

EXHIBIT 3



Advisory Opinion No. 2008-7 (November 3, 2008)

SUMMARY

On November 3, 2009, Mayor Bloomberg signed Local Law No. 51 (2008), extending term limits from two terms to three for current elected officials. The Board is issuing this advisory opinion to address the impact of this legislation on two groups of candidates subject to the provisions of the Campaign Finance Act: (1) Candidates with reported activity who now will seek re-election to their incumbent offices in 2009, instead of the higher offices they anticipated seeking in 2009; and (2) Candidates with reported activity who will no longer run in 2009, but will seek office in 2013. The Board interprets the Act and Rules to permit Group 1 candidates to either “restart” the 2009 election by “freezing” the original committee and opening a new one for 2009, applying a 15 percent fundraising expenditure to the 2013 expenditure limit, or maintain the same committee for 2009 and allocate expenditures between the aborted 2009 campaign and the 2009 re-election campaign. Group 2 candidates may maintain the same committee for 2013 and apply a 15 percent rate of expenditures for funds raised prior to the 2013 election cycle towards the 2013 expenditure limit. The Board's interpretation of the relevant law, as outlined in this Opinion, attempts to make it practical for all candidates who wish to join the Program to do so, to treat both incumbents and potential challengers in 2009 and 2013 fairly, and to encourage competitive races for all offices covered by the Program.

FULL TEXT

Re: New York City Administrative Code (“Admin. Code”) §§ 3-703(1)(d), (e), (f), (g), (14), 3-705, 3-706, 3-708(11), 3-710(2)(c), 3-718, 3-719; New York City Campaign Finance Board Rules (“Rules”) 1-04(f), 1-07, 1-08(c), (o), 3-03(c)(2), 4-01; Advisory Opinion Nos. 1993-7 (July 20, 1993), 1997-6 (June 24, 1997), 2001-12 (September 20, 2001), Op. No. 2008-7.

Overview

Today, Mayor Bloomberg signed Local Law No. 51 (2008) which extends term limits for current elected officials. This unprecedented change in the electoral landscape less than one year prior to the primary elections compels the New York City Campaign Finance Board (the “Board”) to provide guidance concerning the legislation's effect on candidates subject to the provisions of the Campaign Finance Act (the “Act”).¹ Given this significant change in the law, there are numerous legal and practical implications for many current and potential candidates – incumbents and challengers alike. The Board is issuing this advisory opinion (the “Opinion”) to address the impact of this legislation on two groups of candidates:

1. **Group 1:** Candidates with reported activity who now will seek re-election to their incumbent offices in 2009, instead of the higher offices they anticipated seeking in 2009;
2. **Group 2:** Candidates with reported activity who now will not run in 2009, but will seek office in 2013.

This Opinion is restricted in its application. It only applies to these two groups of candidates. It does not apply to those

candidates who choose to continue to run for the same (or higher) office that they were planning on running for prior to the passage of this legislation. This Opinion also does not apply to those who have not had any financial activity as of the date of issuance of this Opinion. It also does not apply to candidates who otherwise would fall into Group 1 but who fail to make a timely choice of Option A or B.²

Specifically, the Board interprets the Act and its Rules to:

1. Allow "Group 1" candidates to choose between two options:
 1. "Restart" the 2009 election by freezing their current committee until the 2013 election cycle, and opening a new committee for the 2009 election; all expenditures incurred prior to the issuance of this Opinion, except those associated with fundraising (as defined below), will not count towards the 2009 re-election campaign or the 2013 election; or
 2. Use their current committee for the 2009 election to his/her current office; return over-the-limit contributions; all expenditures incurred will be allocated between the aborted 2009 campaign and the 2009 re-election campaign.
2. Allow "Group 2" candidates to keep the committee that was originally established for 2009 to instead be used for a 2013 election. All expenditures incurred prior to January 12, 2010, except those associated with fundraising, will not count towards the 2013 election.

This approach falls within the Board's mandate, effectuates the law's purpose, and encourages participation in the Campaign Finance Program (the "Program") by not penalizing candidates for changing their plans at this late date in the election cycle in light of this extraordinary legislation.³ The Board has solicited and taken into account comments from the public.⁴ The Board acknowledges that this Opinion cannot anticipate every possible situation that candidates affected by this change may face. Candidates with circumstances that are not covered by this Opinion are encouraged to promptly contact the Board's Candidate Services Unit for further guidance.⁵

INTRODUCTION

On October 23, 2008, the New York City Council passed legislation extending term limits from two terms to three for current elected officials, allowing such candidates to run for their incumbent seats in the 2009 general election. As a result of this unique circumstance, there are significant legal and practical issues, as well as issues of fairness, that the Board needs to consider in interpreting and applying the Act. The extension of term limits three years into the 2009 election cycle creates an unprecedented challenge for the Board.

As a result of this legislation, many candidates may no longer choose to run in the 2009 election or may choose to run for a different office than that for which they have been raising and spending money. The biggest challenge is that the Board's rules presume that all contributions and spending are for a candidate's next election. At this late point in the election cycle, a substantial number of candidates have received many contributions at a higher limit than will apply if they run for a "lower office." More importantly, many candidates have spent well over the total expenditure limits for the "lower office."

The Board's interpretation of the relevant law, as outlined in this Opinion, attempts to make it practical for all candidates who wish to join the Program to do so, to treat both incumbents and potential challengers in 2009 and 2013 fairly, and to encourage competitive races for all offices covered by the Program. The Board strongly believes that the ultimate "level playing field" is achieved through Program participation, and the approach outlined in this Opinion strives to reach this goal, to the overall benefit of all candidates and the public.

I. Group 1 Candidates:

Candidates Must Provide Proof That They Were Previously Seeking Higher Offices

The first group of candidates affected by the change in term limits, herein referred to as “Group 1,” are those candidates who had raised and spent money for a campaign for higher office but now are intending to seek their lower incumbent office. These Group 1 candidates have two options (described below).

To avail themselves of these options, these candidates must show that they were originally running for a higher office in 2009, but now that term limits have been extended, they will run for re-election. For candidates choosing Option A, this showing will allow them to overcome the presumption in the rules that contributions and spending are for the next election and to receive the favorable treatment for contributions and spending that this Opinion provides. *See e.g.*, Rules 1-04(f) (contributions), 1-08(c) (expenditures), 7-03(c) (both); *see also* Advisory Opinion Nos. 1997-6 (June 24, 1997) (the “Ferrer Opinion”), 1993-7 (July 20, 1993).⁶ For candidates choosing Option B, each candidate will have to overcome the presumption by demonstrating that each expenditure did not benefit his/her re-election campaign. *See* Ferrer Opinion.

Candidates who wish to choose Option A or B must provide a written submission to the Board of the following: (1) a prior declaration to the Board of the higher office sought; or (2) other indicia that they were seeking higher office, including but not limited, to: (a) candidate solicitation and/or receipt of contributions at a higher contribution limit, or (b) prior public statements by the candidate in the press or through publicly distributed material demonstrating an intent to run for a higher office.

Given that it is late in the election cycle, the deadline for submission of this proof is January 15, 2009.⁷ By this date, candidates must submit this form, attaching any relevant evidence; this same form will also require candidates to choose Option A or B.⁸ By setting an early deadline the Board hopes to ensure a reasonably level playing field for candidates and their opponents. This deadline also provides clarity for the public and candidates, avoids additional disclosure deadlines which apply beginning the year of the election, and provides a bright line for Board administration and audit.

The filing of this form does not obligate the candidate to run for the “lower” or any office. However, if the candidate does not ultimately run for the lower office this Opinion does not apply. Such candidates are encouraged to seek further guidance.

A. Option A: Restart the 2009 Election Campaign

Group 1 candidates may choose to “restart” the 2009 election by “freezing” their original committees, and opening a new committee for their 2009 re-election campaign. The original committee must remain “frozen” until January 12, 2010, the beginning of the 2013 election cycle. The candidate would start the 2009 election with no funds and no expenditures except as provided below. Option A optimizes the goal of ensuring Program participation in both the 2009 and 2013 elections.

Candidates will be allowed to make only ministerial transactions, such as bank fees, from these “frozen” committees.⁹ All outstanding debts for services or goods incurred prior to the issuance of this Opinion must be settled before a candidate “freezes” his/her committee.¹⁰ Candidates who wish to preserve previously raised matchable claims for the 2013 election must choose Option A.

1. Reporting Requirements

Candidates will be required to file disclosure statements for both the “frozen” 2009 committee and new 2009 committee, if applicable, on January 15, 2009 (covering the period through January 11, 2009). Thereafter, the “frozen” 2009 committee will file semi-annual disclosure statements with the Board of Elections (“BOE”), until the first disclosure statement for the 2013 election cycle.¹¹ The new 2009 committee will file with both the Board and the BOE as required for any 2009 committee.

2. Contributions

Candidates may keep contributions made prior to the issuance of this Opinion in the original 2009 “frozen” committee. These contributions in the “frozen” committee would be eligible for matching funds for a 2013 election. *See* Rule 1-07

(a). Contributors may make contributions to the new 2009 committee up to the applicable limit for the 2009 election for the office the candidate is now seeking,¹² even if such contributors have already contributed to the “frozen” committee. The “Doing Business Law”¹³ now in effect will apply to all contributions.

3. **Expenditures**

Most expenditures by the original 2009 committee prior to issuance of this Opinion will not be applied to the new 2009 re-election committee; nor will they be applied to the future 2013 election¹⁴ (except as detailed below). Expenditures made by the original 2009 committee between November 3, 2008 (the date of the issuance of this Opinion and the effective date of Local Law No. 51)¹⁵ and the “freezing” of this committee will count towards the 2009 expenditure limit.¹⁶ See Admin. Code § 3-706(2).

Notwithstanding this, certain costs associated with funds raised by the committee for the aborted 2009 election will count against the candidate's spending limit for the 2013 election. Under this option, candidates are freezing the original 2009 committee, and thus, will be using the funds raised for the aborted election campaign for a 2013 election. Since the candidate clearly will “receive[]” the benefit of the funds raised in 2013, the cost of raising those funds must count towards the 2013 spending limit. See Admin. Code § 3-706(1), (2); Rule 1-08(b); cf. Admin. Code § 3-703(14)(b); Rule 3-03(c)(2) (requiring an allocation of cost for transfers). In order to ensure as fair and efficient a process as possible, the Board will calculate the fundraising expenditure by assessing a 15 percent flat rate¹⁷ of the total amount of funds on hand in the candidate's frozen committee on January 11, 2009.¹⁸ If the 15 percent allowance is greater than the campaign's total spending before the issuance of this Opinion, only the lower total amount will apply.¹⁹

If the committee for the 2009 re-election campaign wishes to use any goods (*e.g.*, computers, office equipment, furniture, supplies, lists) that were originally purchased by the committee for the aborted 2009 campaign, the new committee must purchase the goods from the original committee. The goods must be purchased at the same prices that were paid by the committee for the aborted 2009 election, and such purchases will count towards the candidate's spending limit for his/her 2009 re-election campaign. Admin. Code § 3-706(1), (2); Rule 1-08(b). Such purchases must be made prior to the deadline for “freezing” the original committee, January 15, 2009.

Candidates who choose Option A, but fail to actually “freeze” their committees (*i.e.* continue to engage in committee activity) lose the ability to take advantage of any benefits provided by Option A.

B. Option B: Maintain Current Committee for 2009 Election

Group 1 candidates may choose to continue to use their current 2009 committees.²⁰

1. **Reporting Requirements**

Candidates will continue to report activity in the same manner as previously.

2. **Contributions**

All candidates must abide by the contribution limit for the 2009 office s/he is seeking.²¹ Admin. Code § 3-703(1)(f). If a contribution exceeds the legal contribution limit for the incumbent office sought, the over-the-limit portion must be returned to the contributor. The deadline for returning over-the-limit portions of contributions is June 10, 2009, the Program certification deadline.²² Contributions returned by this date will not be subject to findings of violation by the Board. Funds in the committee which comply with applicable contribution limits and other rules will be eligible to be matched with public funds for the 2009 election. Admin. Code §§ 3-703, 3-705.

3. **Expenditures**

Expenditures will be reviewed on a case-by-case basis. The Board rules presume that expenditures are for the next

election. Rules 1-08(c), 7-03(c). Expenditures made by a candidate who subsequently abandons his/her campaign for a higher office and seeks re-election to a lower office are “presumptively subject to the [lower office] spending limit,” with certain exceptions. Ferrer Opinion.²³

The Board's presumption functions as the starting point for determining which, if any, of a candidate's expenditures are not subject to the spending limit for the lower office. *Id.* Expenditures will not count towards the 2009 election to the candidate's current office if the candidate can overcome this presumption by demonstrating that such expenses were actually used for the aborted 2009 campaign, with no or minimal benefit to the candidate's 2009 re-election campaign. Apportionment of expenditures will be based on the standards applied in the Ferrer Opinion. Candidates who choose Option B will face a heavy burden in demonstrating that the spending they have already incurred should not count towards their re-election campaigns. *See* Ferrer Opinion²⁴; *see also* Advisory Opinion No. 1993-7 (July 20, 1993). Therefore, when deciding whether to choose Option B, a candidate should consider that most expenditures incurred by the original 2009 committee for the higher office will likely apply to the new 2009 re-election campaign.

