

1. 11-10-2022 TDAC Public Notice

Documents:

[11-3-22 DISTRICTING ADVISORY COMM NOVEMBER. 2022 - COPY.PDF](#)

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Documents:

[11-10-22 DIST ADVISORY COMM.PDF](#)

3. 11-10-2022 TDAC Transcript

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PUBLIC NOTICE
PLEASE TAKE NOTICE THAT THE

TEMPORARY DISTRICTING ADVISORY COMMISSION

FOR THE

THE NASSAU COUNTY LEGISLATURE

WILL HOLD ALL MEETINGS LISTED BELOW

IN

**THE PETER J. SCHMITT MEMORIAL LEGISLATIVE CHAMBER
THEODORE ROOSEVELT EXECUTIVE AND LEGISLATIVE BUILDING
1550 FRANKLIN AVENUE, MINEOLA, NEW YORK 11501**

THURSDAY, NOVEMBER 10, 2022 6:00 PM-8:00PM

(OPEN TO THE PUBLIC, BUT NO PUBLIC COMMENT)

WEDNESDAY, NOVEMBER 16, 2022 6:00 PM

(PUBLIC COMMENT WILL BE ALLOWED)

Attendees will be given an opportunity to sign in to address the Legislature. Public comment will be limited to 3 MINUTES. Public comment on any item may also be emailed to the Clerk of the Legislature at LegPublicComment@nassaucountyny.gov and will be made part of the formal record of this Legislative meeting.

MONDAY, NOVEMBER 21, 2022 6:00 PM-8:00PM

(OPEN TO THE PUBLIC)

(COMMISSIONERS WILL BE VOTING ON ANY MAPS SUBMITTED)

**FRANCIS X. MORONEY
CHAIRPERSON**

**DATED: November 3, 2022
Mineola, NY**

As per the Nassau County Fire Marshal's Office, the Peter J. Schmitt Memorial Legislative Chamber has a maximum occupancy of 200 people. The Nassau County Legislature is committed to making its public meetings accessible to individuals with disabilities and every reasonable accommodation will be made so that they can participate. Please contact the Office of the Clerk of the Legislature at 571-4252, or the Nassau County Office for the Physically Challenged at 227-7101 or TDD Telephone No. 227-8989 if any assistance is needed. Every Legislative meeting is streamed live on <http://www.nassaucountyny.gov/agencies/Legis/index.html>



PUBLIC NOTICE

**PLEASE TAKE NOTICE THAT THE
TEMPORARY DISTRICTING ADVISORY COMMISSION**

FOR THE

THE NASSAU COUNTY LEGISLATURE

**WILL HOLD A WORK SESSION
(OPEN TO THE PUBLIC, BUT NO PUBLIC COMMENT)**

ON

THURSDAY, NOVEMBER 10, 2022

6:00 PM UNTIL WORK SESSION ENDS (8:00PM)

IN

**THE PETER J. SCHMITT MEMORIAL LEGISLATIVE CHAMBER
THEODORE ROOSEVELT EXECUTIVE AND LEGISLATIVE BUILDING
1550 FRANKLIN AVENUE
MINEOLA, NEW YORK 11501**

**PLEASE CHECK WEBSITE AT LEAST 24 HOURS BEFORE MEETING FOR
ANY CHANGES, POSTPONEMENTS OR CANCELLATIONS FOR
UPCOMING MEETINGS. IF A MEETING IS CANCELLED OR POSTPONED A
NEW PUBLIC NOTICE WILL BE POSTED**

**FRANCIS X. MORONEY
CHAIRPERSON**

DATED: November 3, 2022

Mineola, NY

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NASSAU COUNTY
TEMPORARY DISTRICTING
ADVISORY COMMISSION

MEETING IX
WORK SESSION

FRANCIS X. MORONEY
CHAIR

Nassau County Legislature
1550 Franklin Avenue
Mineola, New York

November 10, 2022

6:08 p.m.

TAKEN BY: KAREN LORENZO, OFFICIAL COURT REPORTER

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A P P E A R A N C E S :

COMMISSIONERS:

- FRANCIS X. MORONEY, CHAIRMAN
- PETER BEE
- JOHN J. REINHARDT
- MAUREEN FITZGERALD (excused)
- CHRISTOPHER DEVANE
- ERIC MALLETT

- DAVID MEJIAS, VICE CHAIR
- JARED KASSCHAU,
- ANDRENA WYATT
- JAMES MAGIN, JR.
- MICHAEL PERNICK

EXECUTIVE DIRECTORS:

- ELISABETTA COSCHIGNANO
- RACHEL WHITMORE

BOARD ATTORNEYS:

- VINCENT MESSINA, ESQ.
- PETER CLINES, ESQ.

CLERK:

- MICHAEL PULITZER

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A L S O A P P E A R E D :

DR. MEGAN GALL, PRINCIPAL (VIA TEAMS)

Blockwell Consulting

DAVID SCHAEFER, VICE PRESIDENT

Skyline Consulting

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CHAIRMAN MORONEY: We had a discussion ahead of time and Dr. Gall who's the demographer for the commissioners appointed by the minority will give her presentation to us at her will.

Dr. Gall, we can't see you, but we can hear you, I'm sure -- Oh, yes. Michael. Do you want to call the roll?

CLERK PULITZER: Thank you, Chairman. The office of roll call. Commissioner Peter Bee?

COMMISSIONER BEE: Present.

CLERK PULITZER: Commissioner John Reinhardt?

COMMISSIONER REINHARDT: Here.

CLERK PULITZER: Commissioner Maureen Fitzgerald?

CHAIRMAN MORONEY: Excused.

CLERK PULITZER: Thank you. Commissioner Christopher Devane?

COMMISSIONER DEVANE: Here.

CLERK PULITZER: Commissioner Eric Malette?

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COMMISSIONER MALLETTE: Here.

CLERK PULITZER: Commissioner David
Mejias?

COMMISSIONER MEJIAS: Here.

