



Steven M. Neuhaus
County Executive

ORANGE COUNTY DEPARTMENT OF LAW

RICHARD B. GOLDEN
COUNTY ATTORNEY

Carol C. Pierce
Deputy County Attorney

Municipal Law Division

TEL: 845-291-3150
FAX: 845-378-2374*

Kellie E. Lagitch *Chief Assistant – Litigation*
Matthew J. Nothnagle *Chief Assistant – Appeals*
Susan L. Whalan *Chief Assistant – Contracts*
Joseph F. Mahoney Holly L. Reinhardt
Marina V. O'Neill Donna M. Badura
Lisa M. James Stephanie T. Midler
Lia E. Fierro Lisa M. Morgillo
Cedric A. Cooper William S. Badura

Family Law Division

TEL: 845-291-2650
FAX: 845-360-9161*

Kimberly C. VanHaaster *Chief Assistant – Family Div.*
Peter R. Schwarz David S. Meffert
Linda P. DaSilva Stephanie Bazile
Ferol L. Reed-McDermott Michael Rabiet
Karen A. Amundson Tammy A. Delile
Eve I. Lincoln Stephen Toole
Rebecca McGee

February 20, 2024

VIA FIRST CLASS AND ELECTRONIC MAIL

State of New York
Office of Attorney General
28 Liberty Street
23rd Floor
New York, New York 10005
(preclearancefeedback@ag.ny.gov)

Attn: Civil Rights Bureau

**RE: Objection to Preliminary Designation of Orange County as a Covered Entity for
Preclearance Under the New York Voting Rights Act**

Dear Section Chief Lindsay McKenzie and Assistant Attorney General, Voting Rights Bethany Perskie:

This letter is written in response to the notification that Orange County has been preliminarily identified by the Attorney General's Civil Rights Bureau (CRB) as a "covered entity" pursuant to the New York Voting Rights Act (NYVRA). (*See* N.Y. election Law § 17-210).

According to the appendix attachment to your Office's communication of December 15, 2023, Orange County was apparently preliminarily identified as a covered entity based on Election Law § 17-210(3)(a) which, in pertinent part, identifies covered entities as having been the subject of a court order or government enforcement action resulting in a finding of a violation of the Federal Voting Rights Act within the last twenty-five years. The basis for this alleged violation as to Orange County is the case of *Molina v. County of Orange*, Case No. 13-CV-3018, 2013 WL 3009716 (S.D.N.Y. 2013). It is respectfully submitted that the *Molina* decision does not constitute a proper basis to designate Orange County as a covered entity under the NYVRA.

Orange County Government Center
255-275 Main Street, Goshen, NY 10924

**Service of Process by FAX is not accepted*

The factual background of *Molina* involves the Orange County Legislature attempting to proceed with a legislative election in 2013 based upon Legislative District boundaries using 2000 census data, when the redistricting of boundaries could not be agreed upon by the County Legislature based on the applicable 2010 census data. An action was commenced on May 6, 2013, and resolved 38 days later by a Court decision based upon a mutual recommendation and agreement of the parties and a Special Master on redrawn Legislative District boundaries. The action was based upon an alleged voter-related violation of the 14th Amendment, with the Court, *sua sponte*, noting that the allegations do not explicitly, but “appear” to invoke Section 2 of the Voting Rights Act of 1965.


Nowhere in the *Molina* Court decision does it make an order upon a finding that there was a violation of either the 14th Amendment or the Federal Voting Rights Act. Nor was there any finding of any violation of the 15th Amendment nor the NYVRA, nor any other basis under N.Y. Election Law § 17-210(3). As a result of the noted cooperation of Orange County and the agreement of the parties and Special Master of a recommendation to the Court in that action, and the subsequent order of the Court, no determination on the merits of the allegations was addressed or reached. Consequently, there is no factual or legal justification by which Orange County may be designated as a “covered entity” pursuant to N.Y. Election Law § 17-210(3) or otherwise. N.Y. Election Law § 17-210(3) specifically mandates that as a condition precedent to being identified as a “covered entity” there must be a “finding” by a “court order or government enforcement action” of a violation of (i) the NYVRA, (ii) the Federal Voting Rights Act, (iii) the 15th Amendment, (iv) the 14th Amendment, or (v) other predicates not relevant here. Mere allegations or court discussion regarding any such alleged violations are insufficient.

As Orange County, in fact and in law, has not been found to have violated the 14th Amendment, the Federal Voting Rights Act or any other act or amendment referred to in section 17-210(3) it is requested Orange County be immediately removed from your preliminary identification list as a “covered entity” under NYVRA.

We look forward to your Office’s reconsideration of the preliminary designation, and remove Orange County as a NYVRA “covered entity,” so that it is not subject to preclearance obligations as set forth in N.Y Election Law § 17-210. If Orange County is not so removed by your Office, please advise if there are any administrative appeal opportunities to the denial of this request for reconsideration.

Thank you.

Respectfully,



Richard B. Golden