Once a candidate files the requisite form indicating s/he would like to pursue Option B,²⁵ which must be submitted to the Board by January 15, 2009, the Board will immediately begin the process of apportioning expenditures based on the Ferrer Opinion. The Board will complete this analysis by the May 15, 2009 filing date and inform the candidate of the total amount of expenditures that will apply to the spending limit for the 2009 election.

II. Group 2 Candidates

The other group of candidates affected by this legislation and covered by this Opinion are those candidates who have been running an active 2009 campaign, but now choose to delay running until 2013. In order to qualify as a member of this group, a candidate must have activity reported or required to be reported on the January 15, 2009 disclosure statement. These candidates may use the same committee that was originally intended for a 2009 election for the 2013 election. This committee can remain active.²⁶

1. Reporting Requirements

The committee must file the January 15, 2009 disclosure statement to report activity during the period of July 12, 2008 – January 11, 2009. It must also continue to file any additional mandatory disclosure statements until the committee files a termination of candidacy form with the Board.²⁷ To receive the benefits of this Opinion, a candidate must file a termination of candidacy form by June 10, 2009, the certification date. Thereafter, the committee will report only to the BOE until the first Board disclosure statement of the 2013 election cycle, in which the committee will report all activity from the start of the committee's existence.²⁸

2. Contributions

The 2013 contribution limit applies to the 2013 election; a contributor can only contribute to the committee within the legal limits. Funds in the committee will be eligible for public matching for a 2013 election.

3. Expenditures

Except for expenditures associated with fundraising, committee expenditures made for the aborted 2009 election will not count towards the 2013 expenditure limit.²⁹ Only expenditures made from January 12, 2010 onwards will count towards the 2013 election cycle. *See* Admin. Code § 3-706(1), (2); Rule 1-08(c). Since candidates will be using the funds previously raised for the aborted election campaign for the 2013 election, costs associated with raising those funds incurred by the committee for the aborted 2009 election will count against the candidate's spending limit for the 2013 election. *See* Admin. Code § 3-706(2). Again, in order to ensure as fair and efficient a process as possible, the Board will calculate the fundraising allocation by assessing a 15 percent flat rate of the total amount of funds in the committee on January 11, 2010.³⁰ If the 15 percent allowance is greater than the campaign's total spending before the issuance of

this Opinion, only the lower total amount will apply.

CONCLUSION

Given the unique circumstances presented by the legislation extending term limits, the Board has issued a plan that provides a legal, practical, and fair course of action.³¹ The Board's conclusions, resting on its interpretation of the Campaign Finance Act, are supported by the Board's power to take actions "necessary and proper to carry out the purposes of [the Act]." Admin. Code § 3-708(11); see Advisory Opinion No. 2001-12 (September 20, 2001). In the face of this significant legislative change, the Board's plan addresses the practical implications of the term limits extension, while maintaining the integrity and purpose of the Program and the law.

NEW YORK CITY CAMPAIGN FINANCE BOARD

¹ All candidates running for one of the five covered offices—mayor, comptroller, public advocate, borough president, city council member—are subject to the Act's contribution limits, ban on certain contributions, and reporting requirements. See Admin. Code §§ 3-703, 3-718, 3-719.

² This Opinion also does not apply to candidates in future elections who never sought office in 2009 or did not have any reported committee activity in the 2009 election cycle; nor does it permanently alter how the Board normally administers the Program and conducts Board business.

³ Local Law No. 51 (2008). In the event that Local Law No. 51 does not survive litigation challenges or fails to obtain the requisite federal pre-clearance, the Board will re-evaluate the application of this Opinion. See Voting Rights Act of 1965, § 5, 42 U.S.C. § 1973c (requiring pre-clearance for any attempt to change "any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting" in any "covered jurisdiction").

⁴ On October 14, 2008, the Board issued a press statement seeking comments from the public on how to address these issues. On October 17, 2008, the Board released an outline of its proposal and requested further comment from the public. On October 23, 2008, the Board issued a press statement seeking comments from the public until October 28, 2008, and informing the public of the Board's intention to issue an advisory opinion addressing these issues on November 3, 2008.

⁵ The Board will release a plain language document that explains this Opinion and gives detailed guidance to candidates on how to implement the advice herein for their campaigns. This guidance document will be available on the Board's website at www.nycffb.info and will be sent via e-mail from the Board to all candidates and their treasurers.

⁶ For campaigns choosing Option A, which requires them to re-start their 2009 campaigns with no funds and no expenditures, the Board interprets that funds expended prior to the passage of Local Law No. 51 were for the election for higher office. Such expenditures, except those associated with raising funds, will provide no or minimal benefit to these candidates' 2013 election.

⁷ The filing of this form on this date coincides with the filing of the mandatory disclosure statement that is also to be filed with the Board on January 15, 2009. If a candidate does not make this showing and file this form by January 15, 2009, then the candidate cannot take advantage of Option A or B.

⁸ This form will be available on the Board's website at www.nycffb.info and will be sent via e-mail from the Board to all candidates and their treasurers.

⁹ Any payments for bookkeeping services and preparation of applicable disclosure statements for the "frozen" committee can be made by the new 2009 committee for the "lower" office and will count towards the applicable 2009 expenditure limit. See

Admin. Code § 3-706(1), (2); Rule 1-08(b). These expenditures, however, are not related to the 2009 campaign and thus will be deducted when calculating the 2009 unspent campaign funds. *See* Admin. Code § 3-710(2)(c); Rule 1-02 (definition of “unspent campaign funds”).

¹⁰ If a candidate fails to do so, then payment of such debts can be made by the new 2009 committee for the “lower” office and will count towards the applicable 2009 expenditure limit. *See* Admin. Code § 3-706(1), (2).

¹¹ The Board's C-SMART software allows candidates to file these statements with both the City and State BOE.

¹² *See* Admin. Code § 3-703(1)(f).

¹³ *See* Admin. Code §§ 3-702(18), 3-703 (1-a), (1-b); Rule 4-01(n).

¹⁴ There is no spending limit for the 2013 election cycle that ordinarily would apply to spending made before 2010. *See* Admin. Code § 3-706(1), (2).

¹⁵ In order to avoid potential unfairness, the Board, in the course of its normal audit functions, will evaluate expenditures incurred between October 17, 2008 (the date the Board issued its Opinion guidance document) and November 3, 2008 to determine if these expenditures, due to their amount and nature, should be allocated to the 2009 election for “lower office.”

¹⁶ Payments made by the original 2009 committee to settle outstanding debts incurred by that committee prior to the issuance of this Opinion will not count towards the 2009 spending limit provided that the campaign can adequately document the date these debts were incurred.

¹⁷ The Board acknowledges that 15 percent might not be a perfect replica of any particular candidate's actual spending on fundraising. 15 percent is a reasonable approximation of the standard fee charged by professional fundraisers. In the interests of clarity and certainty for candidates and the Board's audit process, the Board uses this allocation.

¹⁸ All candidates are subject to ongoing auditing of their campaign finances. *See* Admin. Code §§ 3-703(1)(d), (g), 3-710(1); Rules 4-01, 4-05. During this audit process, the Board will evaluate expenditures, including the amount of funds in the committee on January 11, 2009, for compliance with this Opinion to ensure full enforcement of the Campaign Finance Act.

¹⁹ For the 2013 elections there are three applicable spending limits—the limit for the three years prior to the year of the election (the “out-year limit”), the primary limit, and the general election limit. *See* Admin. Code § 3-706(1), (2); Rule 1-08(b). The fundraising allowance will count towards the out-year limit.

²⁰ Based on a review of the actual disclosures to date, it is the Board's belief that few candidates can choose Option B and still participate in the Program.

²¹ The contribution limits apply to all candidates for a covered office even if they choose not to participate in the Program.

²² The refund of any over-the-limit portion of a contribution must be made by bank or certified check. Rule 1-04(c)(1). This Opinion does not address the deadlines for returning contributions which are subject to the “doing business” limits.

²³ The Ferrer Opinion apportioned expenditures between Fernando Ferrer's 1997 abandoned mayoral campaign and his Bronx borough presidential campaign. The Board found that most expenditures incurred for the abandoned mayoral campaign applied towards the Bronx borough presidential campaign. The noted exceptions included spending for polls and research for higher office, salaries for the higher office campaign staff, cost of campaign offices and equipment outside of the lower office geographical area, and costs of announcements, literature and events for the higher office, as long as the candidate was able to

demonstrate there was no benefit or even ancillary benefit to the campaign for lower office. *See Ferrer Opinion.*

²⁴ Costs that were attributed to the lower office expenditure limit in the Ferrer Opinion include all fundraising costs, most contributions to other candidates and political organizations, any staff salaries, offices and equipment which provided a benefit to the campaign for lower office, and a proportional allocation of costs for public events and communications for the higher office. *See Ferrer Opinion.*

²⁵ This form will be available on the Board's website at www.nyccfb.info and will be sent via e-mail from the Board to all candidates and their treasurers.

²⁶ Note that many of the assumptions outlined in Section II do not apply if this committee is used in an intervening election, *e.g.*, an election for state office. The methodology outlined in Section II also does not apply to any special elections the candidate may run in in the 2009 or 2013 election cycles.

²⁷ Disclosure statements are due on March 15, 2009 and May 15, 2009; if the candidate does not file a termination form prior to the start of these disclosure periods, s/he must file that statement. The termination of candidacy form will be available on the Board's website at www.nyccfb.info and will be sent via e-mail from the Board to all candidates and their treasurers.

²⁸ Campaigns may use the Board's C-SMART software to make their filings with the City and State BOEs. The Board's Candidate Services Unit is available to assist candidates.

²⁹ *See supra* n.14.

³⁰ *See supra* n.18.

³¹ This Opinion cannot anticipate every possible situation that candidates affected by this change may face. The Board strongly encourages candidates with circumstances that are not covered by this Opinion to promptly contact the Board's Candidate Services Unit for further guidance.

EXHIBIT 4



LAW DEPARTMENT

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December 19, 1996

Elizabeth Johnson, Esq.
Chief, Voting Section
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Re: Submission under Section Five of the Voting Rights Act for Preclearance
of Chapter Fifty of the New York City Charter

Dear Ms. Johnson:

In accordance with the provisions of the Voting Rights Act, we submit for preclearance Chapter 50 of the New York City Charter, enacted by Local Law Number 94 for the Year 1993, entitled "A Local Law to amend the New York city charter, in relation to the establishment of term limits for various elected officials". (A copy of Local Law Number 94 is attached as Exhibit A.) This legislation limits the number of consecutive terms that can be served by elected officials of New York City. The submitting authority and the jurisdiction responsible for implementation of Local Law Number 94 is the City of New York. Although the legislation has been enacted, elected officials will not be required to relinquish office under its provisions until January 1, 2002.

BACKGROUND

Section 37 of the New York State Municipal Home Rule Law ("MHRL") establishes a process for amending a city charter by means of a proposal placed on the ballot by qualified electors of the city. That process, pursuant to which the subject legislation was enacted, is not subject to preclearance because MHRL section 37 was enacted prior to the enactment of the Voting Rights Act and the determination that three of the five counties in New York City (Bronx, Kings and New York) are covered jurisdictions. (MHRL section 37 was enacted in 1963 and has never been amended. The text of MHRL section 37 is attached as Exhibit B.)

The first step in the process set forth in MHRL section 37 is the submission to the City Clerk of an initiative petition signed by 30,000 qualified voters who were registered to vote in the city at the last general election. Within thirty days of such submission, the City Clerk must review the petition and certify to the local legislative body whether or not it complies with "all the requirements of law". Regardless of whether the City Clerk certifies the petition as valid, the local legislative body may adopt the proposal as a local law. If, however, the proposal is not so adopted, the petitioners may submit another petition, with an additional 15,000 signatures of similarly qualified electors who did not sign the first petition, within two to four months of the original submission. The City Clerk must review the second petition and, if appropriate, certify it as to its sufficiency within twenty days of its submission. If this petition is determined to be valid, the ballot proposal must be presented at the next general election held not less than sixty days after the filing of the second petition.

On May 18, 1993, a petition was filed with the City Clerk pursuant to the above-described procedure, seeking to place on the ballot a proposal to amend the New York City Charter. The proposed amendment imposed limitations on the number of consecutive terms of office that could be served by elected officials of New York City. (The text of the ballot proposal is attached as Exhibit C.) On July 27, 1993, a second petition was filed with the City Clerk setting forth the same ballot proposal. The City Clerk, in letters to the New York City Council dated June 25 and August 26, 1993, certified that the two petitions contained the number of signatures required by law.