CLERK PULITZER: Commissioner Jared
Kasschau?

COMMISSIONER KASSCHAU: Here.

CLERK PULITZER: Commissioner
Andrena Wyatt?

COMMISSIONER WYATT: Here.

CLERK PULITZER: Commissioner James
Magin, Jr.?

COMMISSIONER MAGIN: Present.

CLERK PULITZER: Commissioner
Michael Pernick?

COMMISSIONER PERNICK: Here.

CLERK PULITZER: Chairman Frank
Moroney?

CHAIRMAN MORONEY: Present.

CLERK PULITZER: We have a quorum,
sir.

CHAIRMAN MORONEY: Dr. Gall, we're
at your command whenever you wish to
start.

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DR. GALL: Wonderful. Thank you so much.

My name is Dr. Megan Gall. I'm the principal at Blockwell Consulting. I've prepared an analysis of the Nassau County Legislative Districts.

I want to thank you for the opportunity to be with you tonight and to share these results.

Just a quick note on my credentials, I have a Ph.D in Political Science. I have a Masters of Science in Geographic Information Science which is hi-tech map making. I'm a certified GIS professional from the GIS Certification Institute. I hold a research associate appointment with the University of California, Berkeley. I have worked in voting rights since 2014, and I opened Blackwell Consulting in 2021.

My past clients or current clients have included Strumwasser & Woocher, which was the counsel for the California Citizens Redistricting Commission. I was

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the sole statistician for that project.
I have also been an expert for the U.S. Department of Justice National non-profit law firms, private law firms, state level secretaries of state and numerous level jurisdictions including cities, counties and special jurisdictions of all sizes like yours.

I had a set of instructions for my analysis. First, I was to perform a non-partisan analysis in all respects. I was asked to analyze if any patterns of racially polarized voting in Nassau County. I was asked to confirm that compliant alternative districting configurations are possible and if so, to draw a compliant plan based on the law and districting criteria. I was asked to analyze any proposed districting plans for compliance with federal and state law, and finally I was asked to provide a complete written report with my findings and conclusions.

Summary of findings and then we'll

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go through these in more detail:

- the Nassau County elections show patterns of racially polarized voting. Black and Latino voters generally vote cohesively in support of the same candidates. White voters generally vote as a block in such a way that typically defeats the minority-preferred candidate.

- Second, it is possible to draw a map that complies with all federal and state legal requirements and also contains five majority/minority districts in which the combined Black and Latino voting age population, which is 18+, is above 50% and the citizen voting age population is also above 50%. Without these majority/minority districts, Black and Latino voters will usually be unable to elect candidates of their choice.

Let's move into the analysis. First, a little bit about the demographics of Nassau County as a whole. Between 2010 and 2020 there has been population growth of over 56,000 people.

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That has been accompanied with a rather dramatic decline in the White population. You can see in the chart here that the White population dropped nearly 100,000 people, which is a drop of nearly 10% from 2010 to 2020. That drop was accompanied by significant growth in the Asian and Latino populations.

Asian population, specifically, grew over 61,000 people and the Latino population also grew over 61,000 people. The Asian growth rate over the past 10 years was 61%, and the Latino growth rate was 31%, and we see these reflected in these numbers. I'll also mention that the Black population grew by nearly 6,000, and although they still represent about the same amount of percentage in the county, about 10.55%, the growth rate was 4%.

I have a couple of maps showing the demographics of the County. There's three maps and they're all set up in the same way. They just give us an idea of

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where the populations are located. Shading is darker in areas with higher percentages of the population and shading is lighter in areas with lower percentages of the population.

In all three maps the scale is the same so that comparisons are easy to the eye. Anything in the darker greens is going to be a population of 50% or higher.

On this slide we can see the geographic dispersion of the Black voting age population (indicating). On the right-hand side, we have a map of the full county for context and on the left-hand side, I tried to zoom into the areas where the Black voting age population percentages are high.

We have a couple of pockets, one in New Castle in Westbury. Another pocket just south of that in Hempstead, Uniondale, Roosevelt, Freeport, Baldwin, Baldwin Harbor and Lakeview. And then in the west of the County we have another

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pocket that is made up of South Floral Park, Elmont, North Valley Stream, Valley Stream and South Valley Stream.

Next is the Latino voting age population and you'll notice that the pockets are similar to the Black residential patterns. Latino populations are a little bit more dispersed and you can see that as I flip back and forth between them. There are pockets of Latino voting age population again in New Castle in Westbury extending into Hicksville a little bit. Another one in the Hempstead, Uniondale, Roosevelt, Freeport, Baldwin area and then, again, on the west side of the County, Elmont, North Valley Stream and Valley Stream area.

Finally, a map showing concentrations of Asian voting age population. Again, we have two pockets here, sort of, on the east and the west side. On the east side we pockets in Syosset, Jericho and Hicksville around

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that area and a pocket on the western side that includes, among others, Herricks, Lake Success, North New Hyde Park and Garden City Park. And that just gives a little foundation on the demographics of the County.

Next I want to talk about racially polarized voting. Racially polarized voting is a phenomenon that exists when we have racial and ethnic groups voting as distinct groups with distinct candidate preferences. We use a statistic called ecological inference to measure the degree of racially polarized voting.

Ecological inference you may have heard referenced as EI. Ecological inference is the predominant measure for racially polarized voting. It has been for decades and is accepted by the courts universally. The other thing to note is that results reflect estimates of the group voting behavior. We can only derive estimates.

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Measuring racially polarized voting is part of the analysis of the Gingles preconditions, which is part of the legal framework for assessing voting rights violations. This framework was established in Thornburg v. Gingles in 1986, and we use the racially polarized voting and the ecological inference to answer a series of questions:

- Is voting racially polarized, and if so, who are the candidates of choice?
- Are the minority voters' candidates of choice usually defeated?

And then as part of this exercise, we also do a performance analysis. A Performance Analysis lets us look at past elections under new districts to see if they perform for the minority preferred candidates.

