

September 22 2014

Hon. Anthony Leon  
Hon. Francis Hunter  
Hon. Bernard Jackson  
c/o Hon. Brendel Charles  
Ramapo Town Hall  
237 Route 59  
Suffern, NY 10901

Hon. Molly J. Moran, Esq.  
Assistant Attorney General for Civil Rights  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Hon. Chris Herren, Esq.  
United States Department of Justice  
Division of Civil Rights, Voting Division  
Room 7254 - NWB  
950 Pennsylvania Ave., N.W.  
Washington, DC 20530

Dear Assistant Attorney General Moran and Assistant Attorney General Herren:

We are current and former African-American and Haitian-American elected officials from the Town of Ramapo, New York, a diverse community of over 126,000 in Rockland County, New York.

We are writing because of our deep concern that a proposal to divide our town into separate electoral wards from its present at-large voting system uses unconstitutional methods of "packing" and minority vote dilution to reduce if not eliminate the 25% representation that the minority community has had on the Town Board since 1965.

If the opposition, Preserve Ramapo is successful, as a result, this will create a reversal of representation away from the minority community. The Orthodox and Hasidic Jewish communities, in their efforts to maintain representation of wards in the Eastern portion of the Town will pursue electoral success whereby radically removing political minority representation. Today, the unincorporated portions of the Town such as Hillcrest are less affluent both economically and politically and would succumb to losing political representation in the Eastern portion of the Town.

This plan is going before the voters in a townwide referendum on September 30<sup>th</sup>; we request an immediate meeting with you in Washington DC to discuss this radical scheme to divide our town with no study of its impact on minority voters. We need the Department of Justice to speak loudly and vocally about the deep damage this referendum could cause minority voters because of its clear violation of Section II of the Voting Rights Act.

The origin of this referendum is a bitter dispute over development between Orthodox and Hasidic Jewish residents and a political party called Preserve Ramapo. Those issues are real and serious. But it is illegal and egregious to make minority voters pay the price for that fight. The Town of Ramapo has had a minority board member for thirtyfour years which currently represents 25% of the political representation in Ramapo. We cannot go back to the days when minority voters were seen and not represented.

Creating a ward system, especially when coupled with the increased number of Ramapo Town Board members from four (4) to six (6) as proposed, would amount to unlawfully "packing" of the minority population, thereby diluting our voting representation. Enclosed please find a demographic analysis prepared by GeoPolitical Strategies, the firm that most recently drew apportionment lines for the Rockland County Legislature. The firm is neutral and impartial and its recommendations were embraced by Democrats and Republicans.

Currently, the minority population, while only 15.9% of the town population, has 25% representation on the Town Board (one of four); after a ward system is put in place - especially if the number is increased to six from four - there is a very real possibility that there would be no minority members on the Town Board. This is unacceptable and unconscionable for our community, because there has been three elected minorities since 1965. Minority voters would be punished for successful coalition building; minority voters have supported the winner in every townwide election since at least 1965.

The Supreme Court has ruled that the creation of electoral districts must be racially neutral, and the courts must apply the highest level of Constitutional review, strict scrutiny, to the resultant election districts. Shaw v. Reno, 509 U.S. 630 (1993). In Shaw, the Department of Justice determined that North Carolina has submitted an electoral map that was deficient because it has only created a single "majority-minority" congressional electoral district. North Carolina's response was to create a second such district. The problem was that the second district meandered over 160 miles, at times no wider than the highway meant to connect far-flung minority communities.

A narrow 5-4 majority ruled that, in general, election district maps are subject to strict scrutiny. Thus, such maps must pass a stringent three-part test: 1) the map is justified by a compelling government interest; 2) it must be narrowly tailored to achieve the goal of equality in the election process; and 3) the map must be the least restrictive means of achieving that goal. The Court then found that particular district to violate strict scrutiny because it did not pass the three-part test. It noted that separating voters into distinct districts based on their race was the very essence of discrimination that the Constitutional amendments passed after the Civil War granting equality to all regardless of race, color or creed - particularly the Equal Protection Clause in the Fourteenth Amendment - were designed to prevent.

The type of gerrymandering the United States Supreme Court condemned is commonly referred to as "packing" and that is the fatal flaw in Ramapo's ward system. Packing can be defined as the process by which redistricting packs into one or a few districts members of a group in order to dilute their political power. This is precisely what the Shaw Court found so distasteful.

