

10-24-2022

## October 24 Roundtable Update

Marissa Zanfardino  
marissa.zanfardino@law.nyls.edu

Jeffrey M. Wice  
New York Law School, jeffrey.wice@nyls.edu

Piper Benedict  
piper.benedict@law.nyls.edu

Peter Friedrichs  
peter.friedrichs@law.nyls.edu

Follow this and additional works at: [https://digitalcommons.nyls.edu/redistricting\\_roundtable\\_updates](https://digitalcommons.nyls.edu/redistricting_roundtable_updates)

---

### Recommended Citation

Zanfardino, Marissa; Wice, Jeffrey M.; Benedict, Piper; and Friedrichs, Peter, "October 24 Roundtable Update" (2022). *Redistricting Roundtable Updates*. 70.  
[https://digitalcommons.nyls.edu/redistricting\\_roundtable\\_updates/70](https://digitalcommons.nyls.edu/redistricting_roundtable_updates/70)

This Article is brought to you for free and open access by the NY Census and Redistricting Institute at DigitalCommons@NYLS. It has been accepted for inclusion in Redistricting Roundtable Updates by an authorized administrator of DigitalCommons@NYLS.



## **NEW YORK REDISTRICTING ROUNDTABLE UPDATE**

### **Buffalo City Council Map Challenged**

On October 18<sup>th</sup>, a group of residents and civic organizations filed a complaint in Erie County Supreme Court against the Buffalo Common Council, challenging the city's redistricting plan (*Our City Action Buffalo, Inc. v. Common Council of the City of Buffalo*). Petitioners allege that the redistricting process, as completed by the city and its Citizens Advisory Commission on Reapportionment, failed to meet the basic requirements of the law.

Petitioners allege that the City failed to perform its duties under the City Charter and state law, including the failure to (1) appoint the Citizens Commission in a timely manner; (2) notify the public about Commission meetings; (3) record and broadcast meetings; (4) receive a report from the Commission; (5) consider the plan proposed by the Commission; (6) and adopt a plan that meets requirements of the law. Additionally, Petitioners argue that the city deprived the public of meaningful notice and participation in the process by ending the time for public comment when the Citizens Commission finished its work. Petitioners allege that the City created a process and result that is arbitrary and capricious and amounts to an abuse of discretion. Additionally, they allege the city violated the state Public Officers Law by only publicizing one out of five commission meetings in advance and failing to make the minutes from the meetings available to the public. Furthermore, they note that the ability to fully assess whether the city ensured that the commission abided by this law was only enabled after June 21, 2022, when the Common Council's "Redistricting" webpage was created. They also reference an ambiguity between the City Charter and state law regarding the effective date of the redistricting legislation.

Petitioners ask the court to annul the redistricting plan, direct a new redistricting process that "allows public participation and observation, and creates reports," as required by state law and the City Charter," and confirm the effective date of any legislation passed in accordance with relevant law.

### **Village and Elected Officials Challenge Town of North Hempstead Map**

On October 14, a group of plaintiffs, including the Mayor of the Village of Mineola, the Village of Mineola, a resident of District 5, and two members of the North Hempstead Town Board, filed a federal district court complaint in the Eastern District against the Town of North Hempstead challenging the Town's recently adopted redistricting plan (*Periera v. Town of North Hempstead*).

Plaintiffs argue the redistricting process resulted in partisan gerrymandering favoring Democrats. Additionally, they allege that (1) the districts are less compact than they should be and less compact than they were previously; (2) the plan needlessly splits the Village of Mineola

and other Census Designated Places; and (3) the plan unlawfully, and unrelated to advancing any redistricting standard, swaps the district numbers for Districts 4 and 5. Due to the Town Board's staggered election system, Plaintiffs allege that changing the district numbers results in a shortened term for Republican Councilman David Adhami (Plaintiff) and has the effect of "retroactively invalidating the votes of innumerable Town residents that cast their votes with the...expectation of the term of office of their chosen representative." Furthermore, that this change would result in certain voters having the opportunity to vote twice in two years, while others would only have the opportunity to vote once in a six-year period. Plaintiffs allege that the net result of the redistricting plan violates equal protection and state law barring partisan gerrymandering.