I analyzed two contests in Nassau County, the 2017 and 2021 County Clerk Contests. These are considered the most probative elections for analysis for a couple of reasons. They are recent.

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They are endogenous elections, meaning the geography for the election is the same as the jurisdiction under consideration. So it's the full county and we have minority candidates on the ballot.

So for these two contests, racially polarized voting was present. In the 2021 contest between Brown and O'Connell, the candidate of choice for Latino and Black voters was Brown and they supported Brown between 84 and 95% support. Black and Latino voters were voting as a coalition. The candidate of choice for White voters was O'Connell. White voters supported him (sic) between 66 and 70%. The White voting bloc was sufficient to defeat the minority's preferred candidate in Brown.

Results are similar in the 2017 contest between Bennett and O'Connell. Again, racially polarized voting was present. The candidate of choice for Latino and Black voters was Bennett.

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Support ranged from 88 to 96% support. Black and Latino voters were voting in coalition.

The candidate of choice for the White voters was O'Connell and White support for O'Connell was between 59 and 62%. The White voting bloc, again, was sufficient to defeat the minority's preferred candidates.

We'll move into redistricting. I want to go through the redistricting criteria that guided the map making process. First of all, with equal population. Equal population has roots in the U.S. Constitution around 'one person, one vote'. Nassau County also has local requirements in the municipal Home Rule Law that we'll get into more specifically. For this exercise we used the prison-adjusted total population based on the 2020 Decennial Census published by the New York State Legislative Task Force on Demographic Research and Apportionment.

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Second, we wanted to maintain compactness, as compact as possible, while otherwise complying. We wanted to keep districts contiguous, avoid connecting districts by water. Nassau County has a lot of water features to work with. That is a traditional redistricting principle and something that we do as a matter of course.

We also wanted to preserve political subdivisions. This is a traditional redistricting principle and also required by the local Municipal Home Rule Law, and, again, I'll get into that more specifically also.

I also wanted to preserve communities of interest. This is desirable and I was able to incorporate communities of interest as they were relayed to me and largely based on public testimony.

Finally, we looked to the Voting Rights Act to help us determine if majority/minority districts are in order

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and for this proposed plan, we have five districts that are majority/minority districts. This is based on overall minority population, residential patterns, racially polarized voting patterns and in full compliance of all of the other requirements.

The districts perform by which I mean they allow minority voters the opportunity to elect their candidates of choice.

Factors I did not consider include election results, party affiliation, party advantage or any other partisan measure. I did not consider boundaries for cores of the 2013 Legislative Plan and I did not consider addresses of incumbent county legislators.

Quick orientation to the map, and we're going to go through each of the districts, but this is an overview. The district boundaries are in black lines. The districts are numbered, and smaller subdivisions are shown in the gray lines.

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The proposed -- I'm going to go through some of the statistics on the proposed plan. First, equal population.

The New York Municipal Home Rule Law states that "the difference in population between the most and the least populace district shall not exceed 5% of the mean population of all districts." Shorthand, that means we have a 5% population deviation. Again, populations are based on the present adjusted data sets.

The first thing we do is derive an ideal population and to do that we take the total population of the county and divide it by the number of districts, in this case 19, to get our ideal district population, which is 73,522 people. The proposed plan has a population range of 72,006 people to 75,231 people and this is an overall population range of 4.39%. Four point three nine percent is squarely within the New York Municipal Home Rule Law.

We also created a very compact plan

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and measure compactness here. The Reock and Polsby-Popper tests are common compactness tests. Both measures run from zero to one. The higher numbers indicate more compact districts.

One thing to note about compactness measures is that some courts have given some weight to some measures, but there is no consistent measure and no definitive test for compactness. The proposed plan, however, does improve substantially in overall plan compactness and individual district compactness as compared to the 2013 Legislative Plan.

For the proposed plan we also wanted to preserve political subdivisions. The Municipal Home Rule Law states that to the extent practical, "no villages, cities or towns except those having more than 40% of a full ratio for each district shall be divided." The proposed plan complies fully with the Municipal Home Rule Law and keeps all political subdivisions that are subject to the law

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in a single district.

I'm going to go through the districts one by one, but I wanted to give a quick rundown -- the slides are all going to look the same -- quick rundown of what we're looking at. The map shows the district boundaries in bold black lines and Google Maps underneath it for reference. Areas shaded in red, and you can see one on the corner here (indicating) not in this district, in a side district, those areas are subject to the Municipal Home Rule Law. We have a table showing the total population, adjusted voting age population and estimated citizen voting age population for each district. We have details on the overall district population and deviation, details on compactness, and then I'm going to point out any special features or considerations as we walk through each of the districts.

District 1 includes either full or portions of Elmont, North Valley Stream

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and Valley Stream. District 1 has a very high compactness score. This is a majority/minority district with 65% combined voting age population and 59% combined citizen voting age population. In the performance analysis minority preferred candidates won by 33 to 39%, and as previously mentioned, there are no areas subject to the Municipal Home Rule Law in District 1.

District 2 includes New Castle, Westbury, South Salisbury, Uniondale and portions of East Meadow. There was public testimony about keeping New Castle and Westbury together as a community of interest and we have done that here. This is also a majority/minority district. The combined voting age population is 64%. The combined citizen voting age population is 57%. The Performance Analysis, the minority preferred candidate wins by 24 to 37% and Westbury is subject to the Municipal Home Rule Law and is kept whole in District 2.

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District 3 includes Hempstead and a portion of West Hempstead. We heard testimony to unify the Village of Hempstead, which is the largest Village in the United States and this plan accomplishes that goal. This is also a very compact district. It's also a majority/minority district where the combined voting age population is 79.88% to 80% and the combined citizen voting age population is about 72%. In the Performance Analysis, minority preferred candidates won by 26 to 36% in District 3.