In accordance with MHRL section 37, the City Clerk also reviewed the petition to determine whether it complied with "all the requirements of law". By letter dated June 17, 1993, the City Clerk, on the advice of the Corporation Counsel, certified to the City Council that the petition did not comply with "all the requirements of law". On June 22, 1993, Allen H. Roth ("petitioner"), secretary of New Yorkers for Term Limits, petitioned in New York State Supreme Court for an order directing that the proposal be placed on the ballot in the next general election. The Court ruled in petitioner's favor in a decision, dated September 22, 1993, which was affirmed on appeal. (This litigation is described in greater detail at page 4 below.) Accordingly, the ballot proposal set forth in the petition was certified by the City Clerk to the New York City Board of Elections for inclusion on the ballot in the general election held on November 2, 1993. The proposal received the affirmative vote of 59.5 percent of the voters who voted on the issue, and was thereupon enacted.

PROVISIONS OF THE BALLOT PROPOSAL

As enacted, the ballot proposal adds a new Chapter 50 to the New York City Charter which limits all elected officials of the City to two consecutive terms in office. The stated purpose of this provision is to ensure that "elected representatives are 'citizen representatives' who are responsive to the needs of the people and are not career politicians." See Charter section 1137.

Charter Chapter 50 specifies that the two-term limitation applies to the mayor, the public advocate, the comptroller, the borough presidents and members of the City Council.

These elected officials are eligible to serve no more than two full terms in succession, including in the case of City Council members at least one four-year term.¹ The two-term limitation applies to the above-noted elected officials regardless of ethnic or racial group membership or representation. After serving two terms, an elected official is eligible to hold the same office after one full term has passed. An elected official who has completed two consecutive terms of office is not prohibited from holding a different elective office. Only terms of office beginning on or after January 1, 1994 are counted towards the two-term limit.

MINORITY VOTER SUPPORT FOR LOCAL LAW NUMBER 94

As noted above, Local Law Number 94 was approved in the general election of November 2, 1993 by 59.5 percent of the voters of New York City who voted on the issue. Analysis of the vote indicates that the ballot proposal passed by a vote of 29,690 (60.9 percent of those who voted on the issue) to 19,076 (39.1 percent) in State Assembly districts within New York City represented by Latino members. In the seventeen State Assembly districts within the City represented by African American members, the total vote was 94,021 in favor of the ballot proposal (51.1 percent of those who voted on the issue) and 89,913 against (48.9 percent). In State Assembly districts within the City represented by non-minority members, the total vote was 486,523 in favor of the ballot proposal (61.3 percent of those who voted on the issue) and 306,794 against (38.7 percent). The results of the vote on Local Law Number 94 (broken down by borough and State Assembly district), excerpted from the 1993 Annual Report of the New York City Board of Elections, are attached as Exhibit D.

LITIGATION RESPECTING THE BALLOT PROPOSAL

As noted, the City Clerk did not certify under the Municipal Home Rule Law that the term limits proposal complied with "all requirements of law." The legal basis for the City Clerk's position was set forth in Opinion of the Corporation Counsel No. 3-93, dated June 24, 1993. (The opinion is attached as Exhibit E.)

Supporters of the term limits initiative petitioned in New York State Supreme Court to require that the proposed legislation be placed on the ballot. The Court, in ruling for the petitioner, concluded that the term limits initiative was within the scope of local legislative

¹ The mayor, public advocate, borough presidents and comptroller are elected for four-year terms. See Charter sections 4 (mayor), 24 (public advocate), 81 (borough presidents) and 91 (comptroller). Charter Chapter 50 would therefore limit their tenure in office to eight years.

The Charter provides in section 25 that City Council members shall serve for four-year terms, except that Council members elected at the general election in 2001 and every twenty years thereafter, and at the general election in 2003 and every twenty years thereafter, shall serve for two-year terms. Thus, under Charter Chapter 50, Council members elected to two-year terms will not be required to leave office unless or until they have also been elected to a four-year term. A Council member elected to a two-year term in 2003 and re-elected to a four-year term in 2005 would be limited to a tenure of six years under Chapter 50.

authority under New York State law and that the ballot proposal complied with "all requirements of law." *Matter of Roth v. Cuevas*, 158 Misc.2d 238 (Sup. Ct., N.Y. Co.), *aff'd*, 197 A.D.2d 369 (1st Dept.), *aff'd*, 82 N.Y.2d 791 (1993). The Court's ruling was affirmed, with one dissenting vote, by the Appellate Division, First Department, and was further affirmed unanimously, on the opinion of the Supreme Court, by the New York Court of Appeals. (The Court's opinion and the affirmances of the Appellate Division, First Department and the New York Court of Appeals are attached as Exhibit F).

PROPOSED AMENDMENT OF TERM LIMITS LAW

On April 18, 1996, subsequent to the enactment of Local Law Number 94, a proposed local law was introduced in the New York City Council to amend Charter Chapter 50. The proposed local law would prohibit elected City officials from serving more than three consecutive terms or twelve consecutive years after January 1, 1994, except for members of the City Council first elected in November 2003, who would be prohibited from serving more than ten consecutive years. City officials elected prior to January 1, 1994 would be prohibited from serving more than two full terms in succession after that date, including in the case of City Council members at least one four-year term. The proposed local law was passed by the City Council and was signed by the Mayor on July 23, 1996, and was included as a ballot proposal in the general election held on November 5, 1996.

According to the final voting results certified by the New York City Board of Elections, the proposed local law was defeated by a vote of 653,516, or 53.7 percent of those who voted on the issue, to 563,324, or 46.3 percent of those who voted on the issue. Analysis of the vote indicates that, in State Assembly districts within New York City represented by ~~non-~~ minority members, the proposal was defeated by a vote of 492,244 (55.7 percent of those who voted on the issue) to 390,720 (44.3 percent). In State Assembly districts within the City represented by Latino members, the proposal was defeated by a vote of 38,496 (52.3 percent of those who voted on the issue) to 35,161 (47.7 percent). In State Assembly districts within the City represented by African American members, the proposal was approved by a vote of 137,443 (52.8 percent of those who voted on the issue) to 122,776 (47.2 percent).

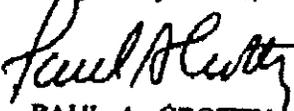
PUBLICITY AND OUTREACH

This submission is being sent to numerous interested officials and organizations, and their comments to the Department of Justice upon this submission are invited. A distribution list of officials and organizations is attached as Exhibit G.

CONCLUSION

Chapter 50 of the New York City Charter, adopted by vote of the electors on November 2, 1993, is hereby submitted to the Department of Justice for preclearance in accordance with the Voting Rights Act. If further information is needed to review this submission, please contact Steven Goulden, Assistant Corporation Counsel (212-788-1087), New York City Law Department, 100 Church Street, New York, New York 10007.

Very Truly Yours,



PAUL A. CROTTY
Corporation Counsel

LIST OF EXHIBITS

- A** **Local Law Number 94 for the Year 1993**
- B** **Municipal Home Rule Law Section 37**
- C** **Text of Term Limits Ballot Proposal**
- D** **Results of Vote on Local Law Number 94**
- E** **Opinion of the Corporation Counsel No. 3-93, dated June 24, 1993**
- F** **Court Opinions in Matter of Boik v. Cuerra**
- G** **Distribution List of Officials and Organizations**

EXHIBIT 5



THE CITY OF NEW YORK
LAW DEPARTMENT

100 CHURCH STREET
NEW YORK, N.Y. 10007-2601

JEFFREY D. FRIEDLANDER
First Assistant Corporation Counsel

(212) 788-0700
FAX (212) 227-5641
jfriedla@law.nyc.gov

January 2, 2003

Joseph D. Rich, Esq.
Chief, Voting Rights Section
Civil Rights Division
Room 7254- NWB
Department of Justice
1800 G. St N.W.
Washington, DC 20006

Submission under section 5 of the Voting Rights Act

Re: Local Law No. 27 of 2002, relating to term limits for Council Member and other elected officers in the City of New York

Dear Mr. Rich:

I make this submission under section 5 of the Voting Rights Act for preclearance of Local Law No. 27 for the year 2002 entitled, "A local law to amend the New York City Charter, in relation to qualifications for the office of Council Member." Local Law No. 27 has neither the purpose nor effect of denying or abridging the right to vote on account of race, color or membership in a language group.

Local Law No. 27 is local legislation that has been adopted by the New York City Council. A copy of this local law is attached as Exhibit "A."

Summary of Changes Made by Local Law

Local Law No. 27 amends various sections of the City Charter relating to term limits for members of the City Council and other elected officers of the City of New York which were adopted by vote of the electors at the general election held in November, 1990, and are contained in Chapter 50 of the New York City Charter, sections 1137 and 1138 of the New York City Charter. A copy of these sections is attached as Exhibit "B." Pursuant to these provisions (which were precleared by the Department of Justice following their enactment) elected City officials are generally limited to serving for two consecutive four year terms.

Local Law No. 27 enacts two changes. The first made by an amendment to City Charter § 25, modifies the term limit provisions for Council Members set forth in Chapter 50.¹ Currently, City Charter §25 provides that council members are elected to serve four year terms, but that once every twenty years, beginning in 2001, the four year term for council members is replaced by two two year terms.² City Charter § 1138 prohibited a council member from seeking re-election if the council member has served "two or more full consecutive terms, including at least one four year term." The result was that council members first elected in 1997 to a four year term and re-elected in 2001 for a two year term would be ineligible to run again in 2003, after having served six years in office, not the eight years that would otherwise be allowed.³ Similarly, council members elected in 2003 for a two year term and re-elected in 2005 to a four year term would be limited to six years in office.⁴ Local Law No. 27 amends City Charter § 25 to provide that a two year term shall not be considered a full term for purposes of City Charter § 1138, but two consecutive two year terms (e.g., the terms served by a council member elected in 2001 and again in 2003) would constitute a full term. Thus, council members elected in 1997 (and every twenty years thereafter) may serve eight years (rather than six years), and council members elected in 2003 (and every twenty years thereafter) could serve ten years (rather than six years).

The second change, contained in amendments to City Charter sections 25, 4, 24, 91 and 81, addresses the question of whether an elected official (council member, mayor, public

¹ This change does not affect other elected officials.

² Terms are shortened every twenty years in order to enable changes in Council district lines to be adopted sooner after the completion of the decennial census. This provision was adopted by the voters in 1989 on the recommendation of a charter revision commission, and was precleared.

³ Currently there are eight Council Members who could not be re-elected in 2003 under this provision. The Council Staff Report cited below states that five of the eight council members who would be able to run for re-election by the new law are members of racial or language minority groups.

⁴ The same six year limit would apply every twenty years. For example, it would apply to council members elected in 2017 for a four year term and reelected in 2021 for a two year term, or elected in 2021 for a two year term and in 2023 for a four year term.

advocate, comptroller, or borough president) who resigns or is removed from office prior to the end of a full term is disqualified from election to an additional term to such office, if such elected official would have been disqualified under Section 1138 of the City Charter had he or she served to the end of the term. This local law would resolve this question by providing that an elected official serves a full term for purposes of City Charter §1138, regardless of whether such elected official resigns or is removed from office prior to the end of such term.

Enactment of Local Law No. 27

A hearing was held before the City Council's Committee on Governmental Operations Committee on a proposed local law, Int. No. 238, on July 15, 2002. Prior written notice was given to interested groups on the City Council's mailing list.

A second hearing was held by the same committee on July 23, 2002; prior written notice was again given to interested parties. The committee voted 8 to 0 in favor of the bill. A copy of the New York City Council Staff Report, entitled, "Defining Qualification for Council Office: Addressing the Two Year Inequity," ("Council Staff Report") is attached as Exhibit "C." On July 24, 2002, at the City Council's stated meeting, Int. No. 238 was passed by a vote of 46 to 2. Twenty two Council Members who are members of racial or language minority groups voted in favor of the bill; one voted against it. On August 20, 2002 the Mayor sent a message to the City Council disapproving the bill. A copy of the Mayor's disapproval letter is attached as Exhibit "D." The letter was presented to the Council at the stated meeting on September 12, 2002.

On September 18, 2002, the Committee on Governmental Operations held another meeting on the bill in order to determine whether to override the Mayor's veto. Prior written notice of this hearing was given to interested parties. At the City Council's stated meeting on September 25, 2002, the Mayor's veto of the bill was overridden by a vote of 47 to 2. Twenty one Council Members who are members of racial or language minority groups voted in favor of the bill; one voted against it. In the course of the legislative process, no member of the City Council made any statement that Local Law 27 denies or abridges the right to vote or otherwise violates the Voting Rights Act.

A selection of newspaper accounts describing the Council's and Mayor's actions regarding Local Law 27 are attached as Exhibit "E."

Availability of Submission

This submission is being sent to numerous interested officials and organizations, and their comments to the Department of Justice upon this submission are invited. A distribution list of officials and organizations is attached as Exhibit "F."

