities of racial and language minority groups to participate in the political process and election candidates of their choice." See Plan, Lulich Decl., Exhibit A at ¶ 9. On November 2, 2022, the Commission filed its redistricting Plan, including the Certification Statement, with the New York City Clerk as required by Charter § 51(g). Id.

Primary elections in New York are set to take place on June 27, 2023, with early voting from June 17, 2023 through June 25, 2023. See New York State Board of Elections 2023

Political Calendar, Lulich Aff., Exhibit B.³ The New York City primary elections will include elections for City Council Members as well as Judges and District Attorneys. Id. Petitioning began on February 28, 2023. Id.

The candidate petitioning schedule, including collecting of signatures, filing of petitions, and authorizing designations and filling vacancies are set forth by the New York State Legislature, and modification is not within the discretion of the City BOE. See New York Election Law (“E.L.”) § 6-120, § 6-134(4), & § 6-158. Prior to the primary elections, the processes for, inter alia, petitioning to designate candidates, certification of the ballots, allocation and disbursement of public funds to eligible candidates, and voter education cannot proceed if the election districts are not certified. See, e.g., Political Calendar, Lulich Aff., Exhibit B.

Indeed, as set forth in the Affidavit of Joseph Gallagher (NYSCEF Doc. No. 14), the New York City Campaign Finance Board (“CFB”), potential candidates, and their supporters and donors have already relied upon the Commission’s Plan to gather donations within the election districts, negotiate contracts, qualify candidates for public funds and disburse public funds. Should there be any change in the districting plan at this stage, candidates’ eligibility for public funds would have to be re-evaluated, and to the extent candidates have not received a sufficient number of donations in the new district, the candidates would have to return the funds already disbursed. Id. at ¶¶ 4-9 & 29-31. In addition, the creation and publishing of the Voter Guide has already been scheduled, and any change would likely result a higher cost and delays in the release of this means of voter education. Id. at ¶¶ 10-29 & 32. Further, as demonstrated by the Affidavit of Georgea Kontzamanis (NYSCEF Doc. No. 12), an injunction at this stage would ensure that New York City could not hold a primary for City Council Members as currently scheduled. Two primaries – one

³ Also available at: www.elections.ny.gov/NYSBOE/law/2023PoliticalCalendar.pdf (last visited March 3, 2023).

for District Attorneys and Judges, and one for City Council – would almost certainly be required.

See *id.* at ¶¶ 17-19.

Additionally, any change to the City Council districting map at this stage would occasion a significant delay to the City Council election. As demonstrated by the Affirmation of Grace Pyun (NYSCEF Doc. No. 13), any required redistricting would necessitate that the Commission hire additional staff, contract with mapping vendors, and re-engage in the districting process to at least some degree. *Id.* at ¶¶ 6-10. It would take, at minimum, two months for the Commission to contract with mapping, data, and VRA vendors, and an additional five to six months to complete the redistricting process. *Id.* at ¶¶ 8-9. Once the Commission completed a new districting map, it would take City BOE at least a month to re-draw its election districts so that the new plan could be implemented. *Kontzamanis Aff.* at ¶ 16.

Petitioners filed the instant proceeding on February 24, 2023,⁴ nearly four months after the Plan was finalized. *See* NYSCEF Doc. Nos. 1-8. They ask this Court to enjoin the City from implementing election activities in any of the 51 election districts, notwithstanding the significant impact of such an injunction at this late stage to candidates, interested voters, and a multitude of City agencies tasked with the implementation of elections, all of whom have relied upon the districts as set forth in the Plan. *See* Petition, generally. On February 27, 2023, the Commission Respondents filed an Affirmation in Opposition to the request for a temporary restraining order. *See* *Lulich Aff.* and supporting documents, NYSCEF Doc. Nos. 9-14. On February 27, 2023, petitioners' request for a temporary restraining order was denied and

⁴ Due to Petitioners' filing error, the Order to Show Cause was not processed by the Court until the late afternoon of February 27, 2023.⁵ Should this matter proceed, the Respondents will demonstrate in their responsive pleading that the alleged criticism of Dr. Handley's Report is not even accurate. *See* Petition at ¶ 67. For example, Dr. Handley did, in fact, consider data from endogenous elections. *See* *Handley Report* at pp. 7-9. Further, her report details the wide range of data used, the results of analysis, and the reasons for her recommendations. *Id.* at pp. 3-10 & 28-30.

petitioners' Order to Show Cause, which includes a request for a Preliminary Injunction, was set to be heard on March 7, 2023. See Order to Show Cause, NYSCEF Doc. No. 15. The request for a Preliminary Injunction should be denied for the same reasons set forth in the Commission Respondents' opposition to the temporary restraining order and as further described below.

ARGUMENT

POINT I

**PETITIONERS' REQUEST FOR A
 PRELIMINARY INJUNCTION IS BARRED BY
 THE DOCTRINE OF LACHES.**

Petitioners request that this Court enjoin the administration of City Council elections in the City *almost four months after* the Final Certified Plan was filed, notwithstanding that the Commission Respondents, other City agencies, candidates for office, and donors to candidates for office have relied upon the adopted District map and the schedule set forth for the 2023 election cycle. The requested injunctive relief must be denied because it is barred by the doctrine of laches.

Laches is "such neglect or omission to assert a right as, taken in conjunction with the lapse of time, more or less great, and other circumstances causing prejudice to an adverse party, operates as a bar in a court of equity. The essential element of this equitable defense is delay prejudicial to the opposing party." Schulz v. State, 81 N.Y.2d 336, 348 (1993) (citing Matter of Barabash's Estate, 31 N.Y.2d 76, 81 (1972), rearg. denied 31 N.Y.2d 963. Even if a case is commenced within the limitations period, laches may still bar a claim where a party shows prejudicial delay. See Saratoga County Chamber of Commerce v. Pataki, 100 N.Y.2d 801, 816 (2003); see also Matter of Cantrell v. Hayduk, 45 N.Y.2d 925, 927 (1978) (*per curiam*) (claim barred after delay of two months). While petitioners have (barely) filed within the four-month

statute of limitations, their claims are still barred, particularly in the context of an impending election. See, e.g. Wessendorf v. Donohue, 54 Misc. 2d 1045 (Albany Co. 1967); see also, Matter of League of Women Voters of NY State v. NY State Bd. of Elections, 206 A.D.3d 1227, 1230 (3d Dep't 2022) (noting that "election matters are exceedingly time sensitive.").

Here, the primary elections in New York are set to take place on June 27, 2023, with early voting from June 17, 2023 through June 25, 2023. See Lulich Aff., Exhibit B. As set forth above, petitioning for the New York City primary elections, which include elections for City Council Members as well as Judges and District Attorneys, began on February 28, 2023, and modification of the candidate petitioning schedule is not within the discretion of the City BOE. See New York Election Law ("E.L.") § 6-120, § 6-134(4), & § 6-158. An injunction at this stage would drastically disrupt the processes leading up to the primary elections, and, therefore, the primary elections themselves. As set forth in the Gallagher Affirmation, Kontzamanis Affidavit, and Pyun Affirmation, (NYSCEF Doc. Nos. 12-14) candidates, donors, the City BOE, the Commission, and the CFB have relied upon the Plan to prepare for and begin to execute the multitude of actions required to run an election according to all applicable laws. The Affidavits establish that, should this Court grant an injunction, a delay in petitioning would have a domino effect that would make it impossible to hold the City Council primary elections as scheduled, prejudicing not just the Respondents, but the candidates, their supporters, City taxpayers, and voters. The City BOE, CFB, candidates, and political parties have all taken considerable and significant actions in reliance upon the Plan. An injunction now would cause significant prejudice to Respondents. See, e.g., Nichols v. Hochul, 76 Misc. 3d 379, 385 (Sup. Ct., N.Y. County 2022) (three month delay in commencing challenge to state assembly map caused substantial prejudice where the drawing of new assembly districts would affect the candidates, other elected positions

across the state, voters, and local boards of elections) *aff'd in part by*, 206 A.D.3d 463, 464 (1st Dep't 2022).

Moreover, petitioners cannot justify their delay in commencing this proceeding. Petitioners, many of whom provided public comment and testimony at Commission hearings (Petition at ¶¶ 2 & 54), cannot credibly argue now that they had insufficient information to challenge the Plan before such challenge would cause significant disruption to the election cycle. See Cantrell v. Hayduk, 45 N.Y.2d 925, 927 (1978) (finding delay in commencement was unjustified where challenged ballot measure was “the subject of considerable debate and study for some time prior to its approval by the county legislature” and “petitioners were well aware of the proposal, and indeed were actually represented by counsel at the public hearing prior to its adoption.”). Petitioners’ conclusory statement that they have acted with “diligence” because this matter is “fact-intensive” will not suffice. Emergency Affirmation of Jerry Vattamala at ¶ 10. Here, the Plan was filed on November 2, 2022, almost four months prior to the commencement of this proceeding. However, petitioners were certainly aware of the Plan prior to November 2nd. See, e.g., Petition at ¶¶ 54, 63-64. In its current iteration, the Plan was submitted to Council on October 6, 2022. Id. at ¶ 77. Even prior to October, the Commission heard public comments on the election districts as early as March 29, 2022. See Commission Website, available at www.nyc.gov/site/districting/index.page (last visited Feb. 24, 2023). Under these circumstances, it is not excusable delay for petitioners to have waited almost four months until the eve petitioning to file the instant proceeding and seek injunctive relief that would bring the entirety of the City Council 2023 elections to a complete halt for, at least, six to nine months. See, e.g., Pyun Aff., Kontzamanis Aff.