District 4 includes all of Roosevelt, Rockville Centre, South Hempstead and Lakeview and portions of West Hempstead, Malvern Park Oaks, Baldwin and Freeport. This is also a majority/minority district. The combined voting age population is about 60% and the combined citizen voting age population is about 53%. In a Performance Analysis the preferred minority preferred candidates won by 16

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to 30%. Rockville is the only area subject to the Municipal Home Rule Law. It is shown in red and it is kept whole in District 4.

District 5 unifies the cores of Baldwin and Freeport with portions of Merrick. This is the fifth majority/minority district. The combined voting age population is 63% and the combined citizen voting age population is about 55%. In Performance Analysis the minority preferred candidate won by 17 to 30%. There are no areas subject to the Municipal Home Rule Law in District 5.

District 6 includes New Hyde Park, North New Hyde Park, Garden City Park, Herricks, Lake Success, Searingtown, Manhasset Hills, University Gardens, Saddle Rock, Saddle Rock Estates, Harbor Hills, Thomaston, Great Neck Plaza, Great Neck Estates and Russell Gardens. This is an Asian influence district and while we have no legal obligation here to create an Asian influence district, where

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the population and redistricting principles naturally took us allow for an Asian influence district, and when these things align it is important to do so. In this district the Asian voting age population is just over 40% and the citizen voting age population is around 35%.

CHAIRMAN MORONEY: Dr. Gall, I don't mean to interrupt you, but could you please define Asian for us, what Asian nationalities are in that district?

DR. GALL: Yes, sir. This is Asian as defined by the Census Bureau, which is quite a lengthy list of all folks they define as Asian. I don't have that in front of me, but if helpful, I can submit later.

CHAIRMAN MORONEY: Yes. Please do.

DR. GALL: Sure. I'll make a note. Okay. There are several areas subject to the Municipal Home Rule Law and instead of reading them again, they're on the screen for your viewing.

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District 7 includes, among others, Glen Cove, Sea Cliff, Glenwood Landing, Old Brookville, Glen Head, Cove Neck, Lattington and like I said, several others. There are several areas subject to the Municipal Home Rule Law. I have them listed on the screen and I will forgo reading them to you again.

CHAIRMAN MORONEY: This is Frank Moroney again. I apologize for interrupting you. If you could also, when you give us that list of the definition of Asian, if you could include by sending us copies of the participation -- I'm sorry. The presentation so that we can have that in front of us.

COMMISSIONER MEJIAS: I think we should submit the entire PowerPoint deck into the record. So we'll make sure that that happens.

CHAIRMAN MORONEY: Okay. Thank you.

DR. GALL: Okay. Moving on.

District 8 includes all of Plainview

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and Bethpage and half of Hicksville. We heard testimony suggesting these areas are a community of interest with a request to reduce the splits of Hicksville, specifically and we were able to do that. Farmingdale is the only area subject to the Municipal Home Rule Law and it is kept complete in District 8.

District 9 includes Manhasset, Sands Point, Manorhaven, Port Washington North, Baxter Estates, Plandome Manor, Flower Hill, Plandome, Plandome Heights, Munsey Park, Roslyn Estates, Roslyn, Roslyn Harbor, Kensington, Great Neck and Kings Point. There are several areas subject to the Municipal Home Rule Law in District 9. They are all kept whole.

COMMISSIONER BEE: Doctor, this is Peter Bee. I'm Chair of the Republican delegation. I just wonder if you could clarify the term -- You said several times something does or does not -- is or is not subject to the Municipal Home Rule Law. What do you mean by "subject to"?

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I was under the impression that the crafting of any district was subject to the Municipal Home Rule Law.

DR. GALL: More specifically, that is correct. I am speaking about the splits specifically. This piece of the Municipal Home Rule Law that says "to the extent practicable, no villages, cities or towns except those having more than 40% shall be divided." So I'm specifically referencing that in these slides.

COMMISSIONER BEE: So when you say it's not subject to that law, what you're saying is is that you haven't violated that provision of the law in crafting the district.

DR. GALL: That's correct.

COMMISSIONER BEE: Thank you.

DR. GALL: I think I left off on 10.

District 10 includes Franklin Square, Malvern, North Lynbrook, Lynbrook, Bay Park and East Rockaway. Also has portions of Oceanside and Franklin

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Square. There are three areas subject to the Municipal Home Rule Law that we did not want to split and we kept those area whole in District 10.

District 11 includes Bellerose Terrace, Bellerose, Floral Park, South Floral Park, Stuart Manor, Garden City South and Garden City. It also has portions of Franklin Square and Elmont. Several areas are subject to the Municipal Home Rule Law regarding splitting, and those are kept whole in District 11.

District 12 includes Carle Place, Mineola, Williston Park, East Williston, Albertson, Roslyn Heights, Old Westbury, East Hills, Brookville, Muttontown, East Norwich and Greenville and including portions of Searingtown. Again, several areas that we did not want to split and we kept those areas whole.

District 13 includes portions of Levittown, East Meadow and Salisbury. This is a very compact district with no

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areas subject to the Municipal Home Rule Law.

District 14 includes North Bellmore, North Merrick and Bellmore. It has portions of Merrick and Wantagh in it. There no portions subject to the Municipal Home Rule Law regarding splitting.

District 15 includes Jericho, Syosset and Woodbury entirely in one district per public testimony. The district also has portions of Hicksville, and there are no areas subject to the Municipal Home Rule Law regarding splits, but the key here for us was keeping Jericho, Syosset and Woodbury in a single district.

District 16 unifies the Five Towns area as was also noted in public testimony. This includes Lawrence, Inwood, Cedarhurst, Hewlett Neck, Woodsburgh, Woodmere, Hewlett, Hewlett Bay Park and Hewlett Harbor. Several of those areas are subject to the Municipal

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Home Rule Law regarding splits and those are kept whole in this district.

District 17 keeps the Barrier Island in one district and this includes Atlantic Beach, Long Beach, Lido Beach and Point Lookout. Atlantic Beach and Island Park are subject to the Municipal Home Rule Law and they are kept whole in District 17.