Related Litigation

On October 22, 2002, a proceeding entitled Golden et al v. New York City Council and City of New York, Index No. 45068/02 was filed in New York State Supreme Court challenging the validity of Local Law No. 27. The petition challenges Local Law No. 27 on the grounds that

it violates City Charter Section 38 and New York State Municipal Home Rule Law Section 23, which require a mandatory referendum for any local law that "changes the term of an elective officer," or "abolishes, transfers or curtails any power of an elective officer." It also alleges that because Local Law No. 27 would permit some Council members to ten consecutive years in service, it violates City Charter Section 1137 which limits Council members to "not more than eight consecutive years" in office. There is no allegation in the petition that Local Law No. 27 in any way violates the Voting Rights Act. The respondents filed a cross motion to dismiss the petition on the grounds that, inter alia, Local Law 27 changes qualifications for office not in the term of office, and therefore, no referendum is required. The motion has not yet been decided.

Conclusion

Local Law No. 27 has neither the purpose nor effect of denying or abridging the right to vote on account of race, color or membership in a language group. The provisions of Local Law No. 27 will not be implemented pending your action on this submission. Accordingly, we respectfully request that you preclear the submitted provisions. If further information is needed to review this submission, please contact Elisabeth A. Palladino, Division of Legal Counsel 212.788.1355, New York City Law Department, 100 Church Street, 6th Floor, New York, New York 10007.

Very truly yours,


Jeffrey D. Friedlander
First Assistant Corporation Counsel

JDF/e
Enc.



Civil Rights Division

JDR:CMK:DC:nj
DJ 166-012-3
2003-0002

Voting Section - NWB.
930 Pennsylvania Avenue, N.W., Room 7254
Washington, DC 20530

March 3, 2003

Jeffrey D. Friedlander, Esq.
First Assistant Corporation Counsel
100 Church Street
New York, New York 10007-2601

Dear Mr. Friedlander:

This refers to Local Law No. 27 (2002), which amends the city charter as it relates to the time served in office for councilmembers and other elected officials for the City of New York in Bronx, Kings, and New York Counties, New York, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on January 3, 2003.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Rich" or similar, written in a cursive style.

FOR Joseph D. Rich
Chief, Voting Section

EXHIBIT 6



THE COUNCIL
OF
THE CITY OF NEW YORK
CITY HALL
NEW YORK, N.Y. 10007

Defining Qualification for Council Office:

Addressing the Two Year Inequity

- Introduction
- Questions and Answers
- Overview on Amendment
- Exhibits
- Memorandum on Legal Questions
- Proposed Legislation

Introduction – A Matter of Equity

The term limit movement was part of a national fever to address a frustration with the political system. A frustration borne out of real and perceived concerns over the powers and duties of elected officials.

The term limit law adopted by the voters in New York City in 1993 attempted to address that concern by explicitly limiting elected officials to eight years or two terms in office. Whether one agrees or disagrees that term limits is a valid tool to address frustration with government, the local law has created an inequity and, arguably, an unintended consequence.

The “public policy” articulated in Section 1137 of the City Charter calls for “citizen representatives” who will serve not more than eight consecutive years “as mayor, public advocate, comptroller, borough president and councilmember.” This is accomplished with language stating that no official may serve more than two consecutive terms. There is, however, an anomaly in the law that arises every twenty years and effectively limits two classes of councilmembers to six years of service.

While the law provides that councilmembers may serve “two terms, one of which must be a four year term”, this six-year limit was never explained to the voters when the term limit law was presented. Quite the contrary, all of the literature, the ballot petition, and the articulated public policy discussed were for an eight-year term limit.

The six-year limit arises because of the intersection of elections on a four-year cycle and the need to redistrict based on the ten-year census. This happens every twenty years and the two-year term was put in place by the 1989 Charter Revision Commission to allow for the timely redrawing of council districts. Effectively, classes of elected officials who precede or follow a two-year term with a four-year term, will be limited to six years of service.

As a matter of equity for those constituents who are represented by councilmembers limited to six years, this twenty-year anomaly should be addressed. To limit certain classes of councilmembers to opportunities for terms shorter than others, deny the citizens of those affected districts the opportunity for benefits that evolve through the seniority process inherent in a legislative system. Some legal scholars have argued that this quirk may in fact raise equal protection issues.

The “technical” adjustment being advanced by the Council would address this inequity by simply providing that for the purposes of calculating a term limit of two terms, two consecutive two-year terms shall be considered as one term.

Finally, the proposed local law would clarify the term limit law by providing that for the purposes of term limits, an elected official serves a full term whether he or she resigns or is removed from office.

Questions and Answers on NYC Term Limit Modification

Is the City Council attempting to repeal the 1993 Term Limit Law?

Absolutely not! While many New Yorkers oppose term limits, the Council leadership has decided that the voters should decide any major change to the term limit law. This would have to be done by ballot initiative or voter approved charter revision.

So what is the problem or concern with the current law as it stands?

An unintended consequence of the current law is that it unfairly limits certain classes of Councilmembers to six years of service. More importantly, the law creates an inequity which could disadvantage voters represented by those affected Councilmembers relative to non-affected districts.

How does the current Term Limit law work?

The Mayor, Comptroller, Public Advocate, Borough Presidents and City Council Members are all limited to two consecutive terms. For most officials this means eight years in office, consistent with the public policy statement of the term limit law. However, in relation to certain Council Members, because there are two-year terms in the years 2002 and 2004, some Council Members would be limited to six years in office. This anomaly occurs every twenty years.

Why are some Councilmembers limited to six years?

There is an anomaly in the current Charter that results from the intersection of the ten-year census and the four-year terms of Councilmembers. Every ten years the city is required to redraw district lines to reflect changes in population as counted in the decennial census. In order to do the redistricting in a timely way and keep the Council on the same election cycle as citywide and borough elections, the 1989 Charter Revision Commission created two consecutive two-year terms every twenty years. Without this election, the redrawn lines under a four year term in decades in which an election for Council is held in the first year of that decade would not go into effect until the fifth year of that decade.

So what is the Council proposing to do to address the current inequity in the law?

The Council is proposing a bill that will mandate that the 2 two-year terms in 2001 and 2003 be considered one full four-year term for term limit purposes. Therefore, two consecutive terms would equal eight years for Council Members and be consistent with the other elected officials.

Will the term limit section of the Charter be amended to accomplish the change in the law?

No, in fact the amendment will not change the current section. Section 25 of the Charter that relates to the terms of office will be amended to reflect that two consecutive full terms of two years shall constitute one full term for term limit purposes.

Does the fact that Term Limits were added to the Charter by means of initiative and referendum prohibit the Council from making an amendment by local law?

The short answer to this question is no. As the New York Courts have stated: "laws proposed and enacted by the people under an initiative provision are subject to the same constitutional, statutory and charter limitations as those passed by the Legislature and are entitled to no greater sanctity or dignity." In fact the Council has no procedural options. As noted in an opinion of the Attorney General, "It is well established that a referendum may not be conducted by a local government in the absence of specific constitutional or statutory authority." This means the Council may only conduct referendums for those subjects required to be submitted to referendum under state law and the charter. Term limits are not one of those subjects. On this point state law is clear. As stated by the Attorney General: "[A] local law limiting the number of consecutive terms an elected officer may serve is not subject to a referendum. It is well established that a referendum may not be conducted by a local government in the absence of specific constitutional or statutory authority . . . [T]erm limitation . . . would not change the term of an elected officer nor change the method of nominating or electing an elected officer."

Are there voting rights concerns or issues on minority representation with the proposed change?

Since New York City is covered by the Voting Rights Act, the change will need to be submitted to the Justice Department for pre-clearance. However, since five of the eight members covered by the six-year limitation are from covered minority groups, a percentage significantly above the current composition of the Council, Justice Department approval is expected.

Overview of Proposed Term Limit Amendment

Below is a discussion of why a technical amendment in making the 2 two-year terms a one four-year term in relation to Council Member term limits is consistent with the local law as voted upon favorably by public referendum.

1) The intent of the ballot initiative's sponsor

- a) The public policy that is stated in the petition and is part of the law, is that elected officials should serve not more than **eight** consecutive years.
- b) "Citizen representatives" and people the filers describe as career politicians are those who do not serve more than two full terms.
- c) Ronald S. Lauder stated that he was considering "**Eight is Enough**" as a campaign slogan to support the term limits referendum in 1993.
- d) Attorneys representing New Yorkers for Term Limits describe the term limitations as generally limiting elected officials to two consecutive terms of four years.
- e) New Yorkers for Term Limits Literature:
 - Q. Whose terms will be limited and for how long?
 - A. This is a voter referendum to limit the Mayor, City Council President, Comptroller, Borough Presidents, and City Council Members to two consecutive four-year terms. The referendum will not be retroactive.
- f) Ronald S. Lauder quoted in New Yorker for Term Limits literature and their description of the proposal:

The New Yorkers for Term Limits proposal will restrict officeholders in the jobs of Mayor, City Council President, Comptroller, Borough President and City Council to a maximum of two consecutive four-year terms in office beginning after November's general election. "Long enough to make a contribution" according to Lauder, "but not long enough to make a career."

- g) More New Yorkers for Term Limits literature:

"Here's an opportunity to make your voice the law. Support a voter referendum to limit New York City's Mayor, City Council President, Comptroller, Borough Presidents and City Council Members to **eight** years."

2) Ballot Proposal and Abstract

- a) Ballot Proposal Four stated: "Should the New York City Charter be amended by the addition of a new Chapter 50 to provide that a person may not hold the office of mayor, public advocate, comptroller, borough president or City Council member for more than two consecutive terms?"
 - 1) The general public who voted on the referendum would only have general knowledge that a term for these offices is four years thereby believing they were voting for a limit of eight years. Reviewing the wording of the question, the general public would have no reason to think otherwise.
 - 2) Additionally, the literature of the New Yorkers for Term Limits only speaks to eight years for these elected officials and makes no differentiation for City Council Member terms.
- b) The Abstract states: "Under the proposed amendment, the mayor, the public advocate, the comptroller, the borough presidents and City Council members would be eligible to serve no more than two full terms in succession, including in the case of City Council members at least one four-year term."
 - 1) The Abstract does not mention that it is possible that a Council Member may serve less than eight years or even more than eight years.
 - 2) The Abstract does not mention anything about two-year Council Member terms. The public, without such explanation, could only have assumed they were voting for a limit of eight years or two four-year terms.

3) The technicalities of 2 two-year terms/The Charter Revision Commission.

- a) The two-year terms were not developed as a response to limit the terms of Council Members but was as a result of the 1988 Charter Commission establishing a Districting Commission's structure which they believed would not work every twenty years. They created deadlines for the Districting Commission to submit its plan that would be impossible to comply with in the years 2001, 2021, 2041, etc. when the four-year terms would come up.
- b) The 1989 Charter Revision Commission to alleviate this problem provided a system by which the first year in which the reapportioned City Council always takes effect, would be the third year after the census, rather than the first year after such census.
- c) In order to do this and not throw off the concept of having four-year terms that are for the most part, in conjunction with the election of the Mayor, the Commission provided for a situation where every twenty years there are 2 two-year terms.

- d) That means that the Council Members elected in 2001, 2021, 2041 would be elected for a two-year term so that there could be reapportionment in 2003 rather than waiting until 2005 and the Council would then be elected in 2003, 2023 and 2043 for two years to bring it back to the four-year election cycle. Every other term during the twenty-year cycle remains as a four-year term.
- e) The Charter Revision Commission reasoned that this process would keep the Council, generally speaking, running at the same time as other citywide and borough officials.
- f) Therefore, these terms were initiated as a technical modification of the election process and never meant to be considered as true separate terms. Considering these two terms as one four-year term in relation to term limits would be consistent with the Charter Revision Commission's plan to have Council terms be consistent with the Mayoral cycle.

Exhibits

- New York Times quote by Ronald S. Lauder "Eight is Enough"
- New Yorkers for Term Limits literature
- New Yorkers for Term Limits press release
- New Yorkers for Term Limits Questions and Answers
- Petition for Charter Amendment
- Ballot Proposal and Abstract
- New York Daily News Op ed by Ronald S. Lauder

EXHIBIT A: New York Times Quote by Ronald S. Lauder "Eight is Enough"

IMES METRO THURSDAY, OCTOBER 21, 1993

CITY

Term-Limit Backers to Begin Ad Campaign

By SAM ROBERTS

The day after New York State's Court of Appeals approved a referendum on limiting elected municipal officeholders to two terms, supporters of the measure said they would be able to mount a well-financed campaign that would include television and radio advertising. Opponents conceded they would be heavily outgunned.

Ronald S. Lauder, the cosmetics heir who personally spent more than \$800,000 hurrying legal and administrative roadblocks to get the binding proposal on the ballot, is prepared to invest at least several hundred thousand dollars more to persuade the voters to approve it Nov. 2. A television and radio advertising campaign is to begin by early next week.

"We're going to have a complete campaign," Mr. Lauder said. "We're considering 'Eight Is Enough' as a slogan."