Accordingly, petitioners' inexcusable delay in commencing this proceeding, and the extreme prejudice caused by the delay, warrant denial of Petitioner's request for injunctive relief as barred by the doctrine of laches. See, e.g., Cavalier v. Warren County Board of Elections, 210 A.D.3d 1131 (3d Dep't 2022), Amedure v. State of New York, 210 A.D.3d 1134 (3d Dep't 2022) (collectively, affirming the dismissal of requests, "just weeks before the issuance of absentee ballots," to preliminarily enjoin the distribution or acceptance of said absentee ballots); Matter of Nichols v. Hochul, 206 A.D.3d at 464 (Supreme Court properly denied the petition to the extent it sought to obtain a new state assembly map for use in the 2022 assembly elections and an order delaying the 2022 assembly primary election as barred by the doctrine of laches.); New York City Council Member Adrienne E. Adams v. City of New York, N.Y. Co. Index No. 160662/2020, Decision and Order on Motion dated May 4, 2021, NYSCEF Document No. 140 (dismissing request for a preliminary injunction preventing the City from administering an election using ranked choice voting as barred by laches.).

POINT II

PETITIONERS ARE NOT ENTITLED TO A PRELIMINARY INJUNCTION.

Even assuming that petitioners' request were not barred by laches, their request for a preliminary injunction fails because they cannot establish any of the requirements necessary for such an injunction. A preliminary injunction is an extraordinary and drastic remedy that should not be routinely granted, and the party seeking such relief bears a heavy burden of proof. See Rosa Hair Stylists, Inc. v. Jaber Food Corp., 218 A.D.2d 793, 794 (2d Dep't 1995); MacIntyre v. Metropolitan Life Ins. Co., 221 A.D.2d 602 (2d Dep't 1995); Chester Civic Improvement Ass'n, Inc. v. New York City Transit Authority, 122 A.D.2d 715, 717 (1st Dep't 1986). "It is well established that the drastic remedy of a preliminary injunction is not to be granted unless a clear

right to the relief demanded is established under the undisputed facts upon the moving papers, and that the burden of showing such an undisputed right is on the person seeking such relief.” Brandt v. Bartlett, 52 A.D.2d 272, 275 (3d Dep’t 1976). See also East 13th St. Homesteaders’ Coalition v. Lower East Side Coalition Housing Dev., 230 A.D.2d 622, 623 (1st Dep’t 1996).

A party seeking a preliminary injunction must establish each of the following: (1) the likelihood of its ultimate success on the merits; (2) that it will suffer irreparable injury if the preliminary injunction is not granted; and (3) that, on balance, the equities favor granting the preliminary injunction. See State of New York v. Fine, 72 N.Y.2d 967, 968-69 (1988); W.T. Grant Company v. Srogi, 52 N.Y.2d 496, 517 (1981); Schneider Leasing Plus, Inc. v. Stallone, 172 A.D.2d 739 (2d Dep’t), app. dism’d, 78 N.Y.2d 1043 (1991); Application of J.O.M. Corp. v. Dep’t of Health, 173 A.D.2d 153, 154 (1st Dep’t 1991). As detailed herein, petitioners have not established entitlement to the extraordinary relief that they request and thus, their request for a preliminary injunction must be denied.

A. Petitioners Are Not Likely to Succeed on the Merits

Petitioners allege that the Commission’s City Council Election Districting Plan was arbitrary and capricious because it splits what petitioners call the “Richmond Hill/South Ozone Park Asian Community” among several election districts, allegedly preventing the community from “elect[ing] candidates of choice in violation of the Charter.” Petition at ¶ 86. Specifically, petitioners claim that the Commission did not adequately comply with Charter § 52(1)(b), which directs that the Commission “to the maximum extent possible,” establish the districting plan “in a manner that ensures the fair and effective representation of the racial and language minority groups” protected under the VRA. In support, petitioners allege that members of the public submitted a proposed election district map to the Commission that would have kept the Richmond

Hill/South Ozone Park Asian Community in one election district (the “Unity map”), and that, therefore, the Commission’s adoption of a different election district map was unreasonable. See, e.g., Petition at Wherefore Clause subsection b. Further, petitioners identify their disagreements with the expert report by Dr. Handley, and attempt to set forth the conclusions of a different expert in place of Dr. Handley’s. Id. at ¶¶ 66-67.

Petitioners’ challenge boils down to the arguments that, because there might be another way to map current election districts 28 and 32 so that the Asian community in Richmond Hill and South Ozone can vote as a bloc, and because a different expert reached a different conclusion than the Commission’s retained expert, it was arbitrary and capricious for the Commission to certify a different district plan. See Petition, generally. However, petitioners’ arguments cannot succeed because the Commission’s Plan is reasonable, rational, and consistent with all applicable law, and was reached after an extensive process of soliciting public comments and reviewing the submissions and testimony of a multitude of competing laws, requirements, and public interests. See, e.g., the Plan, Lulich Aff. Exhibit A. Indeed, the Commission certified the extensive steps taken to ensure that district lines were drawn so that racial and language minority groups were afforded the opportunity to elect candidates of their choice, and such certification should not be lightly disregarded. Id. at ¶ 9. Further, the Plan should be upheld in light of the deferential standard afforded to administrative agencies in an Article 78 proceeding, in particular in a challenge to a districting plan under Charter § 52(1).

1. Standard of Review

Administrative agencies enjoy broad discretion when making determinations on matters they are empowered to decide. Section 7803 of the CPLR provides for only a very limited judicial review including, inter alia, to consider “whether a determination was made in violation

of lawful procedure, was affected by an error of law or was arbitrary and capricious or an abuse of discretion, including abuse of discretion as to the measure or mode of penalty or discipline imposed.” See CPLR § 7803(3). Under the arbitrary and capricious standard, courts are limited to assessing whether a rational basis exists to support an administrative determination; the court’s review ends if a rational basis exists. See Heintz v. Brown, 80 N.Y.2d 998, 1001 (1992) (citing Pell v. Bd. of Educ., 34 N.Y.2d 222, 230–31 (1974)). If the reviewing court finds the determination is “supported by facts or reasonable inference that can be drawn from the record and has a rational basis in the law, it must be confirmed.” American Telephone & Telegraph Co. v. State Tax Comm’n, 61 N.Y.2d 393, 400 (1984). If the administrative agency’s acts find support in the record, its determination is conclusive even if the court would have reached a contrary result. Sullivan Co. Harness Racing Ass’n v. Glasser, 30 N.Y.2d 269, 278 (1972). Unless the reviewing court finds that the agency acted in excess of its jurisdiction, in violation of a lawful procedure, arbitrarily, or in abuse of its discretion, the court has no alternative but to confirm the agency’s decision. Pell, 34 N.Y.2d at 231.

Judicial review of districting plans also involves substantial deference to the government entity responsible for districting. Creating a districting plan requires “[b]alancing the myriad requirements imposed by both the State and Federal Constitution” and therefore the court will not substitute its evaluation of the data for that of the body responsible for districting. Wolpoff v. Cuomo, 80 N.Y.2d 70, 79 (1992) (dismissing two petitions challenging the New York State legislature’s 1992 redistricting plan because, while the plan did violate State Constitution provisions against fragmenting counties, non-contiguous districts, and non-compact districts, there was sufficient evidence in the record to support the legislature’s contention that the technical violations were necessary to comply with the VRA). Further, the particular Charter subsection

pursuant to which petitioners proceed here is one of seven criteria that must be considered by the redistricting Commission “‘to the maximum extent practicable’ and given ‘priority in the order in which they are listed’” See Brooklyn Heights Ass’n v. Macchiarola, 82 N.Y.2d 101, 1106 (1993) (citing Charter § 52(1)) (finding that the 1992 Commission’s decision allegedly violating Charter § 52(1)(c) by redistricting a portion of the Brooklyn Heights neighborhood into a different election district was not arbitrary and capricious because it resulted from a reasonable policy choice by the Commission that balanced other, mandatory requirements with the criteria set forth in Charter § 52(1).) Thus, the deferential arbitrary and capricious standard applies here, and petitioners’ arguments fail to demonstrate that there is no rational basis for the Commissions’ decision.