District 18 includes Massapequa, Seaford and North Wantagh, portions of Levittown and North Massapequa. There no areas subject to the Municipal Home Rule Law regarding splits.

And finally, **District 19** includes Plainedge, South Farmingdale, Massapequa Park and East Massapequa. The Municipal Home Rule Law applies to Massapequa Park.

CHAIRMAN MORONEY: Doctor, this is Frank Moroney again. I've got a question for you. In between District 10 and District 5 which is right above District 17, there appears to be a piece of land that's detached from, I'm gathering,

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District 17; is that correct?

DR. GALL: Can you orient me? I have my map in front of me. Can you orient me one more time?

CHAIRMAN MORONEY: Sure. It's between the southern portion of District 10 and the southern portion of District 5 north of District 17.

DR. GALL: Okay.

CHAIRMAN MORONEY: There is a, what's called a finger for discussion purposes that's detached from District 17. Is that intended to be in District 17 or not?

DR. GALL: It is attached via roadways and it is intended to be in District 17.

CHAIRMAN MORONEY: What is the roadway?

DR. GALL: The roadway is the Austin Boulevard.

CHAIRMAN MORONEY: Which boulevard, I'm sorry?

DR. GALL: Austin. It might also be

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called Industrial Place. No. It's Austin Boulevard. It runs north from Long Beach --

CHAIRMAN MORONEY: Okay. One other question about the map as a whole. Can you direct me to the districts that under the Municipal Home Rule Law where you've maintained the core of existing big districts, if you could, please.

DR. GALL: I did not consider district cores in drawing the maps.

CHAIRMAN MORONEY: So the map in total, then, is in violation of that section of the Municipal Home Rule Law?

DR. GALL: I understood that to be a consideration, not a requirement.

CHAIRMAN MORONEY: What you took it to be or not, the fact remains that it was ignored by you, correct?

DR. GALL: I did not consider district cores in my drawing.

That is the end of the presentation. I would be happy to take any additional questions.

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CHAIRMAN MORONEY: Are there any questions over here (indicating)? Any questions over here?

COMMISSIONER BEE: Yes, I have a question. It really is a follow-up to yours and maybe I've got the wrong quotation in front of me, but my review of the Municipal Home Rule Law was that it lists six criteria in order of importance and the fifth criteria is that you must consider "cores of existing district, cities, villages and towns should be maintained." So I just -- Doctor, did you have a chance to review those criteria?

COMMISSIONER MEJIAS: Excuse me. Can we keep the voices down in the audience, please. Commissioner Bee was speaking. Please, if we can keep the commotion down. It's very difficult to hear Dr. Gall.

Commissioner?

COMMISSIONER BEE: I believe I finished the question which was, my

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recollection is that the Municipal Home Rule Law does require consideration of the "cores of existing districts and requires that they be maintained." Obviously, it's the fifth consideration, but it is one of the six considerations required.

COMMISSIONER PERNICK: I'd like to ask if you could to quote the entire consideration. It's only a few words out of the second sentence of a three-sentence description, so if you could.

COMMISSIONER BEE: If you have it handy, that would be great.

COMMISSIONER PERNICK: Sure. Do you want me to read it for you?

COMMISSIONER BEE: Please.

COMMISSIONER PERNICK: So the consideration, item number 5, it says, "District shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties. The maintenance of cores of

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existing districts of pre-existent political subdivisions including cities, villages and towns and communities of interest shall also be considered to the extent practicable. No villages, cities or towns except those having more than 40% of a full ratio for each district shall be divided."

COMMISSIONER BEE: And I'm not, at the moment, battling whether she should or should not have considered the cores of existing districts. I'm just asking whether she did. I think she said before she did not, but I just want to make sure I understood that correctly.

COMMISSIONER PERNICK: Well, the existing map is illegal.

COMMISSIONER BEE: Well, I was just asking the doctor the question did she consider the existing districts?

COMMISSIONER PERNICK: The legal existing districts; that's the question?

COMMISSIONER BEE: No. My question is, did she consider the existing

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legislative districts and any consideration given to maintaining them in her work?

COMMISSIONER MEJIAS: I just want to be clear of the question for the record. What are you defining as the core of a district? The law is very clear that the core district should not include a consideration of incumbency of particular candidates.

COMMISSIONER BEE: Doctor, hopefully you heard the quote of the law given by my fellow commissioner, and I wondered whether you did or did not take that into consideration when you drew the proposed districts?

DR. GALL: I did not take district cores of the 2013 Legislative Map into consideration. My analysis of the 2013 Legislative Map was that it was in violation of the Voting Rights Act.

CHAIRMAN MORONEY: And who advised you of that?

DR. GALL: That was based on my own

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analysis.

CHAIRMAN MORONEY: I'm sorry. I didn't hear that.

DR. GALL: That was based on my own analysis.

CHAIRMAN MORONEY: So no one told you that it was in violation of the ERA, correct?

DR. GALL: That's correct.

CHAIRMAN MORONEY: Now, let me ask you another question if I could. Did you take into account incumbency?

DR. GALL: I did not take into account incumbencies.

CHAIRMAN MORONEY: What were the other items, Mr. Pernick, that you said? Can you go one by one?

COMMISSIONER PERNICK: Sure. "Districts shall not be drawn to discourage competition or for the purpose of favoring -- Let me take a break. Are you asking me to read you subsection E?

CHAIRMAN MORONEY: I don't have it in front of me.

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COMMISSIONER PERNICK: Would you like me to hand it to you or would you like me to read it?

CHAIRMAN MORONEY: Sure. I'm happy to do that. I don't mean to send work in your direction.

Did you take into account whether or not anyone will be discouraged from competition over the purpose of favoring or disfavoring any incumbent?

DR. GALL: I did not.

CHAIRMAN MORONEY: Did you deal with any particular candidates or political parties?

DR. GALL: I did not.

CHAIRMAN MORONEY: You didn't consider any of those items so far, right?

DR. GALL: I did not.