Peter F. Vallone, the City Council Speaker and the leading opponent of term limits, said he would be able to muster only between \$50,000 and \$200,000 and would rely largely on civic leaders and editorial support to defeat the proposal, which would limit the mayor, public advocate, comptroller, borough presidents and Council members to two, four-year terms beginning with this year's election.

Defending Strategy

"Most people don't understand that this is not a good-government proposal," Mr. Vallone said. "This is one of the worst things that can happen to a democratic form of government. A damn good argument can be made for term limits on an executive, but a legislature by nature must come to a consensus or have 51 parochial people."

The Council leadership and other opponents of the proposal were depending on the courts to spare them from a referendum. They resisted a call earlier this year from a coalition of civic groups to hold hearings on term limits and perhaps propose a less restrictive alternative. And they neglected to include an official statement of opposition to the proposal in the voter guide published by the city's Campaign Finance Board.

Mr. Vallone defended that strategy yesterday, saying: "All we could have done is put some confusing alternative on the ballot and that would have been hypocritical. It's better to fight it on the merits."

Even some supporters of the proposal expressed reservations over whether term limits should be applied to a legislative body like the Council and whether the limits should be imposed after three or more terms instead of two. But most opponents and supporters alike said they expected the proposal to pass, because

it taps into the same anti-status quo sentiment that fueled passage of similar referendums in 17 states and at least a dozen cities across the country.

Opponents expressed hopes that the proposal's placement on the ballot could hurt its chances. "The only shot I believe we have is that this is Ballot Proposal 4 and the first three are state proposals dealing with debt ceilings that people may vote against because they may think it will mean higher taxes," said Joseph Strasburg, the Council's chief of staff.

Justice Department lawyers said they were reviewing whether the proposal would dilute the voting power of minority groups in the city, as some challengers argue. Brooklyn, Manhattan and the Bronx are covered by the Federal Voting Rights Act because of historically low participation rates by members of minority groups.

'Wary of Rule Changes'

Among the 10 most senior Council members, three, including the deputy

Opponents of the proposal see an uphill battle to prevent its passage.

majority leader, Archie Spigner of Queens, are black.

"I'm always wary of rule changes as soon as minorities and women get some power," said the Rev. Calvin O. Butts 3d, senior pastor of the Abyssinian Baptist Church in Harlem, said yesterday. "Lauder represents a bunch of folk who can see that."

"Empowerment is about seniority," Mr. Butts said. "Suppose we get a woman in the mayor's seat and we like her and we want her to stay as long as Koch stayed or La Guardia stayed. We won't be able to do that."

While greater turnover might increase the number of black and Hispanic members, a more disorganized Council — without the leadership that comes from the accumulation of seniority — might lose influence overall to the Mayor and to the city bureaucracy. Also, individual members might be more beholden to their patrons in the party, unions or other power centers that helped elect them. The Charter Commission strengthened the Council several years ago to give more power to minorities.

Steven I. Himeistein, a lawyer for Mr. Lauder's New Yorkers for Term Limits, said yesterday that he did not believe "preclearance" by the Jus-

tice Department was necessary. He quoted from a court ruling, upheld on Tuesday by the State Court of Appeals, that term limits constitute "a rational decision that would have a neutral application toward all candidates and not discriminate on the basis of race, creed, color or sex."

Opponents of the proposal, mostly incumbents who would be unable to serve more than two additional four-year terms if the proposal passes Nov. 2, acknowledged that they would be heavily outspent by supporters of term limits.

Some Quarters Ambivalent

Mayor David N. Dinkins and his Democratic running mates, Mark Green for public advocate and Assemblyman Alan G. Hevesi for comptroller, oppose the referendum. Rudolph W. Giuliani and his running mates, Herman Badillo and Susan D. Alter, support it. Good-government groups are ambivalent. Citizens Union and New York State Common Cause oppose the referendum. The League of Women Voters and the New York Public Interest Research Group have taken no position.

City officials said they were uncertain whether the Council could amend or even rescind term limits on its own if the proposal passes, or whether another version would have to be submitted to the voters in another referendum.

Alfred C. Cerullo 3d, the Staten Island Republican who is the Council minority leader, favored a 12-year limit and said he reluctantly supports the two-term proposal. Guy V. Molinari, the Republican Borough President of Staten Island, opposes it.

Gene Russianoff, senior lawyer with the New York Public Interest Research Group, chided the Council for failing to deliberate on term hearings during the summer. He said he was personally undecided between "warring notions of, is this too simplistic reform versus the difficulty in getting meaningful change in the political system."

Henry Stern, a former Councilman who is the president of Citizens Union, said, "the Council used to be a rubber stamp; now it will be a revolving door."

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FOR IMMEDIATE RELEASE
MARCH 11, 1993

CONTACT: NELSON WARFIELD
212/572-6663

LAUDER LAUNCHES NEW YORK CITY TERM LIMITS REFERENDUM

Petition Drive To Place Term Limits on November Ballot

Ronald S. Lauder, New York businessman and a leading advocate of restructuring government, today kicked off a grassroots referendum drive to enact sweeping term limits for New York City in the 1993 general election.

At a City Hall news conference, Lauder with Paine Webber Vice President Paul Atanasio and concerned citizens announced the formation of "New Yorkers for Term Limits," a bi-partisan coalition spearheading a city-wide petition drive and campaign to set term limits for the offices of Mayor, Comptroller, City Council President, Borough President and City Council.

"People across America and in every part of New York City have clearly sent a message that they want to take back the control of their destiny from the politicians. Term limits take the power away from the politicians and return it to the people. New York needs term limits now," said Lauder, who will serve as Chairman of New Yorkers for Term Limits.

A Vice Chair of the new group, businessman and Democratic activist Conrad Foa, said in a statement: "Term limits are a reform that cuts across all political lines. In every neighborhood in this City, people are looking for change. And term limits will guarantee a constant source of new people and fresh ideas in government."

The New Yorkers for Term Limits proposal will restrict officeholders in the jobs of Mayor, City Council President, Comptroller, Borough President and City Council to a maximum of two consecutive four-year terms in office beginning after November's general election. "Long enough to make a contribution," according to Lauder, "but not long enough to make a career."

Lauder explained: "In New York City today, citizen representation has been replaced with career representation. Incumbents win over and over again. For example, in the last Council election, 93.7% of incumbents won re-election."

"The Roman Catholic College of Cardinals has a higher turnover than the incumbents on the New York City Council! And our incumbents are hardly holy," Lauder declared.

-- MORE --

LAUDER/TERM LIMITS

2 of 2

"Sadly, some Council incumbents hold the job for over two decades. No matter how well intentioned an individual, unlimited tenure just leads to isolation and insulation," said Lauder.

Lauder noted that in the recent controversy over \$255,000 in salary increases given to City Council staffers on Valentine's Day, one incumbent called the bonuses a "token-of-appreciation gift." "That's the mind-set of career politicians," said Lauder: "That's the mind-set term limits will challenge and change."

"Term limits will open seats, sparking competitive elections. The process will be open to a new breed of 'citizen candidates.' And voters will have greater choice at the polls", Lauder said, predicting: "We will have citizen participation in a way we never had before. It is an idea whose time has clearly come."

Noting that his proposal would allow current officeholders such as Mayor David N. Dinkins to serve two additional terms, Lauder said: "This effort is not aimed at any one politician or personality. Our proposal will apply from this election forward. It looks to the future, not the past."

Using provisions of the Municipal Home Rule Law that allow for a referendum vote on these issues, the petition-driven Lauder effort will "bypass the very political power brokers who are afraid of term limits," Lauder said. Set to start collecting signatures in early April, by gathering a total of at least 45,000 petition signatures in a two-stage process, New Yorkers for Term Limits will place the issue before the voters of New York City this November.

Upon submission of a first batch of 30,000 signatures, the City Council will have the opportunity to enact the proposed term limit reform itself. If the City Council refuses, the submission of 15,000 more signatures will put the issue on the ballot.

"We will be heard", Lauder said: "We will make term limits a reality for the people of New York."

When approved by the voters in November, New York City would join cities from San Antonio to Jacksonville and 14 states that have enacted term limits in recent years.

Lauder also serves as Chairman of the New York State Senate Advisory Commission on Privatization and produced the study Privatization for New York: Competing for a Better Future.

MVC TERM LIMITS IN IC

Q & A

- Q.** Why does New York City need term limits?
- A.** This city is a victim of professional politicians who are more interested in getting re-elected than in representing the legitimate needs of New York City taxpayers. This "careerism" has led to special interest politics at the expense of the public good. We need to recapture the benefits of citizen politicians: elected representatives who have excelled in the private sector; apply their experience as public servants; and return to the private sector. In that way we would have elected officials who are more in tune with the needs of the people.
- Q.** Whose terms will be limited and for how long?
- A.** This is a voter referendum to limit the Mayor, City Council President, Comptroller, Borough Presidents, and City Council Members to two consecutive four-year terms. The referendum will not be retroactive.
- Q.** Under which provision of law are you attempting to enact term limits?
- A.** We are proposing a local law under section 37 of the Municipal Home Rule Law. This law permits registered voters

to sign petitions in a two-step process. Thirty thousand signatures on petitions must be filed with the City Clerk and if the City Council does not adopt the law a second filing with 15,000 additional signatures is necessary to get the proposal on the ballot.

- Q.** When does the petition process begin?
- A.** New York voters will be able to sign petitions beginning April 2nd.
- Q.** Is this an attempt by one political party to gain an advantage over another?
- A.** No. We are reaching out to all New York voters: Democrats, Independents, Republicans, Liberals, and Conservatives. We are reaching out to people who feel that this city's government would be more effective if we had elected officials who are true public servants and not career politicians.

If term limits are enacted it will be a victory for taxpayers and people currently not empowered under the present system.

- Q.** But with the expansion of the City Council and the election of our first African American mayor, wouldn't this reduce the power of new groups of New Yorkers who have come to power?
- A.** While substantially more minorities and women have been elected to the City Council, they are basically not in positions of power. The power is still wielded by those who have been there a long time.

Term limits will actually open up the positions of power to the newly elected United States?

- Q.** What is the record of term limits in the United States?
- A.** It's on the move. Last year, 14 states passed term limits on their congressional delegations. Major cities such as Houston, Cincinnati, San Antonio, and Jacksonville have enacted amendments similar to ours. Term limit petitioners in Los Angeles collected over 300,000 signatures to place an initiative on the ballot.
- Q.** Won't we lose the valuable experience of long-time lawmakers?
- A.** Think about what that experience has brought us: chronic budget gaps; increased taxation; a bloated bureaucracy. Time in government is not necessary to make good policy.
- Q.** Who supports term limits and who is opposed?
- A.** It's the people versus the special interests. Last year, nearly 22 million voters in 14 states approved term limits by an average 2 to 1 margin. Support for term limits cuts across party, race, gender, and income. It has true, broad-based, bipartisan support.
- The forces of incumbency, lobbyists and the beneficiaries of political patronage oppose term limits.

PETITION FOR NEW YORK CITY CHARTER AMENDMENT

To: City Clerk, City of New York

(1) We the undersigned, being duly qualified electors of the City of New York, State of New York, representing not less than thirty thousand qualified electors, present this petition to the City Clerk of New York and respectfully request that the following proposed local law to amend the Charter of the City of New York be submitted to the voters of the City of New York at the next general election:

A LOCAL LAW

To amend the New York city charter, in relation to the establishment of term limits for various elected officials.

Be it enacted by the people of the city of New York pursuant to the authority provided in Section 37 of the Municipal Home Rule Law as follows:

Section 1. The New York city charter is hereby amended by inserting therein a new Chapter 50 (or, if there is an existing Chapter 50, the first available unused chapter thereafter) to read as follows:

Chapter 50

Term Limits

§ 1137. Public Policy. It is hereby declared to be the public policy of the city of New York to limit to not more than eight consecutive years the time elected officials can serve as mayor, public advocate, comptroller, borough president and council member so that elected representatives are "citizen representatives" who are responsive to the needs of the people and are not career politicians.

§ 1138. Term Limits. Notwithstanding any provision to the contrary contained in this charter, no person shall be eligible to be elected to or serve in the office of mayor, public advocate, comptroller, borough president or council member if that person had previously held such office for two or more full consecutive terms (including in the case of council member at least one four-year term), unless one full term or more has elapsed since that person last held such office; provided, however, that in calculating the number of consecutive terms a person has served, only terms commencing on or after January 1, 1994 shall be counted.

Section 2. This local law shall take effect on January 1, 1994.