2. The Plan Satisfies the Standard of Review

There is clearly “some evidence in the record” for the Commission’s determination that it would not certify the relevant election districts as set forth in petitioners’ proposed map. First, there is substantial evidence that the Plan complies with Charter § 52 in all ways. In addition to certifying its application of the hierarchy of criteria, the Commission set forth a detailed recitation of the procedures that it undertook to ensure proper consideration of needs of protected language minority groups. See Plan, Lulich Decl., at ¶¶ 9 & 10. Notably, these procedures included reviewing “districting plans submitted by the public, including by organizations representing such racial and language minority groups,” and the drawing of lines “to ensure opportunities of racial and language minority groups to participate in the political process and elect candidates of their choice.” Id. To prevail, petitioners must demonstrate not merely that their plan might have been preferable to some experts, or adopted by a Commission with a different members, but rather that this explicit certification by a large majority of the Commission’s members of Charter compliance is unequivocally erroneous and insufficient. They cannot do so.

As petitioners admit, the Commission's own expert, Dr. Lisa Handley, conducted a thorough analysis that demonstrated that the proposed election district would *not* result in the Richmond Hill/South Ozone Asian community securing the ability to elect their candidates of choice because, based on her analyses of voting patterns in recent past elections, the Asian community was not likely to vote in a coalition with other minority communities in the proposed district. See Verified Petition at ¶¶ 66-67; see also Petitioners' Exhibit N at pp. 29-34. Thus, there is evidence in the record to support the Commission's decision, and it is rational and reasonable. See, e.g., Wolpoff, 80 N.Y.2d at 79 (finding, inter alia, that four proposed maps that would cure the alleged violations at issue were not determinative because there was a rational basis for the Legislature's plan); Brooklyn Heights Ass'n, 82 N.Y.2d at 1106 (the existence of a proposed alternate district map did not render the Commission's determination arbitrary and capricious where there was a rational basis for the plan chosen by the Commission). Nor does petitioners' proffer of a different expert opinion regarding the statistical analysis render the Commission's determination arbitrary and capricious.⁵ A difference of opinion does not make a determination arbitrary or capricious, and, at most, is merely a conflict of opinion which remains within the province of the Commission to resolve. Purdy v. Kriesberg, 47 N.Y.2d 354, 358 (1979); Sullivan Co. Harness Racing Ass'n v. Glasser, 30 N.Y.2d 269, 278 (1972); see also Wolpoff, 80 N.Y.2d at 79 (declining to substitute the court's judgment of the statistical data for that of the legislature responsible for districting.)

⁵ Should this matter proceed, the Respondents will demonstrate in their responsive pleading that the alleged criticism of Dr. Handley's Report is not even accurate. See Petition at ¶ 67. For example, Dr. Handley did, in fact, consider data from endogenous elections. See Handley Report at pp. 7-9. Further, her report details the wide range of data used, the results of analysis, and the reasons for her recommendations. Id. at pp. 3-10 & 28-30.

As recognized by the Court in Brooklyn Heights Ass'n, in light of the numerous competing interests imposed by the Charter as well as state and federal requirements, the judiciary should not “second-guess the Commission’s reasonable policy choice[s] related to implementing the technical requirements of districting.” *Id.* (citing **Matter of Wolpoff v. Cuomo**, 80 N.Y.2d 70, 79 (1992)). In highlighting Matter of Wolpoff v. Cuomo, 80 N.Y.2d 70, 79 (1992), which referred to a “presumption of constitutionality,” the Court clearly indicated that a strong presumption of legality should also attach to the Commission’s plan. Accordingly, as petitioners cannot succeed on the merits, their request for a preliminary injunction must fail.

B. Petitioners Will Not Be Irreparably Harmed Without a Preliminary Injunction

Having established that petitioners have not demonstrated a likelihood of success on the merits of their claims, the remaining prongs for entitlement to a preliminary injunction test need not be considered. Notwithstanding, petitioners cannot demonstrate irreparable injury if their request for an injunction is denied, and the balance of the equities is decisively in favor of denying an injunction. Petitioners state that they are being harmed because “an infringement on a petitioner’s right to vote constitutes irreparable injury.” See Emergency Affirmation of Jerry Vattamala at ¶ 8 (quoting Marchant v. New York City Bd. Of Elections, 815 F. Supp. 2d 568, 578) (E.D.N.Y. 2011). Notably, the holding in Marchant finding that the plaintiffs had not demonstrated irreparable harm supports the same finding herein. *Id.* at p. 578 (“The court does not find, however, that the fundamental ‘right to vote’ is at stake in this action, as plaintiffs do not allege that they are being prevented from accessing the polls or casting *any* vote for *any* candidate”) (emphasis in original). It is clear that governments may, inter alia, regulate elections and use election districts to do so. Anderson v. Celebrezze, 460 U.S. 780, 788 (1983); see also Brooklyn Heights Ass’n, 82 N.Y.2d 101. Here, petitioners are not being prevented from voting for any

candidate. Further, they had an opportunity to participate in the districting process just like every other member of the public through appearance at public hearings or the submission of public comments, and at least some of the petitioners did so. See, e.g., Petition ¶¶ 2, 64. Petitioners are not irreparably harmed by voting in an election district in which they are not the strongest voting bloc.⁶ Accordingly, their request for an injunction preventing the 2023 City Council elections from going forward until their preferred election plan is certified must be denied.

C. The Balance of the Equities Weigh Against Petitioners' Request for an Injunction

Finally, petitioners have not—and cannot—show that on balance the equities lie in their favor. In order for petitioner to show that the balancing of equities weighs in their favor, petitioners “must [show] that the irreparable injury to be sustained . . . is more burdensome to [the petitioners] than the harm caused to the [City] through the imposition of the injunction.” Nassau Roofing and Sheet Metal Co. v. Facilities Development Corp., 70 A.D.2d 1021, 1022 (3rd Dept. 1979), app. dismissed, 48 N.Y.2d. 654. In making this determination, the Court must weigh the interests of the general public as well as the interests of the parties to the litigation. See DePina v. Educational Testing Service, 31 A.D.2d 744, 775 (2nd Dept. 1969); Hill v. Boufford, 141 Misc. 2d 654, 658 (Sup. Ct., N.Y. Co. 1988). Should the City Council election be enjoined at this late date, the City Respondents, the candidates for office, their supporters, voters, and City taxpayers would be significantly prejudiced. As described in Point I, supra, an injunction would most likely result in two separate primaries – one for Attorney Generals and Judges, and one for City Council. Two primaries would be expensive and require significantly more time and resources for the

⁶ Further, as described in Point II.A, supra, expert analysis calls into question whether Petitioners' approved election district would even allow the Asian community in Richmond Hill/South Ozone Park to elect the candidate of their choice given that they would not have a majority and would need to form a coalition with other minority groups that have not voted for the same candidate as the Asian community in recent relevant elections.

agencies tasked with implementing them. See, e.g., Gallagher Aff., Kontzamanis Aff. Perhaps most importantly, having two primary elections would burden voters by requiring them to turn out for an additional election, or, as is often the case, depress voter turnout in both primaries. Accordingly, it is clear that the balance of equities lies with respondents and not with petitioner. As such, this Court should not issue a preliminary injunction.

CONCLUSION

The petition should be denied in its entirety, and this proceeding dismissed, or, alternatively, the Preliminary Injunction motion should be denied.

Dated: New York, New York
March 6, 2023

HON. SYLVIA O. HINDS-RADIX

Corporation Counsel of the City of
New York

Attorney for Respondents
Commission, Commissioners, and
City BOE

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New York, New York 10007

Tel: (212) 356-2369

By: /S
Aimee K. Lulich & Scali Riggs

CERTIFICATION UNDER UNIFORM CIVIL RULE 202.8-b

According to Microsoft Word, the portions of Respondents Commission and Commissioners' Memorandum of Law in Opposition to the request for a preliminary injunction that must be included in a word count contain 5,582 words, and comply with Uniform Civil Rule 202.8-b.