CHAIRMAN MORONEY: Okay. So you then, therefore, have something in your possession as to who those people were and what those candidates are or were and what their names are?

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DR. GALL: I don't follow the question. Could you rephrase?

CHAIRMAN MORONEY: Okay. I'll go back and ask.

COMMISSIONER PERNICK: I'm sorry. I don't understand either. She just said that she didn't consider it, that she didn't consider incumbents.

CHAIRMAN MORONEY: Then I misunderstood it because I asked the question I asked was did she take it into consideration? Let me ask it again because we want to make sure the record is clear.

Did you take into consideration whether or not the map you were drawing would favor or disfavor any incumbent?

DR. GALL: I did not take incumbency into account in any way, shape or form.

COMMISSIONER PERNICK: Dr. Gall, could you go back to the slide where you list the factors that are not considered? I think that that addresses all of his questions directly.

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CHAIRMAN MORONEY: All of these other items that are not on that list you did take into account?

DR. GALL: These are the factors I took into consideration.

CHAIRMAN MOLONEY: Okay. Thank you.

COMMISSIONER REINHARDT: Could we bring back District 5 for a second with regard -- you say there's no Municipal Home Rule Law subject areas in here, correct?

DR. GALL: That's my understanding. Yes.

COMMISSIONER REINHARDT: I believe there's a village, actually, in there.

CHAIRMAN MORONEY: They're asking if there's a southern area village?

COMMISSIONER REINHARDT: We got the answer. It's not subject to. It exceeds the population (indiscernible).

CHAIRMAN MORONEY: Okay. If there's nothing else, would you remain at least online if we need to refer back to some things you might have taken into

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consideration? I know you have another engagement. If you have to go, that's fine. Just let us know, okay?

DR. GALL: Okay. Thank you for your time today.

COMMISSIONER PERNICK: Maybe what we could do because I know Dr. Gall did have something else, if we need to get her back, we can text her or call her and try to get her back.

CHAIRMAN MORONEY: I'm okay with that.

COMMISSIONER PERNICK: Does that work for you?

CHAIRMAN MORONEY: That's fine. We don't want to get anyone's schedule out of whack.

Okay. We're going to put up a different map at this particular point. We're putting up on the screens in front of you the map that's been presented by the Republican commissioners and we'll be hearing testimony from David Schaefer who is a principal in Skyline Consulting.

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MR. SCHAEFER: I'm David Schaefer. I'm the Vice President of Skyline Consulting. This is my fourth redistricting cycle. I started in 1990 and have worked in, primarily, New York State redistricting projects including statewide, numerous counties and towns. I've testified and been an expert in federal and state courts, and in this redistricting cycle I worked for the State legislative lines as well as a thousand counties and towns.

As was stated before, under the Census 2020 populations, Nassau County's districts need to be adjusted to comply with one person, one vote and state and federal law. A year ago in October, new changes to the Municipal Rule Law now require smaller population deviations than previously required and also now require villages to remain whole and require a reduction in political considerations when drawing districts.

My process in this first draft is

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to, without input from commissioners in any significant way, create a map that follows the Municipal Home Rule Law, the state and federal laws and produces this map to be used as a starting point for their final plan, that being any subjective information from both the testimony been given to me, changes being made based on this starting point.

We adhere to every consideration of the Municipal Home Rule Law except possibly number F, which was "A District shall be formed as to promote the orderly and efficient administration of elections." My practice is to leave that one off until the end when the Board of Elections can be consulted to see if any proposed changes that are likely to pass might cause them any pain.

As stated before, Municipal Home Rule Law, I think it's Section 34, deals with these rules and these are what I followed to create our proposal:

- equal population with no more than

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- 5% total deviation;
- districts do not have the intent or result of diminishing racial or language minorities. The language minorities part of that is new from the Municipal Rule Law;
- districts are compact and contiguous;
- shall not be drawn to discourage competition favor or disfavoring incumbents, candidates or parties;
- the cores of existing districts, cities, villages and towns should be maintained; and as I said before,
- to promote the efficient administration of elections.

The primary reason for redistricting is to comply with 'one person, one vote'. Our plan complies with that and has a 1.8% total deviation from the ideal population. No district is more than 1% above the ideal population or 1% below the ideal population.

As far as Voting Rights Act and

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racial minority language groups, the Voting Rights Act is a federal law that requires us to take a look and see whether a historical production of minority communities' rights prevent them from electing the candidates of their choice. Without having done an ecological regression or an ecological inference, I drew these maps presuming that if someone wanted to bring suit under Section 2 that they would have no basis because I did create districts that this federal law would require.

In the existing districts ten years ago, one of the districts had a majority voting age Black population, and through changes of demographics and other population shifts, none of the districts have a majority voting age Black population above 50%.

So we did create a district, I think it's District 1, that is above 50% and I believe that that inoculates us from a challenge under the Federal Voting Rights

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Act.

In the past, coalition districts of Black and Hispanic populations -- I found it difficult in my experience in New York State. The data is either unclear or it shows that Hispanic and African-American voting populations don't always have common political interests. I think that there's not a lot of data in the last ten years, although I'm not a statistician, that show any elections or Black voting patterns which had a, say, Hispanic-preferred candidate or an African-American-preferred candidate to see whether or not the two populations in a primary election, for example, would be politically polarized. I think the elections earlier were with general elections that we saw.

Compacting contiguous: All of the districts in our plan are compact. All are contiguous. In fact, in our plan all of the districts and the plan as a whole is more compact than the existing

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boundaries. We used about nine algorithms which are based in the software I used to draw the maps, and in every measure they were better than the existing boundaries.

A new rule on the Municipal Home Rule Law states that "districts shall not be drawn to discourage competition or favor or disfavoring incumbents, candidates or parties."