(2) Each of the undersigned states that he or she has personally signed this petition on the day and year placed opposite his or her signature; that he or she is a qualified elector of the City of New York; and that his or her place of residence is truly stated after his or her signature

TOTAL NUMBER OF VOLUMES IN THIS PETITION:	<u>68</u>
TOTAL NUMBER OF PAGES IN THIS PETITION:	<u>13,568</u>
TOTAL NUMBER OF SIGNATURES IN THIS PETITION:	<u>64,648</u>
THIS IS VOLUME NUMBER:	<u>51</u>
THE TOTAL NUMBER OF PAGES IN THIS VOLUME IS:	<u>200</u>
THE TOTAL NUMBER OF SIGNATURES CONTAINED IN THIS VOLUME IS:	<u>926</u>
THE NUMBER OF THE FIRST PAGE IN THIS VOLUME IS:	<u>1</u>
THE NUMBER OF THE LAST PAGE IN THIS VOLUME IS:	<u>200</u>

EXHIBIT F: Ballot Proposal and Abstract

**BOARD OF ELECTIONS
IN THE CITY OF NEW YORK**

GENERAL OFFICE 32 BROADWAY NEW YORK, NEW YORK

To the Board of Elections in the City of New York:

Notice is hereby given, that at the General Election to be held in this State on the Tuesday succeeding the first Monday of November (November 2nd), the following question four relating to amendment of the Charter of the City of New York submitted by petition pursuant to section thirty-seven of the New York State Municipal Home Rule Law, the full text of said proposed amendment to the Charter of the City of New York having been duly filed with the City Clerk and the Board of Elections will be submitted to the voters for approval, to wit:

BALLOT PROPOSAL FOUR, A LOCAL QUESTION

Should the New York City Charter be amended by the addition of a new Chapter 50 to, provide that a person may not hold the office of mayor, public advocate, comptroller, borough president or City Council member for more than two consecutive terms?

**ABSTRACT OF PROPOSED CHARTER AMENDMENT SET FORTH IN
BALLOT
PROPOSAL FOUR**

The purpose and effect of the proposed amendment to the charter would be to limit all elected officials of New York City to two consecutive terms in office. Under the proposed amendment, the mayor, the public advocate, the comptroller, the borough presidents and City Council members would be eligible to serve no more than two full terms in succession including in the case of City Council members at least one four-year term. After serving two terms as mayor, public advocate, comptroller, borough president or Council Member, an individual would be eligible to hold the same office after one full term had passed. Persons holding an elective office would not, after serving two consecutive terms in that office, be prohibited from holding a different elective office. Only terms of office beginning on or after January 1, 1994 would be counted towards the two-term limit.

Should city term limits be revised?

Yes, to avoid potential chaos

BY MARY PINKETT

IN 1993, VOTERS approved a referendum setting term limits for New York City's elected city officials. As a result, it is possible that in January 2012 every elected office in the city — mayor, public advocate, controller, borough presidents and City Council — will be vacated and filled with new people. That's a formula for disarray. Term limits should be preserved because voters want them, but it is clearly in the city's best interest to do it in a more orderly way.

The arrival of a completely new set of city officials would mean there would be no continuity or historical perspective at the top of government. Decision-making at the top would become far less manageable — chaotic. This scenario would be especially devastating to the legislative branch of government. In their very first month in office new City Council members would have to fill leadership posts and committee chairmanships and be prepared to respond to the mayor's preliminary budget.

To make matters worse, these fledgling councilmembers would have to run for reelection just two years later when, under federal law, councilmanic districts must be redrawn based on the census figures from the year 2000.

That is absurd. Voters would not have a legislature capable of serving as a check on the mayor's powers. You'll either have anarchy or a government essentially controlled by lobbyists and permanent staff. Last week, City Council Speaker Peter Vallone and several of his colleagues, myself included, called for a better way to implement term limits.

We would like to initiate public discussion of the issue. To start the ball rolling, we are proposing a new public referendum for voters to consider. It calls for an extension of the term limits provision so all city officials can serve two additional terms. At the same time we want to charge the nonpartisan redistricting commission — which must convene in 2001 to draw up new council districts for elections in 2003 — with developing a system that limits members' terms under a "staggered" election cycle.

This would allow for a more orderly succession. Voters may not want a permanent government, but they most certainly do not

We are sure there are many other ideas and suggestions that will be offered on how to address the implementation of term limits. It is of paramount importance to get the public input going now among good government groups, civic associations and interested citizens to develop a coherent plan.

During the months preceding the vote on term limits in 1993, the people of this city did not have an opportunity to formally voice their opinions or debate the issue.

No, get the incumbents out

BY RONALD S. LAUDER

TWO YEARS AFTER New York City's voters overwhelmingly approved a law to impose term limits on the members of City Council and citywide elected officials, Peter Vallone and other long-time incumbents are proposing to undermine the successful term limits movement.

What these politicians are trying to do must be stopped.

preserve incumbents. Vallone's implied declarations that New York City is courting disaster if he is no longer in office is the ultimate in self-aggrandizement.

And Vallone's argument that forcing a large turnover of councilmembers in a single year is courting disaster is fallacious. The voters in Kansas City and New Orleans approved retroactively term limits. These cities are governed by all new legislators (something that would not take place in New York, since several recently elected members will be eligible to serve past 2001). And neither city has suffered any negative consequences.

The more than 600,000 New Yorkers who went to the polls and cast ballots in support of term limits understood that it would open up a closed system to new people and new ideas.

By voting for the law, voters sent the clear message that they did not want the Peter Vallone of the world making the Council a lifetime job.

No wonder. Despite well-meaning attempts by Vallone, the Council remains an undistinguished legislative chamber. Councilmembers have received more notoriety for their indiscretions than for any meaningful accomplishments.

Many of the Council's shortcomings are the result of its members becoming more and more detached from the needs and concerns of the people they represent.

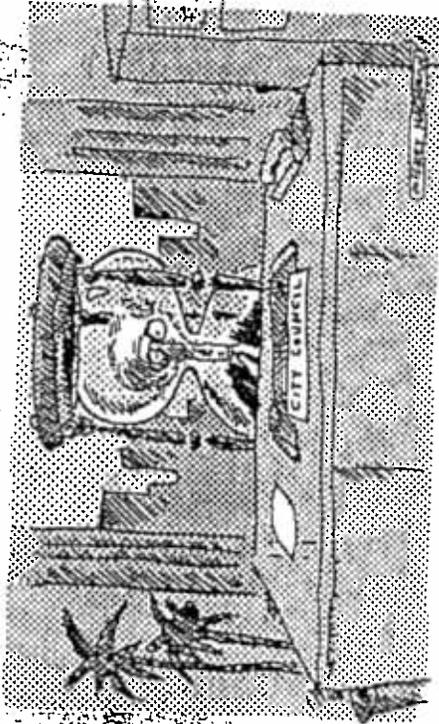
This is not one man's opinion. When I led the campaign that brought term limits to the city, this case was clearly made by the people.

To cite one glaring example, term limits were debated more thoroughly than the salary increases that Vallone and his colleagues voted themselves.

But even if this were a stellar legislative body, I would argue that two terms for each member of the Council is enough. The nation does not suffer from term limits on our presidents. Eight years is also enough time for councilmembers to make their contributions and move on.

Councilmembers enjoy 90% reelection rates. In other words, without term limits, they have far greater job security than the taxpayers who finance their generous salaries and fringe benefits.

This New Yorker stands prepared to defend the will of the people against anti-term limits forces.



A needed correction or an incumbency protection act?

This time, however,

er, there will be public hearings throughout the city beginning later this spring. As public officials, it is incumbent upon us to insure that everyone, not just a select few, has the chance to articulate ideas and concerns about this issue. Afterward, the public will decide the question in the voting booth, perhaps this year; voter turnouts are traditionally highest during presidential elections.

The voters of this city have clearly expressed their support for term limits for their elected city officials. However, we must make the implementation less chaotic and more sensible for New York City.

Council Speaker Vallone, by proposing an extension of the term limits provision for all city officials to two additional terms,

would effectively allow some current mem-

bers to serve another 13 years in office. So, for example, Vallone, who has been on the Council for 22 years, would be able to serve until the year 2007. This fact clearly disproves his claims that the proposal will not impact on term limits.

Furthermore, Vallone wants the city's politically charged redistricting commission to determine the future of term limits. That is the same redistricting commission that has a long history of protecting the very incumbents term limits are designed



THE COUNCIL
OF
THE CITY OF NEW YORK
CITY HALL
NEW YORK, N.Y. 10007

July 8, 2002

TO: Hon. Bill Perkins, Chair Government Operations
FROM: Eric Lane, Esq., Special Counsel
RE: Bill to Amend Qualifications for the Office of City Council Member

Below is a discussion of some of the legal issues regarding the Council's authority to change the qualifications for office of Council members.

Does the Council have the Power to Provide that the Two-Year Terms Established Under §25 of the Charter Do Not Constitute Full Terms for Purposes of § 1138 of the Charter?

Yes. Article IX, §2(c) of the Constitution grants every local government, through its local legislature, the power to adopt any local law, not inconsistent with the Constitution or general state law, relating to property, affairs and government. Additionally, under §10 of the Municipal Home Rule Law, the Council has the power to enact local laws relating to, among other things, qualifications for office.

This grant of power authorizes the Council to enact legislation affecting a candidate's qualifications for office, such as the number of terms a member may serve before he or she is disqualified from further service. "Term limit legislation is encompassed by the grant of authority to municipalities pursuant to the State Constitution and Municipal Home Rule Law to legislate with respect to their "property, affairs, or local government." *Roth v. Cuevas*, 158 Misc. 2d, 238, 246 (1993), affd. without opinion 197 App. Div. 2d. 369 (1993), affd., without opinion, 82 N.Y. 791 (1993).

What Process Must the Council Follow to Enact the Contemplated Changes to § 25?

The Council can only enact the change pursuant to its enactment procedures without referendum. Section 23 of the Home Rule Law and §38 of the Charter list certain subjects that cannot be enacted without referendum. Laws changing the qualifications for holding local office, including that of

Council member, are not subject to referendum under any reading of either of these sections of law. Term limits are qualifications for office and not terms of office. As such, they can be imposed, amended and repealed through the simple enactment process.

Qualifications for office exclude individuals from standing for elected offices because of whatever incapacity the qualification imposes. They are eligibility standards. They address the public's view that certain generic standards are important for service. A member of a legislative body may be required to be over a certain age or live in the district from which he or she is elected because of the public's view that these standards are important for representation. Similarly, the public may limit members from serving more than a certain number of terms because of the view that beyond that point representative capacity diminishes. Qualifications have nothing to do with the term of office. The existing term limit law (Chapter 50) did not change the two-year and four-year terms set forth in §25. They remain the same. The length of a term reflects different concerns. Whether a term should be one year, two years or four years depends upon the public's sense of a proper balance between democracy and stability.

This point concerning term limits is evident. Section 1138 of the Charter itself makes it: "no person shall be eligible to be selected to serve. . . if that person had served. . . ." And this point has been underscored many times by the courts and other relevant institutions. As one appellate court in this state has found with respect to whether a change in the Buffalo Charter allowing a mayor to succeed himself required a referendum as a "term of office: "[w]e believe that subdivision 4 [Section 15 of the City Home Rule Law, the predecessor to Municipal Home Rule Law, which contains identical language to Section 10] can be summarily disposed of for a reading of the Local Law clearly indicates that it is not one which changes the term of an elective office. The term of Mayor under the new law is still four years." *Benzow v. Cooley* 12 A.D.2d 162 (1961) *affd.*, 9 N.Y.2d 888.

Subsequent to that determination and the *Roth* decision, the Attorney General, in 1995, opined that it was permissible exercise of municipal power for a local legislature to enact a term limit law, but that such an enactment could not be subject to referendum because:

. . . a limitation on the number of consecutive terms relates to the affairs and government of a local government and constitutes a qualification for office. [A] local law limiting the number of consecutive terms an elected officer may serve is not subject to a referendum. It is well established that a referendum may not be conducted by a local government in the absence of specific constitutional or statutory authority . . . [T]erm limitation . . . would not change the term of an elected officer nor change the method of nominating or electing an elected officer. (N.Y.Op. Att. Gen. [inf.] 95-29) .

This view was adopted by the Second Department in its 1999 decision *Holbrook v. Rockland County*, 687 N.Y.S.2d 722 (N.Y.A.D. 2 Dept., 1999) in which an enacted statute, prohibiting an individual from holding two elected offices, was challenged as enacted without referendum. According to the court: "Contrary to the plaintiff's contention, the 'two hat' laws which bar Rockland County legislators from holding a second elective office do not change the terms of an elective office or curtail any powers of an elective officer. Rather, the provisions operate to impose a new eligibility requirement or qualification for holding office, without changing a legislator's four-year term of office, or curtailing any power of the office. Accordingly, no voter referendum was required to validly enact the two local laws."

The characterization of term limits as a qualification also lies at the heart of *U.S. Term Limits, Inc. v. Thornton*, 514 US 779 (1995), the Supreme Court decision that determined that states could not impose term limits on members of Congress.

Does the Means by Which Term Limits Were Added to the Charter in Any Way Legally Effect the Council's Procedural Options?

No. As the New York Courts have stated: "laws proposed and enacted by the people under an initiative provision are subject to the same constitutional, statutory and charter limitations as those passed by the Legislature and are entitled to no greater sanctity or dignity." *Caruso v. City of New York*, 136 Misc.2d 892 (1987). In fact, as previously noted, the Council has no procedural options as it may not submit the question of qualifications to referendum.