Dated: New York, NY
March 6, 2023

Respectfully submitted,

HON. SYLVIA O. HINDS-RADIX
*Corporation Counsel
of the City of New York*
Attorney for Respondents-Defendants

By: _____/S
AIMEE K. LULICH
Assistant Corporation Counsel

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alulich@law.nyc.gov

Affidavit of Matthew Stevens in Opposition to Petitioners' Motion
for a Temporary Restraining Order, sworn to March 7, 2023
[pp. 377 - 382]

FILED: NEW YORK COUNTY CLERK 03/07/2023 06:35 PM

NYSCEF DOC. NO. 21

INDEX NO. 151762/2023

RECEIVED NYSCEF: 03/07/2023

STATE OF NEW YORK
SUPREME COURT, COUNTY OF NEW YORK

-----X

In the Matter of the Application of
DESI RISING UP AND MOVING, AARON
FERNANDO, PAUL PERSAUD, SARWAN
PERSAUD, NADIA PERSAUD, NADIRA
PERSAUD, BISHAM PERSAUD, HARBHAJAN
S. SURI, CHARANJIT S. SURI, DAVINDER S.
SURI, SUKHVIR SINGH, SWARAN SINGH,
LOVEDEEP MULTANI, PRINTHPAL S. BAWA,
KAMLESH TANEJA, RAJWINDER KAUR,
INDERBIR SINGH, PARAMJIT KAUR, and
RAJBIR SINGH

Index No.: 151762/2023

Petitioners,

**AFFIDAVIT OF MATTHEW
STEVENS**

-against-

NEW YORK CITY DISTRICTING
COMMISSION, CHAIR DENNIS M. WALCOTT,
HON. MARILYN D. GO, MARIA MATEO,
JOSHUA SCHNEPS, LISA SORIN, MSGR.
KEVIN SULLIVAN, KAI-KI WONG, MAF
MISBAH UDDIN, MICHAEL SCHNALL,
KRISTEN A. JOHNSON, YOVAN SAMUEL
COLLADO, GREGORY W. KIRSCHENBAUM,
MARC WURZEL, KEVIN JOHN HANRATTY,
and DR. DARRIN K. PORCHER each in their
capacity as members of the New York City
Districting Commission, BOARD OF ELECTIONS
IN THE CITY OF NEW YORK, NEW YORK
STATE BOARD OF ELECTIONS,

Respondents.

-----X

Matthew Stevens, being duly sworn, deposes and says

1. I am an experienced data analyst and mapmaker who participated in the creation of the proposed Unity Map for the New York City Council districting plan. As such, I have personal knowledge of the facts and circumstances set forth herein.

2. Under the current certified district plan, Districts 28, 29, and 32 divide the Richmond Hill/South Ozone Park Asian community. Redrawing District 32 to keep this community intact while still complying with the requirements of the Charter would only require adjustments to six other city council districts in the current certified plan, specifically Districts 23, 24, 27, 28, 29, and 31.¹ All of these districts are located near each other in South Queens.

3. For the majority of the impacted districts, necessary population adjustments would be minor. The amount of unchanged population in each affected district following necessary adjustments is as follows:
 - a. District 23: 92.7%
 - b. District 24: 91.0%
 - c. District 27: 89.1%
 - d. District 28: 76.0%
 - e. District 29: 70.4%
 - f. District 31: 88.2%

¹ These adjustments are available for review on Dave's Redistricting. <https://davesredistricting.org/maps#viewmap::e5faaaa0-0a2b-42f6-8b20-fe34f9e319e9>. Note, the population data on Dave's Redistricting does not reflect the reallocation of incarcerated individuals to their place of residence prior to incarceration, but the map and the properly adjusted population and demographic information are attached as well.

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- 4. No districts in any of the four boroughs outside of Queens would need to be adjusted to redraw District 32 so as to keep the Richmond Hill/South Ozone Park community intact.

- 5. Given the discrete nature of the changes required to draw such a map, it could be accomplished by an experienced map drawer in a matter of hours.

Dated: New York, New York
 March 7, 2023



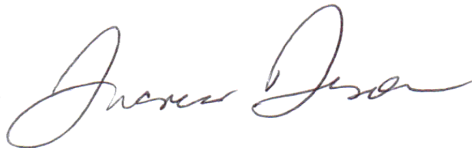
Matthew Stevens
 Adjunct Professor NYU
 Ph.D. Columbia University