Every change we make in redistricting has a positive or negative affect on all of those things. So my practice is to draw the districts and come in blind without any political data at all and that prevents me from unconsciously creating districts that intentionally help or hurt a candidate, but after we completed our plan, we overlaid the home addresses of the incumbent members to see if any members were paired. Pairing of incumbents is an obvious and very measurable way to determine whether an incumbent is going

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2 to be helped or harmed. If two
3 incumbents have to run against each other
4 in the same district, obviously, one of
5 them will lose and one of them will win.
6 I don't use enrollment or past election
7 results to predict future outcomes of
8 elections to do that, but the home
9 address of an incumbent is a fact. It's
10 a non-disputable fact, and in our plan
11 after drawing I found I paired three
12 members in one district and two member in
13 another. While I didn't undo those, I
14 submitted the plan to the Commission, I
15 feel that those pairings could be undone
16 if the Commission decides without
17 affecting any of the more important
18 conditions of the Municipal Home Rule
19 Law.

20 The Municipal Home Rule Law does
21 state that smaller villages, villages
22 under 40% of the size of a whole district
23 should not be split where practicable.
24 Our plan doesn't split any villages
25 except for the three that are allowed

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under the Municipal Home Rule Law.

Preservation of cores of districts:

This Home Rule Law requires us to recognize to cores of districts as well in that same paragraph. Our plan preserves 91% of the cores of existing districts. Very few citizens of Nassau County will have to vote for a new member based on the drawing that we've done. Sixty-five villages remain whole under that section.

In summation, I guess, our plan follows every one of the conditions on the Municipal Rule Law. We inoculate ourselves against a federal Voting Rights Act that's challenged by creating an African-American majority district, and we also create three, what I would call majority/minority districts in addition to that African-American majority district.

I feel this plan, although it's flawed in some ways, it closely achieves the goals of the Municipal Rule Law

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changes as well as federal, state and county law.

CHAIRMAN MORONEY: Are there any questions?

COMMISSIONER PERNICK: Thank you -- It's Mr. Schaefer?

MR. SCHAEFER: Yes.

COMMISSIONER PERNICK: Thank you for your overview and presentation today.

What software did you use to draw the map, Maptitude?

MR. SCHAEFER: Maptitude.

COMMISSIONER PERNICK: Did you use any other software or just Maptitude?

MR. SCHAEFER: Well, different presentations. First, I used Excel as well.

COMMISSIONER PERNICK: Okay. Anything other than Maptitude and Excel?

MR. SCHAEFER: I'm sure there were, but nothing substansive.

COMMISSIONER PERNICK: Okay. What information did you have uploaded into Maptitude that you used for the drawing

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of the map?

MR. SCHAEFER: Just the census data.

COMMISSIONER PERNICK: And you used total population from the 2020 Census?

MR. SCHAEFER: The adjusted population, prison-adjusted population.

COMMISSIONER PERNICK: Did you, at any point in time, look at that at VAP or CVAP?

MR. SCHAEFER: VAP as voting age population as reported by the Census Bureau. I have citizen voting age population available to me. I didn't use it for a couple of reasons. Two primary reasons are the citizen voting age population usually released at the decennial census, that process wasn't done this year. So the data that CVAP I would have used was very old, three, four, maybe older --

COMMISSIONER PERNICK: For 2020, '19_____.

MR. SCHAEFER: Yes, but the survey would have been done prior to that.

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Second there's a process which I would love to talk to statisticians at length about called differential privacy. The census to preserve the privacy of people that responded to census, they, at small geographic levels, kind of shuffled all of the data together and then reassigned it. The idea from the Census Bureau was if one person lived on a census bloc and answered the census a certain way, anybody could look at the answers to that census bloc and know specifically what that person did. In the past what they would do with that person is they just put his answers in with an adjoining bloc of a larger population and then randomly distribute his answers into his bloc. This time they took all of the blocs in the entire country and did an analysis of, statistical analysis, and then reassigned population to census blocs.

At larger geographies, it is probably accurate. Again, I'm not a

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statistician. I would love to talk to a
statistician at length about that. At
small geographies, the margins of error
are very high. So I don't think it's
appropriate to use the census CVAP
numbers to decide the exact percentage of
a district with such high margins of
error.

COMMISSIONER PERNICK: Did you look
at partisan data at any point in time?

MR. SCHAEFER: Just the incumbents
address after I completed the plan.

COMMISSIONER PERNICK: Did you have
any sort of partisan scores uploaded into
Maptitude?

MR. SCHAEFER: No.

COMMISSIONER PERNICK: Did you
report out -- I assume your clients are
the Republican commissioners; is that
correct?

MR. SCHAEFER: Yes.

COMMISSIONER PERNICK: Did you
report out to the Republican
commissioners any sort of partisan scores

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for the districts?

MR. SCHAEFER: Not all.

COMMISSIONER PERNICK: What information other than the census data did you use as your basis for drawing this map?

MR. SCHAEFER: Almost 100% I used the Municipal Rule Law and the existing legislative boundaries.

COMMISSIONER PERNICK: Anything else other than Municipal Home Rule Law and existing legislative boundaries?

MR. SCHAEFER: Forty years of experience, but that's all.

COMMISSIONER PERNICK: There were no other considerations or inputs into --

MR. SCHAEFER: Not at this stage. My practice in this business is to produce a first draft map that is going to be flawed because I don't use public testimony or subjective information. I just got to a plan that would comply with all the laws.

COMMISSIONER PERNICK: So you

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anticipate changing this map once you have an opportunity to be presented with public testimony. Am I understanding that correctly?

MR. SCHAEFER: Yes.

COMMISSIONER PERNICK: Are there any other inputs that you plan to take into account when you update this map other than public testimony?

MR. SCHAEFER: Whatever the commissioners request, I will put in the next version of the map.

COMMISSIONER PERNICK: So this map is flawed. It's not a map that you believe should be adopted by this Commission?

MR. SCHAEFER: Well, it's a legal map and it adheres to all the rules of the law. I think that the Commission may find it flawed.

COMMISSIONER PERNICK: It takes -- Any steps to preserve communities of interest?

MR. SCHAEFER: Other than villages

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and the existing cores of existing districts? Nothing suggested that it has been in recent testimony.