Please let me know if you have any additional questions.

C: Thomas McMahon

Int. No. 238

By Council Members Comrie, Oddo, Addabbo, Avella, Baez, Boyland, Brewer, Clarke, Davis, DeBlasio, Diaz, Dilan, Felder, Fidler, Gennaro, Gerson, Gioia, Jackson, Katz, Lanza, Liu, Lopez, Martinez, McMahon, Monserrate, Moskowitz, Nelson, Provenzano, Quinn, Recchia, Reed, Reyna, Rodriguez, Sanders, Seabrook, Sears, Serrano, Stewart, Vallone, Vann, Werpin, Yassky, Perkins, Rivera and The Speaker (Council Member Miller)

A Local Law to amend the New York City Charter, in relation to qualifications for the office of Council Member.

Be it enacted by the Council as follows:

Section one. Purpose and Intent. This legislation addresses the qualifications for the office of Council Member imposed by Chapter 50 of the Charter in relation to the application of the two-year terms of Council Members established by Chapter 2 of the Charter. It does not change any term of office. Nor does it change those disqualification provisions of Chapter 50 of the Charter prohibiting any elected City official from serving more than two consecutive four-year terms. This legislation also does not change the current law mandating that the election to an unexpired term of office under Section 25b of the Charter not be considered a full term under Chapter 50 of the Charter. Therefore, a Council Member elected to fill an unexpired term of office can still serve two consecutive full terms immediately thereafter.

This bill also addresses the question of whether an elected official who resigns or is removed from office prior to the end of a full term is disqualified from election to a further consecutive term to such office, if such elected official would have been otherwise disqualified under Section 1138 of the Charter.

A. Section 25 of the Charter

Under Section 25 of the Charter, the terms of Council Members are normally four years and, under state law, councilmatic elections must be held in odd number years. Section 25 also provides that the terms of Council Members elected in 2001 and 2003 and every twenty years after each of these years shall be two years. The purpose of the two-year term is to allow an election for Council Members in 2003 and every twenty years thereafter in order to expeditiously implement the redrawn Council district lines required to be drawn by March of 2003 and every twenty years thereafter. Without this election, the redrawn lines under a four-year term in decades in which an election for Council is held in the first year of that decade, would not go into effect until the fifth year of that decade. Therefore, it allows for the timely redrawing of Council districts while also keeping Council elections on the same four-year cycle as citywide and borough-wide elections.

Section 1138 of Chapter 50 of the New York City Charter, added in 1993, disqualifies Council Members from serving more than two full consecutive terms. It makes no clear distinction between four-year terms and two-year terms, although Section 1137 and the literature in support of the initiative through which it was adopted suggests that the goal of that provision was to limit members to eight consecutive years in office. For example, a brochure distributed by the initiative sponsors told the public that they were voting for a "referendum to limit the Council Member to two consecutive four-year terms." Additionally, the ballot question and other documents discussing the initiative spoke about two consecutive terms of office which in context could only be understood as eight years.

The application of Section 1138 and Section 25 of the Charter results in the

disqualification of Council Members elected to their first full term in 1997 and every twenty years thereafter and their second term in 2001 and every twenty years thereafter from running again in 2003 and every twenty years thereafter and the disqualification of Council Members elected in 2003 and every twenty years thereafter and reelected in 2005 and every twenty years thereafter from running for reelection in 2009 and every twenty years thereafter. All other members of the Council remain qualified to serve two full four-year terms. Presently there are eight members who cannot be elected in 2003 under this provision and any new members elected in 2003 will be subject to this special disqualification.

The Council declares that such unequal disqualification for office disadvantages the citizens of those districts from which Council Members are disqualified for running for greater than six consecutive years. Seniority and experience are significant factors in the capacity of Members to represent and serve their districts. Districts in which Members are disqualified from continuing to serve after six consecutive years are substantially disadvantaged as compared to districts in which Members can serve eight consecutive years. Additionally, five of the eight current Members who will be disqualified are members of protected minority groups under the Voting Rights Act of 1965 and four represent majority-minority districts. As of 2002, 25 members of the Council are members of protected minority groups. Nineteen of their districts are majority-minority districts. The effect of the two-year term disqualification is that minority populations will be disproportionately disadvantaged by the disqualification of Members who have served six consecutive years. Such disproportional representation raises equal protection questions.

The Council also declares that the disqualification of Members will serve to

destabilize a Council, which has only recently amended its rules to broaden its lawmaking and oversight responsibility to a large number of Members and which faces a continuing budget crisis.

The Council determines that the best means to remedy the above-described problems is to amend Section 25 of the Charter to provide that a two-year term established thereunder shall not be considered a full term for purposes of Section 1138, but the two consecutive two-year terms together shall be considered one full term in relation to Charter Section 1138. The Council determines that it has the authority to enact this amendment to Section 25 of the Charter without referendum. Term limits are qualifications for office and not subject to mandatory referendum under the Charter or state law. Additionally, the Council is without power to submit such local law to referendum. Under both the Charter and state law, local laws not subject to mandatory referendum may not be submitted to referendum.

B. Leaving Prior To The End Of The Term

Under Section 1138 of the Charter, the disqualification for continued consecutive service arguably does not apply in the event that an elected official leaves office prior to the end of that elected officials' term. Thus, an elected official could resign from office prior to the end of his or her elected term and run again without being disqualified. The Council declares that this anomaly undermines the goals of Section 1138 of the Charter. This legislation addresses the problem by clarifying that an elected official serves a full term for purposes of Section 1138 whether he or she resigns or is removed from office.

§2. Paragraph a. of Section 25 of the New York City Charter is hereby amended to read as follows:

§25. **Election; term; vacancies.** a. The council members shall be elected at the general election in the year nineteen hundred seventy-seven and every fourth year thereafter and the term of office of each council member shall commence on the first day of January after the elections and shall continue for four years thereafter; provided, however, that the council member elected at the general election in the year two thousand and one and at the general election in every twentieth year thereafter shall serve for a term of two years commencing on the first day of January after such election; and provided further that an additional election of Council Members shall be held at the general election in the year two thousand three and at the general election every twentieth year thereafter and that the members elected at each such additional election shall serve for a term of two years beginning on the first day of January after such election.

Notwithstanding any other provision of this charter or other law, a full term of two years, as established by this subsection, shall not constitute a full term under section 1138 of this charter, except that two consecutive full terms of two years shall constitute one full term under section 1138. A member of the council who resigns or is removed from office prior to the completion of a full term shall be deemed to have held that office for a full term for purposes of section 1138 of the charter.

§3. Section 4 of Chapter 1 of the New York City Charter is hereby amended to read as follows:

§4. **Election; term; salary.** The mayor shall be elected at the general election in the year nineteen hundred sixty-five and every four years thereafter. The mayor shall hold office for a term of four years commencing on the first day of January following such election.

A mayor who resigns or is removed from office prior to the completion of a full term shall be deemed to have held that office for a full term for purposes of section 1138 of the charter. The salary of the mayor shall be one hundred and ninety-five thousand dollars a year. §4. Paragraph a. of Section 24 Chapter 2 of the New York City charter is hereby amended to read:

Section 24 a. The public advocate shall be elected by the electors of the city at the same time and for the same term as in this charter prescribed for the mayor. A public advocate who resigns or is removed from office prior to the completion of a full term shall be deemed to have held that office for a full term for purposes of Section 1138 of the charter.

§5. Section 91 of Chapter 5 of the New York City charter is hereby amended to read as follows :

§91. **Election; term; salary.** The comptroller shall be elected by the electors of the city at the same time and for the same term as in this charter prescribed for the mayor. A comptroller who resigns or is removed from office prior to the completion of a full term shall be deemed to have served a full term for purposes of section 1138 of the charter. The salary of the comptroller shall be one hundred and sixty thousand dollars a year.

§6. Paragraph b. of Section 81 of the New York City charter is hereby amended to read:

b. The borough president shall be elected by the electors of the borough at the same time and for the same term as in this charter prescribed for the mayor.

A borough president who resigns or is removed from office prior to the completion of a full term shall be deemed to have served a full term for purposes of section 1138 of the charter.

§7. If any provision of this local law or of any amendments thereto, shall be held invalid or ineffective in whole or in part or inapplicable to any person or situation, such holding shall not affect, impair or invalidate the remainder of this local law, and all other provisions thereof shall nevertheless be separately and fully effective and the application of any such provision to other persons or situations shall not be affected.

§8. This local law shall take effect immediately.

JD:et/ml
LS#840
7/02/02



THE COUNCIL
OF
THE CITY OF NEW YORK
CITY HALL
NEW YORK, N.Y. 10007

MEMORANDUM IN SUPPORT

TITLE To amend the New York City Charter, in relation to qualifications for the office of Council Member.

TYPE: Local Law

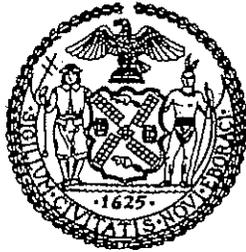
SUBMITTED BY: Council Members Comrie and Oddo

INTENT:

Section 1138 of Chapter 50 of the New York City Charter, added in 1993, disqualifies Council Members from serving more than two full consecutive terms. It makes no distinction between four-year terms and two-year terms. It appears from §1137 and the literature in support of initiative through which the law was adopted suggests that the goal of that provision was to limit members to eight consecutive years in office. To be consistent with the intent of the law, this legislation provides that Section 25 of the Charter be amended to provide that a two-year term for Council established under that Section shall not be considered a full term for purposes of §1138, but that two consecutive two-year terms together shall considered one disqualifying term in relation to Charter §1138.

This proposed legislation also clarifies that an elected official serves a full term for purposes of §1138 whether he or she resigns or is removed from office.

SIGNATURE:



THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LARIAN ANGELO, DIRECTOR
FISCAL IMPACT STATEMENT

INTRO. NO: 238

COMMITTEE: Governmental Operations

TITLE: A Local Law to amend the New York City Charter in relation to the qualifications for the office of Council Member.

SPONSOR: By Council Members Comrie and Oddo, et. al., and the Speaker (Council Member Miller)

SUMMARY OF LEGISLATION: The proposed legislation would alter the New York City Charter in two ways. First, the definition of a full term of office for Council Members would be changed such that a full term would consist of one four-year term or two two-year terms. This modification would allow all Council Members the opportunity to serve at least eight years before being term limited from office. The Charter modification would make the qualifications for the office of Council Member consistent with the intent of the voters who imposed an eight-year term limit via referendum. Second, the proposed legislation would preserve the integrity of the eight-year term limit provision of the Charter by closing a loophole that currently allows a second-term incumbent Council Member to leave office temporarily for the purpose of evading the legal disqualification that is imposed on Council Members who wish to serve more than two full terms consecutively.

EFFECTIVE DATE: This local law shall take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2003

FISCAL IMPACT STATEMENT:

	Effective FY03	FY Succeeding Effective FY04	Full Fiscal Impact FY03
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: There would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: This legislation would have no effect on the City's Expense Budget.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: City Council Finance Division

ESTIMATE PREPARED BY: Michael Schnall, Legislative Financial Analyst
Andy Grossman, Assistant Director
City Council Finance Division

FIS HISTORY: Intro 238 was considered by the Committee on Governmental Operations on July 15, 2002. It is to be re-considered by the Committee on July 23, 2002.

EXHIBIT 7

1 of 2 DOCUMENTS

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CURRENT THROUGH FIRST QUARTER 2001

NEW YORK CITY CHARTER

CHAPTER 50: TERM LIMITS

NYC Charter § 1138 (2001)

§ 1138 Term Limits.

Notwithstanding any provision to the contrary contained in this charter, no person shall be eligible to be elected to or serve in the office of mayor, public advocate, comptroller, borough president or council member if that person had previously held such office for two or more full consecutive terms (including in the case of council member at least one four-year term), unless one full term or more has elapsed since that person last held such office; provided, however, that in calculating the number of consecutive terms a person has served, only terms commencing on or after January 1, 1994 shall be counted.

HISTORICAL NOTES:

add by LL 1993 No 94, § 1, eff Jan 1, 1994.

1 of 1 DOCUMENT

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CURRENT THROUGH FIRST QUARTER 2001

NEW YORK CITY CHARTER

CHAPTER 50: TERM LIMITS

NYC Charter § 1137 (2001)

§ 1137 Public Policy.

It is hereby declared to be the public policy of the city of New York to limit to not more than eight consecutive years the time elected officials can serve as mayor, public advocate, comptroller, borough president and council member so that elected representatives are "citizen representatives" who are responsive to the needs of the people and are not career politicians.

HISTORICAL NOTES:

add by LL 1993 No 94, § 1, eff Jan 1, 1994.