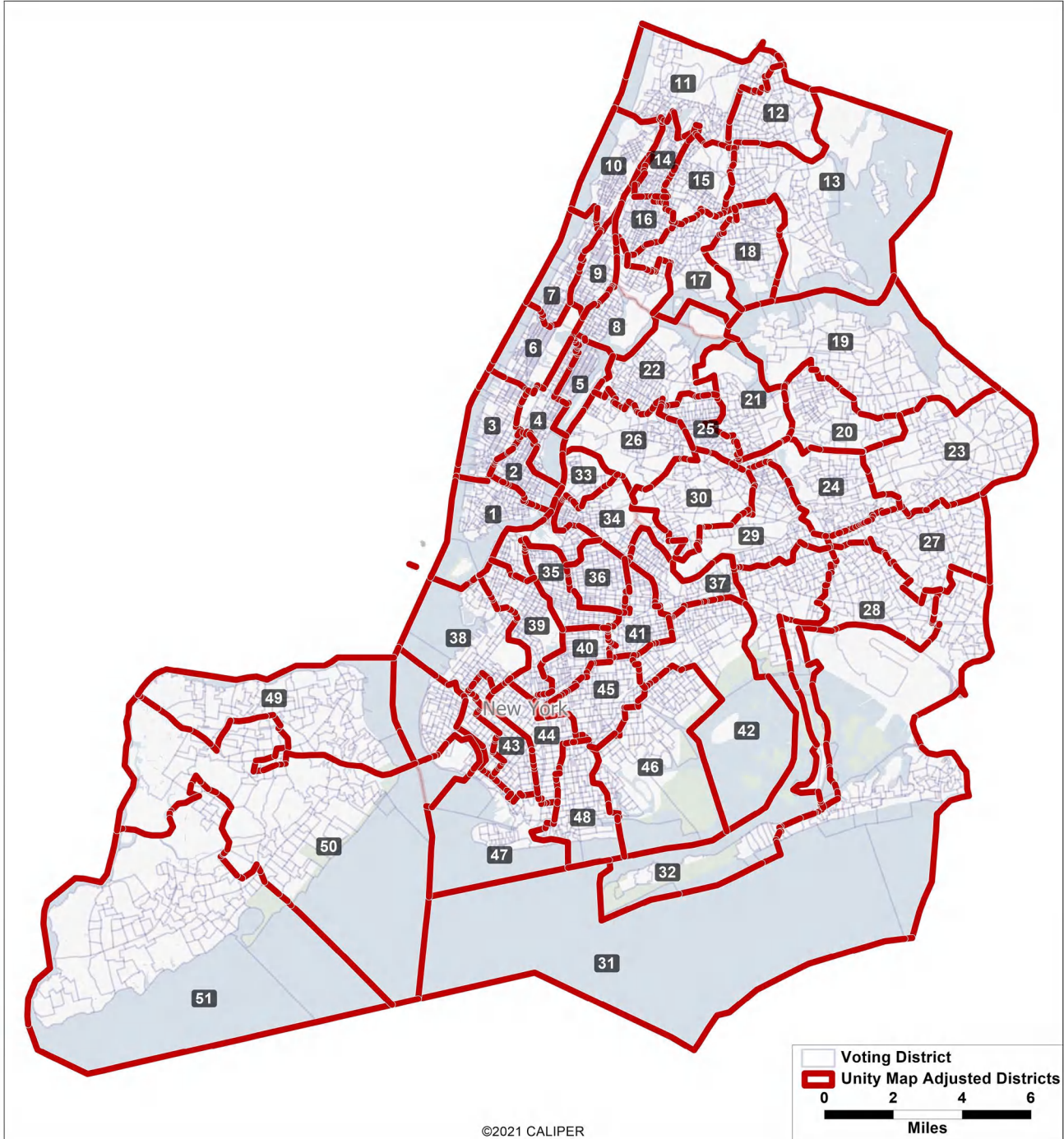
Sworn to me this

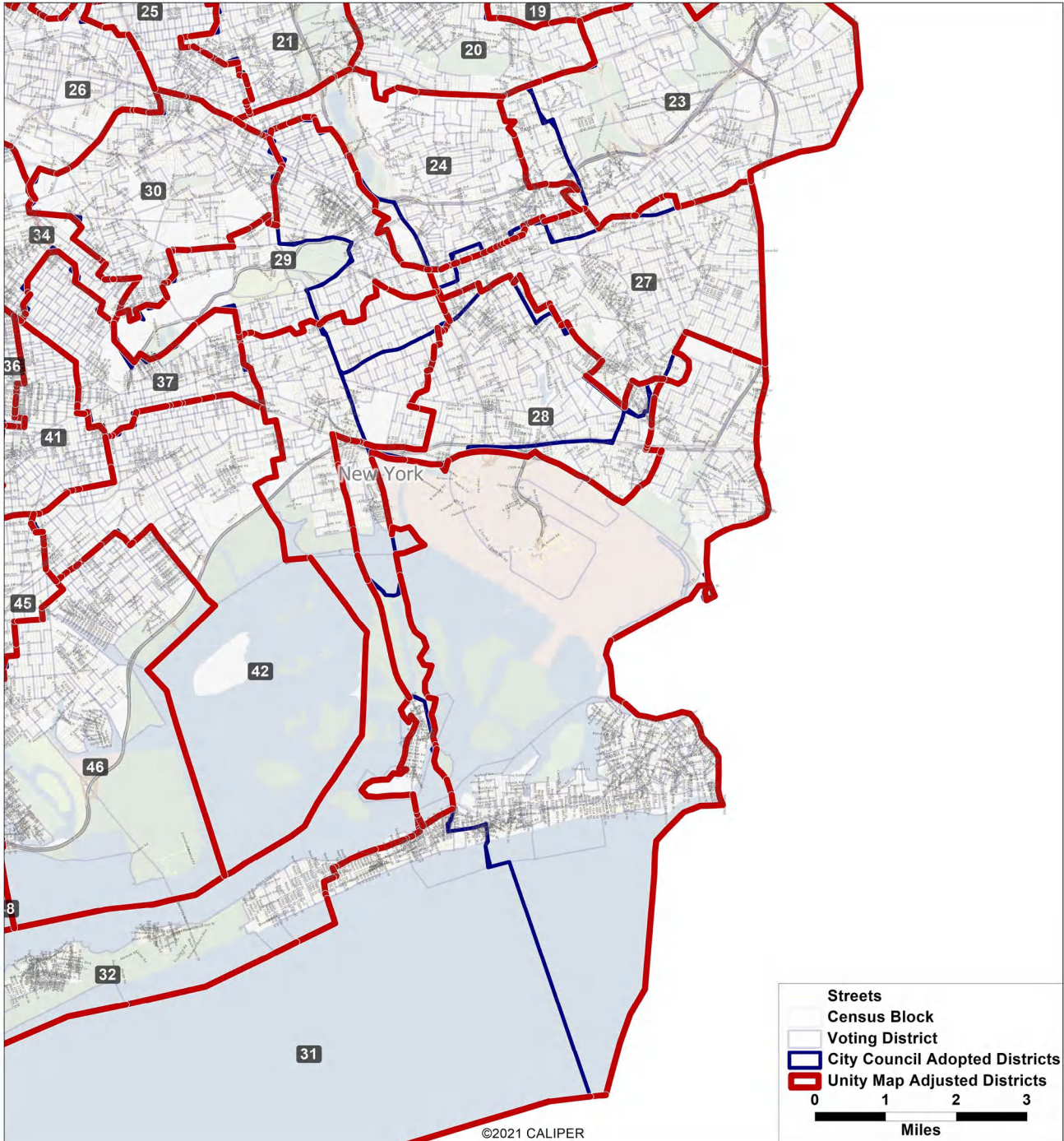
7 day of March 2023

Notary Public



FRANCA D DUSOVIC
 NOTARY PUBLIC, STATE OF NEW YORK
 Registration No. 01DU6143207
 Qualified in Putnam County
 My Commission Expires April 3, 2026





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Impacted Districts' Adjusted Population and Demographics:

Dist.	Total Adj.	% Deviation	% Hisp. Adj.	% Non-Hisp. White Adj.	% Non-Hisp. Black Adj.	% Non-Hisp. Asian Adj.	% Non-Hisp. Other Adj.
23	168,425	-2.44%	13.76%	24.38%	9.73%	44.77%	3.25%
24	168,443	-2.43%	21.20%	26.25%	10.54%	36.37%	1.82%
27	169,327	-1.91%	16.88%	1.94%	59.45%	12.46%	3.44%
28	168,588	-2.34%	15.46%	6.07%	52.77%	11.32%	5.76%
29	168,921	-2.15%	30.12%	38.23%	4.13%	21.44%	2.00%
31	169,153	-2.01%	19.54%	16.12%	55.52%	2.56%	1.53%
32	176,811	2.42%	29.33%	20.93%	7.93%	25.07%	8.35%

FILED: NEW YORK COUNTY CLERK 12/01/2023 02:30 PM

INDEX NO. 151762/2023

NYSCEF DOC. NO. 25

RECEIVED NYSCEF: 12/01/2023

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF NEW YORK : CIVIL TERM : PT. 10

3 ----- x

4 DESIS RISING UP AND MOVING, AARON FERNANDO,
5 PAUL PERSAUD, SARWAN PERSAUD, NADIA PERSAUD,
6 NADIRA PERSAUD, BISHAM PERSAUD, HARBHAJAN S.
7 SURI, CHARANJIT S. SURI, DAVINDER S. SURI,
8 SUKHVIR SINGH, SWARAN SINGH, LOVEDEEP MULTANI,
9 PRINTHPAL S. BAWA, KAMLESH TANEJA, RAJWINDER
10 KAUR, INDERBIR SINGH, PARAMJIT KAUR,
11 and RAJBIR SINGH,

Index: 151762/2023

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-against- Petitioners,

NEW YORK CITY DISTRICTING COMMISSION,
CHAIR DENNIS M. WALCOTT, HON. MARILYN D. GO,
MARIA MATEO, JOSHUA SCHNEPS, LISA SORIN,
MSGR. KEVIN SULLIVAN, MAF MISBAH UDDIN,
MICHAEL SCHNALL, KRISTEN A. JOHNSON, YOVAN
SAMUEL COLLADO, GREGORY W. KIRSCHENBAUM, MARC
WURZEL, KEVIN JOHN HANRATTY, DR. DARRIN K.
PORCHER, each in their capacity as members of
the new york City Districing Commission,
BOARD OF ELECTIONS IN THE CITY OF NEW YORK,
NEW YORK STATE BOARD OF ELECTIONS,

Respondents.

----- x

March 9, 2023
60 Centre Street
New York, New York 10007

B E F O R E:

HONORABLE ERIKA M. EDWARDS
Justice of the Supreme Court

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A P P E A R A N C E S:

ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND
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BY: JERRY G. VATTAMALA, ESQ.
PATRICK STEGEMOELLER, ESQ.

NEW YORK CITY LAW DEPARTMENT
Office of the Corporation Counsel
Attorneys for the Respondents
100 Church Street
New York, NY 10007
BY: AIMEE LULICH, ESQ.
SCALI RIGGS, ESQ.

Monica A. Martinez
Senior Court Reporter

Proceedings

1 THE COURT: Calling in the matter of the
2 application of Desis.

3 MR. STEGEMOELLER: Desis.

4 THE COURT: Desis Rising Up and Moving,
5 only naming one party, against the New York City
6 Districting Commission, et al., Index No. 151762 of
7 2023.

8 Can I have your appearances, please, starting
9 with petitioner.

10 MR. VATTAMALA: Jerry Vattamala, for Asian
11 American Legal Defense and Education Fund, on behalf
12 of Desis Rising Up and Moving.

13 THE COURT: Spell your last name.

14 MR. VATTAMALA: V A T T A M A L A.

15 THE COURT: Who are you with?

16 MR. STEGEMOELLER: Patrick Stegemoeller, also
17 on behalf of Asian American legal Defense and Education
18 Fund, representing petitioners Desis. Thank you.

19 THE COURT: Pronounce one more time.

20 MR. VATTAMALA: Stegemoeller.

21 MS. LULICH: Aimee Lulich, L U L I C H, on
22 behalf of the Commission, The Commissioners and the
23 Board of Elections, City of New York.

24 MS. RIGGS: Scali Riggs, also on behalf of
25 the Board of Elections, Commissioners and the City of

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1 New York.

2 THE COURT: Give me your spelling?

3 MS. RIGGS: R I G G S.

4 THE COURT: Good it. Board of Elections is
5 taking no position on this?

6 MS. LULICH: That's correct.

7 THE COURT: Based on their letter. Fair
8 enough.

9 I do want to make a note there are some
10 folks in the audience very interested in the outcome
11 of the case. I do want to tell you upfront I've had an
12 opportunity to look at the material, and I'm going to
13 reserve my decision. You will not get a decision
14 today.

15 This case was reassigned to me, with the
16 wisdom of the court. They don't tell the judges when
17 they get the new case. We got a phone call a few days
18 ago to make sure we were on Tuesday. I tried to honor
19 that. I assume people were planning to be here, taking
20 off work. I apologize for any inconvenience to
21 adjourn the case until today, which is Thursday. We
22 are ready to proceed, and I want to hear what you have
23 to say. I certainly may have some questions. My court
24 attorney, Alana may have some questions.

25 Let's hear, start with the Petitioners.

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1 MR. VATTAMALA: Thank you, your Honor.

2 Districting commission had a job to do which
3 was to follow a prioritized list under the New York City
4 charter to draw new districts, and it did not do that.
5 The New York City charter explicitly requires that the
6 commission quote, "insures the fair and effective
7 representation of the racial and language minority
8 groups in New York City protected by the United States
9 voting rights act." They have to do this to the maximum
10 extent practicable under the charter.

11 What does fair and effective representation
12 mean?

13 First, I'll explain what it means, then I will
14 explain what it doesn't mean.

15 Fair and effective representation means a
16 reasonable opportunity to elect a candidate of choice.
17 The legislative history, as well as, the plain text of
18 the charter gives meaning to the phrase.

19 The provision of -- this specific provision of
20 the charter has never been litigated, so we have to
21 look at the legislative history, and that is what the
22 charter revision commission explained when it included
23 this language into the charter and when it submitted the
24 charter for preclearance to the Department of Justice.
25 They explained further and provided a prototypical plan.

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1 THE COURT: Sorry, counsel. I need to put
2 this in prospective. I know you are ready to go. I
3 apologize. I have some specific questions so I can
4 better understand. Questions are, weren't people
5 involved in the commission's decision making when they,
6 you know, prior to that; like, were there hearings?