Plaintiffs argue the plan is unlawful, invalid, and unconstitutional. They ask the court to declare the plan null and void and enjoin Defendants from implementing or enforcing the plan.

### **Petitioners Appeal in *Nichols* and *Hoffmann* Cases**

On October 17, Petitioners Paul Nichols, Gavin Wax, and Gary Greenberg appealed to the Appellate Division, First Department, from the September 29, 2022 Decision and Order in the case. In that decision, Judge Love ordered that the Independent Redistricting Commission shall be reconstituted to prepare an Assembly plan to present to the legislature for a vote.

On October 17, Petitioners Anthony S. Hoffmann, Marco Carrión, Courtney Gibbons, Lauren Foley, Mary Kain, Kevin Meggett, Clinton Miller, Seth Pearce, Verity Van Tassel Richards, and Nancy Van Tassel appealed to the Appellate Division of the Supreme Court, Third Judicial Department. This appeal follows the September 12, 2022 decision by Judge Lynch in the Supreme Court, County of Albany. In this decision, Judge Lynch ordered that there was no enforceable remedy available to the Petitioners to limit the 2022 Congressional redistricting map to the 2022 election, nor to compel the IRC to submit a second redistricting plan corresponding to the 2020 federal census.

### **Monroe County Legislature Approves Questionable Map**

The Monroe County Legislature approved a new county legislative map that now goes on to County Executive Adam Bello for approval or rejection. The map, as proposed by Democratic Legislator Rachel Barnhart and supported by the legislature's GOP members, creates 5 minority districts. County Executive Bello proposed his own plan that creates 5 minority districts and an additional opportunity district that avoids overly packing the Barnhart/GOP's plan with minority voters (that might trigger a 14<sup>th</sup> Amendment racial gerrymandering lawsuit). The County Executive has a month to make a decision.

### **Detroit, MI Sues Census Bureau Over Population Estimates**

The City of Detroit has sued the US Census Bureau over its 2021 population estimate. Detroit suffered a population decline of 73,866 between the 2010 and 2020 Census. The 2021 population estimate showed a further decrease of 7,150 residents. With no administrative procedure to challenge the estimate, Detroit filed a complaint in the Eastern District of Michigan on September 20. In support of its claim, Detroit has provided utility data and USPS address

information demonstrating a population *increase* since 2020. You can view the complaint here: <https://www.courthousenews.com/wp-content/uploads/2022/09/detroit-census-lawsuit.pdf>. Mayor Duggan's press release is available here: <https://detroitmi.gov/news/city-files-federal-lawsuit-challenging-2021-us-census-population-estimate>.

## Submit Your Ideas for the 2030 Census

For the first time, the Census Bureau is seeking ideas for the planning and design of the decennial census. Some of the key lessons learned so far from the 2020 Census include:

- Historically undercounted populations such as children, and racial and ethnic minorities (Hispanics, Blacks, American Indians living on reservations, immigrants) continue to be difficult to count, and the pandemic only exacerbated the challenge. Moreover, the level of success the Census Bureau was able to obtain was in large part due to their dedicated national, state and local community partners who worked tirelessly alongside us.
- Doing a better job enumerating people residing in group quarters (such as college or university student housing, correctional facilities, nursing facilities, military quarters, and shelters for people experiencing homelessness). The Census Bureau seeks a better list of group quarters facilities, as well as more partnerships with those facilities and organizations associated with them.
- The Census Bureau need to have a quicker, more efficient response processing operation. Waiting until the end of data collection hinders ability to address quality issues – not to mention that it delays the release of data products.

The final day for submitting your input is November 15, 2022. You can respond by:

- Emailing your comments to [DCMD.2030.Research@census.gov](mailto:DCMD.2030.Research@census.gov), or
- Online via the Federal Register Notice (available on our website at [Census.gov/2030census](https://www.census.gov/2030census)).

## Upcoming Redistricting Hearings

### Nassau County

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

Oct. 26 in Elmont Memorial Library at 700 Hempstead Turnpike, Elmont, NY 11003