EXHIBIT 8

1 of 2 DOCUMENTS

Copyright 2001 The New York Times Company
The New York TimesNovember 11, 2001 Sunday
Late Edition - Final**SECTION:** Section 1A; Column 1; Metropolitan Desk; Pg. 43**LENGTH:** 977 words**HEADLINE:** New City Council a Portrait Composed by Term Limits**BYLINE:** By JONATHAN P. HICKS**BODY:**

One incoming Council member is a former deputy superintendent of banking for the state. Another is a former member of the Black Panther Party who now runs a leadership-training consulting group. One is a podiatrist, two have served as police officers and still another made a name for himself by organizing an international student exchange program.

Those are a few of the 37 new members of the 51-seat City Council, whose election last Tuesday marked the largest turnover in the history of the body. But they are more than numbers: their disparate backgrounds mirror their varied personalities, suggesting that the Council will not only have something of a new look, but a new atmosphere and attitude as well.

"It's a great thing to have people from such different backgrounds," said Eric N. Gioia, just elected to the Council in Woodside, Queens. "You have people with different experiences, some in government and some as ordinary citizens. That gives the Council a breadth and depth that will be important."

Some of the changes are quickly apparent. The new Council's Republican ranks dwindle to four, down from six. There will be four fewer women, with 11 serving after Jan. 1.

While the Council will remain ethnically similar to its current mix -- 26 white members, 2 fewer than before; 14 black Council members; and 10 Hispanic Council members, one more than before -- there are a few firsts. John C. Liu, a consultant at PriceWaterhouseCoopers who was born in Taiwan, will become the first Asian-American member of the Council, representing Flushing, Queens.

Hiram Monserrate, a Democratic district leader who is a former New York City police officer, was elected as Queens's first Hispanic Council member. He will represent Corona.

When the city's term-limit laws pushed out dozens of incumbents, many Council leaders questioned whether they would be replaced by political novices with little experience in public service. But as it turns out, there are a great many incoming Council members who have spent considerable time around the Council, either as aides or in other governmental positions.

"I think that, on the whole, we've gotten a group of talented, younger, vigorous representatives," said John H. Mollenkopf, the director of the Center for Urban Research at the City University of New York.

"There are certainly some people for whom this is an entry-level public service job," Mr. Mollenkopf said. "But even many of them are people with no small level of accomplishment outside of politics. Many are people with superb political skills and backgrounds."

Some examples:

Gale A. Brewer, elected to represent the Upper West Side, was chief of staff to Ruth W. Messinger when Ms. Messinger was on the Council. More recently, she was an aide to both Mayor David N. Dinkins and Mark Green, the public advocate and failed Democratic mayoral candidate.

James F. Gennaro, a professor of political science at Queens College, was an aide in the administration of Mayor Edward I. Koch and served for 10 years as the Council's adviser on environmental policy.

Tony Avella, elected to a Council seat in Queens, was chief of staff to State Senator Toby Stavisky. And, in the Bronx, Maria Baez, who won a Council seat in Kingsbridge, served as chief clerk for the Bronx Board of Elections and as chief of staff to former Councilman Jose Rivera.

Some new members have close ties to those they succeed. Dennis P. Gallagher served for 10 years as chief of staff to outgoing Councilman Thomas V. Ognibene, a Republican from Queens whom Mr. Gallagher is succeeding.

Leroy G. Comrie, also of Queens, has worked for Councilman Archie Spigner, a Democrat, for 15 years and been his chief of staff for the last seven. And Michael E. McMahon, a Democrat recently elected from Staten Island, has served as counsel to current Councilman Jerome X. O'Donovan, the man he is succeeding. Mr. McMahon has also worked for two members of the Assembly from Staten Island, Elizabeth Connelly and Eric Vitaliano.

Several incoming members have served in elective office before. Melinda R. Katz, a Queens Democrat, was in the Assembly, as was Albert Vann, a Democrat from Brooklyn. G. Oliver Koppell represented the Bronx in the Assembly before serving as the state's attorney general. And Larry B. Seabrook, a Bronx Democrat, served in both the Assembly and the State Senate.

Another trend has been the election of members who are succeeding one of their parents. Helen D. Foster was elected to the seat in the Bronx held by her father, Wendell Foster, and City Councilwoman Una Clarke, a Brooklyn Democrat, will be succeeded by her daughter, Yvette D. Clarke. Also in Brooklyn, Erik Martin Dilan will succeed his father, Martin Malave Dilan. And the Queens Council seat now held by the speaker, Peter F. Vallone, will be filled by his son, Peter F. Vallone, Jr.

Still, several incoming Council members have notable backgrounds that do not include working for elected officials.

In Brooklyn, Kendall Stewart, a podiatrist, was elected in the Flatbush section. But Mr. Stewart had been highly active in Democratic politics in the borough, having served as a Democratic district leader. David Weprin in Queens was once a deputy banking commissioner for New York City. Charles Barron, who will represent East New York, Brooklyn, on the Council, was once a member of the Black Panthers. And Dominic Recchia, who will serve in Brooklyn, ran an international student exchange program.

And there are clergymen. Ruben Diaz, a Pentecostal minister who is the pastor of Christian Community Neighborhood Church, was elected to a Council seat in the Bronx. Mr. Diaz is also the president of the New York Hispanic Clergy, and he served on the Civilian Complaint Review Board.

Also, in Brooklyn, James E. Davis, who is both a minister and a police officer, was elected in a district that includes Fort Greene.

URL: <http://www.nytimes.com>

GRAPHIC: Photos: John Liu of Queens will be the first Asian-American on the Council. (Justin Lane for The New York Times); Hiram Monserrate will be the first Hispanic member from Queens. (Shannon Stapleton for The New York Times) Chart: "The New City Council" A look at the City Council representatives elected Nov. 6. DISTRICT, LOCATION: Lower Manhattan REPRESENTATIVE ELECTED NOV. 6: Alan J. Gerson DISTRICT, LOCATION: Lower East Side, Alphabet City, Gramercy Park, Murray Hill REPRESENTATIVE ELECTED NOV. 6: Margarita Lopez DISTRICT, LOCATION: Greenwich Village, Chelsea, Midtown, Clinton/Hell's Kitchen REPRESENTATIVE ELECTED NOV. 6: Christine C. Quinn DISTRICT, LOCATION: Upper East Side REPRESENTATIVE ELECTED NOV. 6: Eva S. Moskowitz DISTRICT, LOCATION: Upper East Side, Roosevelt Island REPRESENTATIVE ELECTED NOV. 6: A. Gifford Miller DISTRICT, LOCATION: Upper West Side REPRESENTATIVE ELECTED NOV. 6: Gale A. Brewer DISTRICT, LOCATION: West Harlem/Washington Heights/Inwood REPRESENTATIVE ELECTED NOV. 6: Robert Jackson DISTRICT, LOCATION: East Harlem, Upper West Side, Mott Haven REPRESENTATIVE ELECTED NOV. 6: Philip Reed DISTRICT, LOCATION: Central Harlem, Morningside Heights, Riverside Park REPRESENTA-

TIVE ELECTED NOV. 6: Bill Perkins DISTRICT, LOCATION: Northwest Manhattan REPRESENTATIVE ELECTED NOV. 6: Miguel Martinez DISTRICT, LOCATION: Northwest Bronx REPRESENTATIVE ELECTED NOV. 6: G. Oliver Koppell DISTRICT, LOCATION: North Bronx REPRESENTATIVE ELECTED NOV. 6: Larry B. Seabrook DISTRICT, LOCATION: Pelham Bay, Throgs Neck, Morris Park, City Island REPRESENTATIVE ELECTED NOV. 6: Madeline Provenzano DISTRICT, LOCATION: Fordham, Kingsbridge Heights, Morris Heights REPRESENTATIVE ELECTED NOV. 6: Maria Baez DISTRICT, LOCATION: Central Bronx REPRESENTATIVE ELECTED NOV. 6: Joel Rivera DISTRICT, LOCATION: Highbridge/Morrisania/Melrose REPRESENTATIVE ELECTED NOV. 6: Helen D. Foster DISTRICT, LOCATION: The South Bronx REPRESENTATIVE ELECTED NOV. 6: Jose Serrano DISTRICT, LOCATION: Soundview, Parkchester, Castle Hill REPRESENTATIVE ELECTED NOV. 6: Ruben Diaz DISTRICT, LOCATION: Upper Queens REPRESENTATIVE ELECTED NOV. 6: Tony Avella DISTRICT, LOCATION: Flushing REPRESENTATIVE ELECTED NOV. 6: John C. Liu DISTRICT, LOCATION: Corona, East Elmhurst REPRESENTATIVE ELECTED NOV. 6: Hiram Monserrate DISTRICT, LOCATION: Astoria REPRESENTATIVE ELECTED NOV. 6: Peter F. Vallone Jr. DISTRICT, LOCATION: Queens Village, Floral Park, Glen Oaks REPRESENTATIVE ELECTED NOV. 6: David I. Weprin DISTRICT, LOCATION: South Flushing, Jamaica Hills, Briarwood, Forest Hills REPRESENTATIVE ELECTED NOV. 6: James F. Gennaro DISTRICT, LOCATION: Jackson Heights, East Elmhurst, Corona REPRESENTATIVE ELECTED NOV. 6: Helen Sears DISTRICT, LOCATION: Western Queens REPRESENTATIVE ELECTED NOV. 6: Eric N. Gioia DISTRICT, LOCATION: St. Albans, Hollis, Cambria Heights REPRESENTATIVE ELECTED NOV. 6: Leroy G. Comrie DISTRICT, LOCATION: Richmond Hill, Rochdale Village, South Jamaica REPRESENTATIVE ELECTED NOV. 6: Allan W. Jennings DISTRICT, LOCATION: Forest Hills, Kew Gardens, Rego Park REPRESENTATIVE ELECTED NOV. 6: Melinda R. Katz DISTRICT, LOCATION: Ridgewood, Middle Village, Glendale REPRESENTATIVE ELECTED NOV. 6: Dennis P. Gallagher DISTRICT, LOCATION: Laurelton, Rosedale, Springfield Gardens, Far Rockaway REPRESENTATIVE ELECTED NOV. 6: James Sanders DISTRICT, LOCATION: Southeast Queens REPRESENTATIVE ELECTED NOV. 6: Joseph P. Addabbo DISTRICT, LOCATION: Greenpoint, Navy Yards, Brooklyn Heights REPRESENTATIVE ELECTED NOV. 6: David Yassky DISTRICT, LOCATION: Williamsburg and Bushwick REPRESENTATIVE ELECTED NOV. 6: Diana Reyna DISTRICT, LOCATION: Fort Green, Prospect Heights REPRESENTATIVE ELECTED NOV. 6: James E. Davis DISTRICT, LOCATION: Bedford-Stuyvesant REPRESENTATIVE ELECTED NOV. 6: Albert Vann DISTRICT, LOCATION: Wyckoff Heights, Cypress Hills, East New York REPRESENTATIVE ELECTED NOV. 6: Erik Martin Dilan DISTRICT, LOCATION: Red Hook, Sunset Park, South Park Slope REPRESENTATIVE ELECTED NOV. 6: Angel Rodriguez DISTRICT, LOCATION: Park Slope, Carroll Gardens REPRESENTATIVE ELECTED NOV. 6: Bill DeBlasio DISTRICT, LOCATION: Flatbush REPRESENTATIVE ELECTED NOV. 6: Yvette D. Clarke DISTRICT, LOCATION: Bedford-Stuyvesant, Brownsville, East Flatbush, Ocean Hill REPRESENTATIVE ELECTED NOV. 6: Tracy Boyland DISTRICT, LOCATION: East New York and Brownsville REPRESENTATIVE ELECTED NOV. 6: Charles Barron DISTRICT, LOCATION: Bay Ridge, Dyker Heights, Bath Beach, Bensonhurst REPRESENTATIVE ELECTED NOV. 6: Martin J. Golden DISTRICT, LOCATION: Borough Park, Ocean Parkway REPRESENTATIVE ELECTED NOV. 6: Simcha Felder DISTRICT, LOCATION: East Flatbush, Flatlands REPRESENTATIVE ELECTED NOV. 6: Kendall B. Stewart DISTRICT, LOCATION: Southeast Brooklyn REPRESENTATIVE ELECTED NOV. 6: Lewis A. Fidler DISTRICT, LOCATION: Brighton Beach, Coney Island, Gravesend, Bensonhurst REPRESENTATIVE ELECTED NOV. 6: Domenic M. Recchia DISTRICT, LOCATION: Manhattan Beach, Sheephead Bay, Madison, Midwood REPRESENTATIVE ELECTED NOV. 6: Michael C. Nelson DISTRICT, LOCATION: North Staten Island REPRESENTATIVE ELECTED NOV. 6: Michael E. McMahon DISTRICT, LOCATION: Mid-Island, Staten Island; Bensonhurst and Bath Beach REPRESENTATIVE ELECTED NOV. 6: James S. Oddo DISTRICT, LOCATION: South Shore REPRESENTATIVE ELECTED NOV. 6: Andrew J. Lanza

LOAD-DATE: November 11, 2001