7 MR. VATTAMALA: Yes.

8 THE COURT: Okay. And didn't the commission
9 render it's decision and make a decision and explain
10 that, not explain, but they are the ones that make
11 that decision, and you and your clients had an
12 opportunity to challenge that prior to that decision
13 being made, right?

14 MR. VATTAMALA: Well, this is a legal standard,
15 fair and --

16 THE COURT: Were there public hearings?

17 MR. VATTAMALA: Yes, there were public
18 hearings.

19 THE COURT: Isn't it true that some of your
20 clients were involved in those public hearings.

21 MR. VATTAMALA: Absolutely.

22 THE COURT: So, I'm trying to figure out what
23 would be arbitrary and capricious if they had the
24 opportunity to be heard and commission considered what
25 those arguments were, but choose to go a different

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7

1 route.

2 MR. VATTAMALA: They used the wrong legal
3 standard. New York City charter was decades ahead of
4 it's time by providing supplemental rights to protected
5 racial language and minority groups beyond what the
6 federal voting rights act requires. They easily could
7 have said the charter must comply with federal voting
8 rights act. Many other localities, municipalities have
9 similar provisions and must comply with the federal
10 voting rights act. The New York charter made clear they
11 were going beyond what the federal requirement was.
12 When you look at the respondents and their experts, they
13 were applying the federal voting rights act, Section 2
14 standard, which is a higher burden which you have to
15 show an ability to elect.

16 The charter revision was very clear. They were
17 -- when they used that language, fairly and effective
18 representation to the maximum extent practicable, it was
19 supplementing the federal voting rights act. You did
20 not need to satisfy the high bar of the voting rights
21 act. You needed to show you had a reasonable
22 opportunity, and what did that mean? They provided a
23 prototypical district in Chinatown using the Asian
24 population that showed that population, the Asian number
25 was only 28 percent. So, it is not majority. It is a

Proceedings

1 lower bar of the federal voting rights act. That is
2 why when they do their analysis, they are looking at
3 the wrong law. They are looking at the federal voting
4 rights act Section 2. Their own expert -- the title of
5 the report is Complying with Voting Rights Act. She
6 says specifically she was hired to see if the New York
7 City redistricting commission complied with the federal
8 voting rights act. That is the wrong standard. They
9 are looking at the wrong law.

10 THE COURT: Okay.

11 MR. VATTAMALA: So that is the big issue
12 here. Courts do not defer to the districting commission
13 on what the legal standard is, right. This is not a
14 matter of different, differing opinions. They were,
15 they didn't even look to see if they were complying with
16 the provisions of the charter which go above the federal
17 voting rights act.

18 THE COURT: Okay.

19 MR. VATTAMALA: I would say, New York State
20 finding, thank goodness, has caught up to the charter.
21 Last year we passed John Lewis New York City voting
22 rights act which similarly provides supplemental
23 professions, we call influenced districts. So, this is
24 a trend we are seeing now. As I mentioned, charter was
25 decades ahead of it's time in providing the supplemental

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1 protections. What they did was turn that on it's head
2 and divide the community in half, right in half among
3 Liberty Avenue which is the heart of the community. So
4 what they were suppose to do, provide fair and effective
5 representation. They did the opposite.

6 It was in violation of the charter because
7 they made sure to prioritize the third criteria which
8 is preserve communities of interest. So the white
9 community of interest in Howard Beach, Broad Channel,
10 and Breezy Point prioritize above this protective group.
11 In violation of the charter, they were not suppose to
12 do that. Charter is clear, you have to follow the
13 prioritized list. Number one is population equality.
14 Number two is fair and effective representation.
15 Number three, preserving other communities of interest,
16 and the list goes on. They have to follow that
17 prioritized list. They did not.

18 THE COURT: So counsel --

19 MR. VATTAMALA: They prioritized community of
20 interest above this protective racial group. Not only
21 prioritize the white community of interest --

22 THE COURT: Hold on. I have a question. Is
23 there anyway, trying to address some of the concerns
24 that I read.

25 What can I do to address your concerns without

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1 affecting the entire city, basically?

2 MR. VATTAMALA: Great question.

3 THE COURT: At this late date?

4 MR. VATTAMALA: Let me say this, what we are
5 asking, is to remedy only that specific area in those
6 districts. In our supplemental affidavit that we filed,
7 it shows only seven districts in Queens would be
8 affected not by the whole plan, not a single district
9 in Manhattan, not single in district in Brooklyn, not a
10 single district in The Bronx or Staten Island.

11 THE COURT: Sorry.

12 MR. VATTAMALA: Minor changes --

13 THE COURT: I mean, there are hundreds and
14 hundreds of pages you submitted to me. I'm looking at
15 different affirmations. You said the supplemental --

16 MR. VATTAMALA: Last affidavit of our expert,
17 Matt Stevens, who implemented the unity map into the
18 existing plan. It shows the minimal impact it would
19 have on the other districts. The main impact on
20 District 32 which should have been drawn. As you see,
21 Paragraph 3, minimal changes to 600 districts. Most
22 of them are, you know, we have 92 percent the same
23 --

24 THE COURT: Hold on. Give me one moment.
25 This is what you submitted two days ago?

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1 MR. VATTAMALA: Yes.

2 THE COURT: Which was beyond the deadline that
3 was submitted.

4 MR. VATTAMALA: We apologize.

5 THE COURT: In the order to show cause, right?

6 MR. VATTAMALA: We apologize for that, your
7 Honor.

8 THE COURT: Okay. Once something is fully
9 submitted, you know, we are not looking everyday to
10 see if you decided to file something after the
11 deadline.

12 MR. VATTAMALA: We saw the respondents filed a
13 memo of law on Monday. We filed this on Tuesday.

14 THE COURT: I understand. Give me one moment.
15 So, it would affect District 23, 24, District 27, 28, 29
16 and 31.

17 MR. VATTAMALA: Right, minimally.

18 THE COURT: All right.

19 MR. VATTAMALA: You see the percentages of
20 what would not change. We also included a map with an
21 overlay of what we are asking for, and what the existing
22 lines are. You see how little that impact is, so this
23 is not 51 districts. Again, does not affect Brooklyn,
24 Manhattan, The Bronx, Staten Island. It is these seven
25 districts. Most of them remain almost unchanged

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1 districts.

2 THE COURT: I want to take time and look at
3 it. I want to look at it further.

4 Can you proceed? If there is anything else
5 you want to say, I'll give you a chance to reply so,
6 you know.

7 MR. VATTAMALA: I would say that in what we
8 are asking, we also in the process would have
9 District 28 go from plurality black district to majority
10 black district. I want to be clear, we would not
11 impact any other protected groups and not conflict with
12 any of the provisions that have higher priority
13 according to the charter.

14 So, as I mentioned, the expert hired by the
15 districting commission was looking at the wrong --
16 was looking at the federal voting rights act which is a
17 higher standard. We clearly would satisfy what we need
18 to show on the merits. We laid out in the papers what
19 a reasonable opportunity to elect looks like. The
20 prototypical district that was shown by the charter
21 revision commission, we meet those numbers and exceed
22 them in our proposed District 32, which would provide
23 finally fair and effective representation for the
24 Indo=Caribbean Asian community in Richmond Hill South
25 Ozone Park. I do want to talk about the irreparable

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1 harm, your Honor.

2 We claim in our papers that, rightly so, the
3 denial of a right to a meaningful vote is irreparable
4 harm. I do want to quote from one of these cases here.
5 As to irreparable harm, it is well settled, "the claimed
6 deprivation of a constitutional right, such as a right
7 to a meaningful vote, or to a full and effective
8 participation in the political process is in and of
9 itself irreparable harm." That is from the Puerto Rican
10 Defense & Education Fund v. City of New York, 769 F.
11 Supp. 74, and they are quoting from Reynolds v. Sims,
12 377 U.S. 533.

13 So Courts have routinely found that this
14 deprivation of a meaningful vote and of attacking or
15 infringing on the full and effective participation of
16 the applicable process is irreparable harm. And we show
17 in our papers that the districting commission was
18 dealing with Richmond Hill South Ozone Park and actually
19 made things worse. So we are not even in the status
20 quo. They went from a district that could have been
21 improved, but made it worse by dividing it in half.
22 In the neighboring District 32, which was a white
23 plurality district, they actually made it whiter. And
24 in District 28, where they were a black community, they
25 made it a higher black percentage, insuring this

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1 community is going to continue to suffer with unfair
2 redistricting, being splintered into three districts and
3 primarily cut in half along Liberty Avenue.