Rockland County, despite the fact that it is not a "covered jurisdiction" under Section 5 of the Voting Rights Act of 1965 (as amended), must nevertheless comply with the basic rules related to reapportionment. Indeed, in 1997 (a very short time ago in voting rights jurisprudence) a federal district ruled after conducting a bench trial that the election map for Rockland County's local legislators was malapportioned and that the improperly drawn map "no longer passes constitutional muster and must give way to prompt reapportionment." Abate v. Rockland County Legislature, 964 F. Supp. 817, 818 (S.D.N.Y. 1997). That court noted that the United States Supreme Court had found permissible an older Rockland reapportionment.

In that case, the district court found that Ramapo residents had the most to lose from the malapportionment in the 1997 case - perhaps why residents from that town, also containing the highest minority population, chose to sue in an ultimately successful effort to overturn the unfair redistricting plan at that time.

Our review of the Town census demographics fully supports the view that we will certainly lose if the current proposal wins the day, and the result is only one of two possible outcomes – either minority voting power will be diluted or completely eliminated.

It is likely that no minority candidates will ever win in a single ward in the Town, since it is impossible, based on historic turnout patterns, to draw a district that will contain sufficient minority voters to be reasonably likely to elect a minority representative. A majority minority district can be achieved only by lumping African American, Haitian American and Latino American into a single district. A white candidate would need only a small percentage of the vote to win a primary election that is tantamount to a certain election victory in this heavily Democratic district. A nearly half-century fight for minority political empowerment in Ramapo that began with the election of our first African-American councilman in 1965 would come to a screeching halt, jeopardizing our voice and vital funding for programs providing a host of African-American and Haitian-American civic and cultural organizations. As well as the future of potential funding for Latino-American organizations. Additionally important, is the safe guard of monitoring fair and equitable funding for the minority communities.

We begin with the assumption that redistricting will utilize the latest available census figures, from the 2010 census. See Reynolds v. Sims, 377 U.S. 533 (1964); Theriot v. Parish of Jefferson, 966 F. Supp. 1435, 1441 (E.D. La. 1997); French v. Boner, 786 F. Supp. 1328, 1329 (M.D. Tenn. 1992). According to the 2010 census, 126,595 people live in the Town of Ramapo. Of those, 20,056, or 15.8 percent of the population, were identified as minorities. Considering that one-quarter, or twenty-five percent, of the voting power on the Town is represented by a minority, means that the Town of Ramapo is one of the few places in the nation where minorities are represented in a higher percentage than their population.

This could all change in a ward system, even if the board is increased to six members, and it is a virtual certainty with only six members and districts. The minority population is spread throughout the Town, thus diluting our power ab initio in any redistricting.

The largest minority population lives within the Village of Spring Valley. Minorities comprise 36.8 percent of the village population. Ironically, a quick look at a map shows that carving a district along the village lines would likely run afoul of the Voting Rights Act because it looks suspiciously like a many-tentacled gerrymandered district – the kind of legislative district the Supreme Court disapproved in Shaw.

Even assuming, arguendo, that it would be permissible to draw such a district, there is no way to guarantee that such a district would send a minority person to the Town Board – a far cry from the past 30 years, where our community's political influence has kept a minority woman on the Board.


Indeed, such a district would disenfranchise voters and their chosen minority candidates who until now have represented them on the Board. Congress recently evinced its legislative intent that the Voting Rights Act was to create rules for redistricting in order to give minorities "the opportunity 'to elect representatives of their choice,' 42 U.S.C. § 1973(b)...." League of United Latin Am. Citizens v. Perry, 548 U.S. 399, 446 (2006).

Here, though, this is not the case. The two minority women who since 1987 have represented the community on the Board did not live in Spring Valley, and in doing so represented the entire Ramapo minority community. The current African-American Town Board member lives three quarters of a mile from the Spring Valley border, and may not even be drawn into a district from which she could get elected. This would violate both the letter and the spirit of the Voting Rights Act.

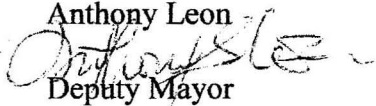
This proposal to address political grievances by changing our town's system of government demands strict scrutiny by the Department of Justice. Members of our community deserve to know how this scheme affects them before we vote and we look forward to your immediate and serious review of our concerns.

Respectfully requested,

Brendel Charles Councilwoman

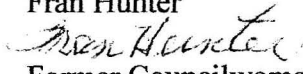
  
Town of Ramapo

Anthony Leon

  
Deputy Mayor

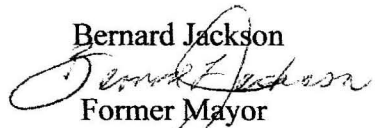
Village of Spring Valley

Fran Hunter

  
Former Councilwoman

Town of Ramapo

Bernard Jackson

  
Former Mayor

Village of Hillburn

CC: Governor David Paterson  
New York State Democratic Party Chair  
Kristen Zebrowski Stavisky  
Rockland Democratic Party Chair