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July 13, 2023

VIA CERTIFIED MAIL

Emily Costanza, Mount Pleasant Town Clerk
Town Clerk's Office
One Town Hall Plaza
Valhalla, NY 10595

Re: Violation of the New York State Voting Rights Act

Dear Town Clerk Costanza:

We are writing on behalf of our clients Kathleen Siguenza, Silvana Tapia, Sergio Fernando Serratto, Anthony Aguirre, and Ida Michael, who are Hispanic voters in the Town of Mount Pleasant, to advise you that the Town's current method of electing Town Council Members, by at-large elections, violates the New York State Voting Rights Act of 2022 ("NYVRA"). If the Town does not cure that violation, we intend to commence an action under NYVRA to compel the Town to elect Council Members by district or other alternative voting systems.

The New York State Voting Rights Act

NYVRA specifically forbids the use of at-large methods of election where the voting patterns of members of a protected class within the political subdivision are racially polarized or where, under the totality of the circumstances, the ability of members of the protected class to elect candidates of their choice or influence the outcome of elections is impaired. N.Y. Elec. Law § 17-206(2)(b)(i).

The Town of Mount Pleasant's at-large voting system satisfies those standards and thus clearly violates NYVRA. An analysis of election data and demographic patterns within Mount Pleasant reveals significant and persistent patterns of racially polarized voting with regards to Hispanic voters and demonstrates that the voting preferences and choices of Hispanic voters differ markedly from those of white voters within the jurisdiction. These disparities have persisted across multiple elections and are not attributable to chance or isolated incidents.

In addition, under the totality of the circumstances, the Hispanic community is less able to elect candidates of their choice and their ability to influence the outcome of elections is impaired. Among other things, not once has Mount Pleasant ever elected a Hispanic candidate to Town office, despite the fact that Hispanic voters constitute 19 percent of the Town's voters. The absence of Hispanic candidates for Town office is further evidence of vote dilution.

The Town of Mount Pleasant May Cure Its Violation

NYVRA provides a safe harbor against judicial action if the Town takes certain actions to remedy its violation. Specifically, if, within 50 days of the mailing of this letter, the Town passes a

resolution affirming: (i) its intention to enact and implement a remedy for its NYVRA violation; (ii) the specific steps it will undertake to facilitate the approval and implementation of such a remedy; and (iii) a schedule for enacting and implementing such a remedy. N.Y. Elec. Law § 17-206(7). If Mount Pleasant passes such a resolution, it will have 90 days after such passage to enact and implement such a remedy. If the Town of Mount Pleasant finds that it does not have authority to enact this remedy, it may submit the proposed remedy to the New York Attorney General's office for approval.

Consequences of Failure to Cure

If the Town does not voluntarily cure its violation of the NYVRA, our clients are prepared to commence litigation against the Town in which the Town will be responsible for both our clients' legal fees as well as its own. N.Y. Election Law § 17-218. The Town will significantly limit the legal fees it will be responsible to pay to the plaintiffs' attorneys fees if it acts promptly to cure the NYVRA violation. N.Y. Elec. Law. § 17-206(7)(e).

Redistricting litigation can be extremely expensive. In *NAACP v. East Ramapo Central School District*, No. 2017-CV-8943 (S.D.N.Y.), the NAACP sued the East Ramapo Central School District under the federal equivalent of NYVRA and forced the School District to draw individual districts for school board elections. East Ramapo ultimately paid at least \$7.2 million in its own fees¹ and \$5.4 million to the plaintiffs for their legal fees.²

The City of Santa Clara, California, paid over \$5.8 million to its own attorneys and to plaintiffs' counsel in a California Voting Rights Act ("CVRA") case.³ Similarly, the City of Palmdale paid out \$4.6 million in attorneys' fees.⁴ In the 20 years the CVRA has been in effect, no California municipality has ever successfully defended itself against a CVRA claim.

Conclusion

Given the historical lack of Hispanic representation on the Mount Pleasant Town Council, the presence of racially polarized voting, and other indicia of the disenfranchisement of the Hispanic community, we urge the Town to change its at-large system voluntarily. Our goal is to bring about the fair electoral process in the Town of Mount Pleasant that the NYVRA act requires. To that end, we will be happy to work with the Town to bring it into compliance. If the Town does not take voluntary steps to achieve compliance, however, we will have no choice but to seek judicial relief. Please advise us no later than August 18, 2023, as to the Town's decision.

¹ Thomas C. Zambito, JOURNAL NEWS, *East Ramapo wants to cut NAACP legal fees to \$1, if not teachers could be fired* (Jan. 13, 2021), <https://www.lohud.com/story/news/local/rockland/2021/01/13/east-ramapo-wants-trim-naacp-legal-fees-warns-firings/4148743001/>.

² Nancy Cutler, JOURNAL NEWS, *Voting rights lawyers blast how East Ramapo wants to pay court-demanded \$5.4M payment* (July 8, 2021), <https://www.lohud.com/story/news/local/rockland/2021/07/08/naacp-school-board-diversity-lawsuit/7887398002/>.

³ Carolyn Schuk, THE SILICON VALLEY VOICE, *Final Verdict: Twice-Lost Voting Rights Lawsuit Cost City Nearly \$5.8 Million* (Apr. 21, 2021), <https://www.svvoice.com/final-verdict-twice-lost-voting-rights-lawsuit-cost-city-nearly-5-8-million/>.

⁴ Perry Smith, SCV NEWS, *Palmdale Out \$4.6 Mil. To Settle Voting Rights Lawsuit* (May 7, 2015), <https://scvnews.com/palmdale-out-4-6-mil-to-settle-voting-rights-lawsuit/>.

ABRAMS FENSTERMAN, LLP



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1. Article Addressed to:

*Ms Emily Constanza
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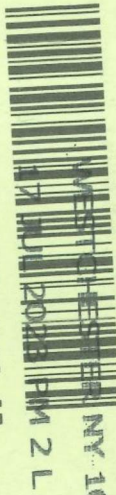
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