4 We include in our papers many testimonies
5 of people that testified at the public hearings, and
6 submitted some testimony. I do want to direct you to
7 Exhibit V. That is the letter of Hispanic and South
8 Asian Alliance in South Queens. Your Honor, this
9 literally is a matter of life and death. We just went
10 through the pandemic. We are still going through this
11 COVID-19 pandemic. And I want to quote from a letter
12 that says, "COVID-19 pandemic confirmed none of them,"
13 talking about elected officials in their neighborhood,
14 even brought a single mask, a testing center, not any
15 other much needed COVID come to us, our hard hit
16 community, the hardest hit in New York City. We could
17 not get help from any of them, get unemployment
18 compensation, help us with homelessness, rent
19 assistance, food, PPE, or any other assistance, even
20 though all of these societal problems increased during
21 the pandemic, we could not even get help to bury our
22 deceased.

23 This is the problem with not having
24 representation. It goes much, much further than you
25 know not being able to elect someone. These residual

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1 consequences of not having any resources and no one to
2 go to in the middle of a pandemic, it is literally life
3 and death for this community. So, they will be
4 irreparably harmed. They were one of the last, if not
5 the last community in New York City to have COVID
6 testing sites. Literally had people dying as they were
7 waiting for testing sites.

8 THE COURT: I'm sorry. Excuse me a moment.
9 We opened the windows because I can't tell you how hot
10 it was this morning. I know it is slamming by the wind.
11 If you, if anybody is uncomfortable with that, you need
12 us to close it, we will be happy to do so. That is
13 what is happening. It was so hot in here. We can't
14 control the heat.

15 I apologize if it was distracting you.

16 MR. VATTAMALA: Thank you. So, also I want to
17 address the balance of the equities.

18 THE COURT: Briefly, counsel. I mean --

19 MR. VATTAMALA: Okay. Irreparable harm to
20 the community would last for a decade, right, and even
21 one or two more years is too much for this community to
22 bear. They are not getting any representation. I do
23 want to mention that the remedy we are asking for is
24 not going to affect the entire city. It just that one
25 place in Queens. I do want to mention the city counsel,

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1 city charter provisions 51-H it says, "after
2 commissions, it's final files, it's final plan with the
3 city clerk, pursuant to Subdivision G of the section,
4 provision shall take steps necessary to insure such
5 plan is effectuated, including making such adjustments
6 in it's plan as maybe necessary and appropriate to
7 respond to a determination of a court."

8 So that is contemplated in the charter. I
9 also want to point out the charter commission is 60 days
10 after the general election. That is the term that is
11 listed in New York City charter. It is also mentioned
12 in the charter --

13 THE COURT: Last thought, counsel.

14 MR. VATTAMALA: Okay. That the very last
15 window of time for the districting commission to have
16 submitted a final map was just on Tuesday. It says, in
17 the New York City charter Section 51-F, the latest they
18 could submit a finalized plan is eight months before the
19 general election. That was just two days ago.

20 THE COURT: Okay. Thank you so much.

21 MR. VATTAMALA: Thank you, your Honor.

22 THE COURT: Okay. So, now I would like to hear
23 from respondents.

24 MS. LULICH: Yes, thank you, your Honor. I
25 do want to address some of the merit arguments that

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1 were raised, but first I, you know, our position is
2 that in particular the request for preliminary
3 injunction here is barred by laches, very clearly.

4 This plan was filed November 2nd. The wheels
5 have been moving to make sure the election happens in
6 the manner it is suppose to happen by various city
7 agencies and prospective candidates. So, that is then.
8 In particular, petitioning started a week and a half
9 ago, and the campaign finance board has been disbursing
10 public funds.

11 THE COURT: Counsel, with all due respect.

12 MS. LULICH: Yes.

13 THE COURT: If it is true, and I agree with
14 petitioners that the decision was arbitrary, capricious,
15 and applied the wrong standard, then I don't care if it
16 is simply convenient or late to rectify a situation.
17 That is really -- that is my position on that. If it
18 is wrong, it is wrong, and you have to take care of it.
19 I'm not saying I agree with that. I'm not concerned how
20 inconvenient it might be for the rest of people working
21 on something.

22 MS. LULICH: Understood, your Honor. And I
23 can address the merits if that is --

24 THE COURT: Sure.

25 MS. LULICH: And I do, you know, our papers are

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1 very clear on the laches argument to the extent that
2 your Honor would like to consider that.

3 First of all, to address I think most of
4 the merits argument relies upon the affidavit of
5 Mr. Stevens that was filed on Tuesday. I would like to
6 note that it is very conclusory. He simply asserts that
7 it will not require a change anywhere other than seven
8 districts, which is also still a great number of
9 districts. We do not have his underlying analysis like
10 we do for the commission's expert Dr. Handley, and I --
11 the commission and the court are not required, and in
12 deed should not simply accept the assertion in the
13 affidavit as it is.

14 THE COURT: So, I'm sorry. Let me cut you
15 off. I was surprised when, when this was brought to my
16 attention. It is a two-page affidavit with four
17 additional pages of the districting maps, and it also
18 includes the impacted districts with the adjusted
19 population and demographics.

20 That is not a lot of information to go on to
21 really, so that it can really have an, I guess an
22 educated reply. Like, I mean, you definitely have a
23 right to reply in this situation, but by putting forth
24 a brand new affidavit that is under the law improper as
25 a reply. First off, you are suppose to only be replying

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1 to the information that was submitted in the
2 opposition. So to me this is new information and I'm
3 not sure if you are going there. I would like to hear
4 from their expert in response to your experts so that
5 they can understand what you are saying and come forth
6 with a response to me so I can weigh it and see what
7 would be appropriate. You are basically putting forth
8 new affirmation -- I'm sorry, new evidence and new
9 information in an affidavit in reply, but it is a new
10 argument. If that makes sense. You are responding to
11 what they are saying would effect a wide spread
12 population by limiting it, but not providing the backup
13 information sufficiently for me to understand and make a
14 determination as to what would be the best course of
15 action, if that makes sense.

16 MR. VATTAMALA: Can I respond to that?

17 THE COURT: Sure.

18 MR. VATTAMALA: So, we are responding to the
19 argument that it would have an impact on every single
20 district across the 51 districts. It is simply not
21 true.

22 The little change, that is why we included
23 the percentage of the districts that were not changing,
24 right. There is minimal impact to the surrounding
25 districts. The main district that we are talking about,

Proceedings

1 District 32, right. We've shown our papers. That is
2 what fair and effective representation means. So we
3 lay that out. You are using the correct standard, and
4 the impact on the surrounding districts is minimal.

5 So, that -- this map has already been fully
6 evaluated, and the only infirmity we found was not
7 providing fair and effective representation for the
8 Indo-Caribbean Asian community and the South Ozone Park
9 and Richmond Hill. That is the only thing that needs to
10 be addressed. If this court agrees with us that the
11 standard we laid out is the correct standard, we easily
12 satisfy that, and the surrounding impact to those
13 districts, there is, they are 90 percent, most, we have
14 two or three of them 90 percent, 80 percent, almost
15 unchanged. There is not anything more for their expert
16 to analyze.

17 THE COURT: Okay. Thank you. Have a seat.
18 I'm not sure I agree with you on that. To me, it is
19 new information you are putting forth in an affidavit
20 which is procedurally improper.

21 Go ahead.

22 MS. LULICH: Your Honor, very briefly to
23 respond to that.

24 First of all, a change to seven districts is
25 actually very widespread. I think that is set forth in

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1 the affidavits and affirmations set forth by the City
2 about the effects of even a change to one district,
3 because it, the way the elections happen, the way the
4 maps are considered, that can't happen. It has a ripple
5 effects. Even aside from that --

6 THE COURT: It would entail a lot people
7 already started petitioning. What has it been a couple
8 of weeks now?

9 MS. LULICH: Yes, that is correct. And
10 require any changes in district lines, would require
11 sort of reconfiguring of, from whom they need to receive
12 petitioning signatures and from whom they need to
13 receive donations in order to be eligible for public
14 funds. That particularly for anybody in, any candidate
15 in a district that were changed, they would be in a
16 significant disadvantage.

17 THE COURT: Understand.

18 MS. LULICH: Possibly have to return public
19 funds, and that sort of thing. They would just be
20 behind the rest of the city. I also note any, you know,
21 at this point, any stay in proceeding this election
22 would basically guarantee we would need to have second
23 primary. You know, the impact of that I think is laid
24 out in our affidavits and, you know, it would also cost
25 the City anywhere from twenty to \$30 million to have a

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1 second primary.

2 Even if -- going back to the merits though,
3 petitioners are incorrect that the wrong standard is
4 being used, and I point the Court to a case that was
5 cited in our papers, which is Macchiarola --

6 THE COURT: Spell for the report.

7 MS. LULICH: M A C C H I A R O L A. Would you
8 like the cite?

9 THE COURT: Yes.

10 MS. LULICH: 82 N.Y. 2101, 1993. Along with
11 the other precedent regarding challenges to, just to
12 election districts. It is the arbitrary capricious
13 standard, in order to prevail petitioners would have to
14 show that there is no reasonable basis for the
15 determination to draw the election map as it is
16 currently drawn. I know that the commission certified
17 it. 11 of their members certified that they did, in
18 fact, give proper weight and consider all of the
19 priorities set forth in the charter, including 52.1-B to
20 the maximum extent practicable. That exists to insure
21 the commission does so, and is presumptive evidence
22 that they have done so.

23 I also note that in Dr. Handley who is the
24 expert hired by the commission and quite possibly most
25 prominent districting expert at least in the country,

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1 been certified as an expert witness dozens of times,
2 um, determined that the, the direct in the way that it
3 was set forth in the unity map would not actually give
4 Asian Americans the voting power that petitioners
5 assert, because they would need to be joined in a
6 coalition with other communities of interest and that
7 they had not in recent past elections done so. And so
8 that in and of itself gives a rational basis for the
9 map as it is drawn.

10 But, in addition, if we are able to answer in
11 full, you know, there are hours of public hearings,
12 there are additional public hearings in which Dr.
13 Handley explained her thought process and her report
14 which is part of the record currently, sets forth her
15 statistical analysis of the districts in Queens.

16 So, if what it comes down to is a difference
17 into expert opinions, it is within the commission's
18 purview to make the decision as to which expert opinion
19 if it should follow.

20 I also note that the Turner does not place a
21 stricter standard than the voting rights act. Dr.
22 Handley did do an analysis to insure that we complied
23 with the federal voting rights act, which the city does
24 have to do separate from the charter. But the charter
25 and the -- just on it's face is very clear that the

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1 list of priorities in charter Section 52.1 is
2 important criteria that are to be considered again to
3 the maximum extent practicable, but they are not
4 absolute, and they are not mandatory to the extent that
5 they, there are other considerations that need to
6 happen. And I will point the court to, the other is
7 two subsections of 52-H or 52.2 and three which are
8 mandatory. They use mandatory language and they are
9 about keeping election districts continuous and not
10 separated, those sorts of things, showing that the
11 drafters were using that mandatory language for the
12 other two subsections. For the first subsection, they
13 are important priorities to be considered in the order
14 in which they are listed to the maximum extent
15 practicable, but they are not absolute directives that
16 the commission cannot weigh and consider amongst
17 themselves.

18 THE COURT: Okay.

19 MS. LULICH: Thank you.

20 THE COURT: Thank you very much.

21 Mr. Vattamala, you want to reply?

22 MR. VATTAMALA: In terms of laches, respondents
23 don't cite to a single case that was dismissed on laches
24 that was earlier in the election process. Every case
25 was further along in the process. We filed the case

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1 within the statute of limitation, before petition began,
2 before petition was certified, before ballots were
3 printed, before ballots were sent out. All the cases
4 they are citing were further along --

5 THE COURT: It was the 24th of February when it
6 was uploaded on NYSCEF?

7 MR. VATTAMALA: Yes.

8 THE COURT: Petitioning started?

9 MR. VATTAMALA: The 28th.

10 THE COURT: The 28th.

11 MR. VATTAMALA: Yes.

12 THE COURT: Okay.

13 MR. VATTAMALA: Right. So, every case has
14 been cited by respondents. Was further along in the
15 election process what we brought in. As I mentioned,
16 Section 51-F of the city charter allows for the latest
17 submission from the districting commission to have just
18 this past Tuesday, March 7th, eight months before the
19 general election.

20 I did want to point out the standard here.

21 The Brooklyn Heights case, they were
22 conflicting provisions. What they were asking Brooklyn
23 Heights was for the community of interest to be kept
24 whole. Another conflicting provision in the charter
25 that said, had to be used and they could not split a

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1 sentence block. So there are conflicting provisions and
2 the Court deferred to the judgment of the districting
3 commission. That is not the case here. There is no
4 conflicting provision, in this case. They simply did
5 not follow the prioritized list and applied the wrong
6 legal standard.

7 Dr. Handley specifically did. We recently saw
8 the report of Dr. Handley which we couldn't find before
9 a few days ago, which is prominently now on the website
10 of the districting commission. Where she does
11 specifically look at Richmond Hill South Ozone Park, and
12 again applies the wrong standard, she applies the
13 ability to elect standard section to the voting rights
14 act. I pointed the Court to Page 18 Footnote 6 where
15 respondents say, expert analysis caused into question --
16 quote, "expert analysis calls into question whether
17 petitioners approved election district would even allow
18 the Asian community of Richmond Hill South Ozone Park to
19 elect the candidate of their choice, given that they
20 would not have the majority. It would need to form a
21 coalition with other minority groups."

22 That is the Section 2 coalition district
23 standard. We are not clear -- the commission was very
24 clear. The revision charter revision commission was
25 very clear, they could have said comply with the voting

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1 rights act. They didn't. They go above and beyond.
2 So this is, again, the wrong standard and, the court
3 should not defer to the --

4 THE COURT: Counsel, what I'm a little bit
5 confused about is, was Dr. Handley retained to deal with
6 the federal, compliance with the federal law.

7 MR. VATTAMALA: Yes.

8 THE COURT: She was, right?

9 MR. VATTAMALA: Yes.

10 THE COURT: Now, you are saying the commission
11 relied on that standard, but that was what she was
12 retained to do.

13 MR. VATTAMALA: Right.

14 THE COURT: Discuss that standard.

15 MR. VATTAMALA: That was wrong. That is why
16 they didn't follow the charter.

17 THE COURT: She goes all over the country and
18 tells different entities whether or not they are in
19 compliance with the federal law.

20 MR. VATTAMALA: Right. When federal law is
21 required. What is required here is above and beyond
22 that.

23 THE COURT: Counsel, what I'm -- but I'm not
24 understanding, failing to understand your argument is
25 how you say the commission relied on that standard when

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1 we are discussing Dr. Handley's report. They know they
2 are in New York. They know the right standards under
3 our charter. So, what I'm not understanding is that
4 one report does not mean that is the only thing the
5 commission relied upon?

6 MR. VATTAMALA: There is nothing else that
7 tells us otherwise. There is no other explanation why
8 they did not provide Richmond Hill South Ozone Park
9 with a reasonable opportunity to elect a candidate of
10 their choice. Only thing on the record is whether the
11 districting plans proposed, complied with the federal
12 voting rights act, which again is the wrong standard.

13 THE COURT: Let me ask respondents, anything
14 you can come up with to direct us to, to demonstrate
15 that is not the standard that you used? Was there
16 anything else besides Dr. Handley's report that was,
17 you know, used to for this commissions determination.

18 MS. LULICH: Well, that was not -- they did
19 not use the federal voting rights standard to determine,
20 to consider the charter priorities. They did rely upon
21 her statistical analysis regarding the various districts
22 and voting patterns of those districts in doing so, if
23 that makes sense.

24 THE COURT: It does, but you know Mr. Vattamala
25 is saying there is nothing else to show they didn't rely

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1 on the wrong standard.

2 MS. LULICH: I would say they certified it,
3 and your Honor, can look at the plans and certification
4 as to what steps they took to comply with the charter
5 standards. I apologize. I can point you to the exact
6 paragraph.

7 THE COURT: I have it in front of me.

8 MS. LULICH: Of the plan.

9 THE COURT: Got it.

10 MS. LULICH: Toward the end. They set forth in
11 brief what steps they took in order to comply
12 specifically with the charter, not with the voting
13 rights act.

14 THE COURT: Okay. Okay. Listen, everybody.
15 I will take a look at this. I want to look at it
16 further. I want to take a look at the, you know the
17 numbers on it, and I will get back to you with a
18 decision as quickly as I can. Okay. It will be, I
19 don't want to give you a promise. I will get it done
20 as quickly as I can, and look through everything
21 thoroughly.

22 MR. VATTAMALA: We appreciate the rescheduling
23 and hearing us as soon as you can. This is literally
24 as I mentioned life and death. This should never be
25 allowed to take place in New York City when we have

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1 explicit language in the charter. This was explicitly
2 prohibited by the New York City charter and it should
3 not stand.

4 THE COURT: Thank you so much. I do want to
5 mention to the folks in the audience, I appreciate you
6 being here. I appreciate the exhibits and everything
7 submitted, the paperwork from both sides was very
8 helpful, and we are going to go to work. We will give
9 you a decision as soon as we can. Thank you.

10 MR. VATTAMALA: Thank you, your Honor.

11 MS. LULICH: Thank you.

12 I, Monica A. Martinez, do hereby certify the
13 foregoing to be a true and accurate verbatim
14 transcription of the original stenographic record.

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16 _____
Monica A. Martinez

17 Senior Court Reporter

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CERTIFICATION PURSUANT TO CPLR § 2105

I, Alon Handler, an attorney at law admitted to practice before the courts of the State of New York, hereby certify pursuant to CPLR § 2105 that the foregoing papers constituting the Record on Appeal have been personally compared by me with the originals, and have been found to be true and complete copies of said originals, and the whole thereof, all of which are now on file in the office of the Clerk of the Supreme Court, County of New York.

Dated: December 4, 2023

Latham & Watkins LLP

By:



Alon Handler

Attorney for Petitioners-Appellants