COMMISSIONER PERNICK: Why do you think the Commission would find this map to be flawed?

MR. SCHAEFER: Because I asked the members because I may have in making villages whole made them whole in the wrong district. If two villages were out of order and I could have put it in one versus the other -- There are a lot of villages, mainly, that make it very difficult to, unlike ten years ago, for example, the census blocs, it's the smallest piece of geography. The northern part of Oyster Bay has a big wall of villages that if you have to not split them, which I didn't, choosing to put one village in one district versus another to get to equal population, that may have been a wrong choice, and that's something that I think the existence of the Commission is here to correct.

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COMMISSIONER PERNICK: Okay. And this is version 5 of the map?

MR. SCHAEFER: No. It's just called Plan 5.

COMMISSIONER PERNICK: Why is that?

MR. SCHAEFER: Over my experience I've gone to public hearings and testimony and I've started randomly naming my maps.

COMMISSIONER PERNICK: So there's plans 1 through 4 that you have somewhere?

MR. SCHAEFFER: No, and it's so that and on some occasions and some public hearings in my past, we would name a map something innocuous that some members of the public or some members of the Commission would find to be revealing of something that wasn't true, so I started using random names.

COMMISSIONER PERNICK: Okay. Did you draw the 2013 map?

MR. SCHAEFER: I did.

COMMISSIONER PERNICK: And were

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there different criteria that you considered in the 2013 map beyond what we discussed just now?

MR. SCHAEFER: Yes. The changes to the Municipal Rule Law were just enacted a year ago.

COMMISSIONER PERNICK: Did you consider any partisan data when you prepared the 2013 map?

MR. SCHAEFER: I don't remember the 2013 cycle. I mean, I may have. I don't know.

COMMISSIONER PERNICK: You don't know if you consider --

MR. SCHAEFER: I have notes, but I didn't -- I had to ask for the report from 10 years ago just to remember what happened. I've literally done, probably, 40 or 50 redistricting maps in the last two cycles and I don't remember the specific process ten years ago.

COMMISSIONER PERNICK: Who was your client ten years ago?

MR. SCHAEFER: The first time it was

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the County Attorney. The second time I think it was this Commission.

COMMISSIONER PERNICK: Was your client the County Legislature at any point in time?

MR. SCHAEFER: I'd have to check. I don't remember the contract.

COMMISSIONER PERNICK: Was the map that was ultimately adopted one that was prepared by you?

MR. SCHAEFER: Yes.

COMMISSIONER PERNICK: Do you know if anybody else adjusted your map after you submitted it to whoever you submitted it to?

MR. SCHAEFER: I don't think it was. I looked at it and it looked the same.

COMMISSIONER PERNICK: Did you conduct a racially polarized voting analysis? I think you said you didn't; is that right?

MR. SCHAEFER: No. I'm not a statistician. I would hire somebody to do that part.

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COMMISSIONER PERNICK: Why didn't you hire somebody to do that for you? I'm sorry. Let me restate the question. Did you hire somebody?

MR. SCHAEFER: No. I've worked with those people, but I've never personally hired one.

COMMISSIONER PERNICK: And why didn't you hire one?

MR. SCHAEFER: Because I think that -- I work under the presumption that if I draw the -- In this cycle, the non-Hispanic/Black voting age district had above 50%. There'd be no reason to sue under the Voting Rights Act.

COMMISSIONER PERNICK: Why is that?

MR. SCHAEFER: Because in the Gingles preconditions the, I think it's the first one, it says, "the minority group must be able to demonstrate that it is sufficiently large and geographically compact to constitute the majority as a single member district."

In my experience in New York State,

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African-Americans are a minority group that does have politically cohesive voting and it's mathematically possible to create a majority district.

So the first Gingles precondition could not be met under a Section 2 challenge under this plan.

COMMISSIONER PERNICK: And that's because you believe that you shouldn't aggregate Black and Latino voters for the purpose of drawing a map for Nassau County; is that correct?

MR. SCHAEFER: I have no evidence that you should do that, no.

COMMISSIONER PERNICK: Are you aware that the second circuit has held that coalition districts can be drawn and should be drawn under Section 2 of the Voting Rights Act when you can aggregate when you show that there's cohesion?

MR. SCHAEFER: When you show there's cohesion. I know that there are cases where, and, again, around the state that there are -- There's not always cohesion

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between African-American and Hispanic candidates.

COMMISSIONER PERNICK: But to be clear, you've done no inquiry into whether there's cohesion in Nassau County right now.

MR. SCHAEFER: No.

COMMISSIONER PERNICK: Okay.

MR. SCHAEFER: I do know that there's cohesion among -- I strongly believe there's cohesion among African-Americans.

COMMISSIONER PERNICK: Now if there was cohesion between Black and Latino voters in Nassau County, how would that change your obligations under the Voting Rights Act?

MR. SCHAEFER: We would have to decide, or the Commission would have to decide whether or not the non-Hispanic/Black district that can be created, should be created or if all the districts should be coalition districts. So you'd have to decide whether the

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African-American majority district should be eliminated and replaced by four Hispanic coalition districts with the African-American.

COMMISSIONER PERNICK: Why four?

MR. SCHAEFER: Well, that's that's what there are in our plan and actually in the other plan as well.

COMMISSIONER PERNICK: That's not correct.

MR. SCHAEFER: Under the voting age population. I didn't look at CVAP. It may be under CVAP, but under regular census voting age population, there is only four involved. I could be wrong, but as --

COMMISSIONER PERNICK: The other plan -- we can go through the numbers -- the other plan does have five.

MR. SCHAEFER: The Excel that I received only had four that were above 50%. Again, I got it yesterday, so I don't know.

COMMISSIONER PERNICK: Did you look

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at the Shapefile?

MR. SCHAEFER: Only for maybe an hour. I printed it out.

COMMISSIONER PERNICK: And when you say it only has four, is that coalition or --

MR. SCHAEFER: No. That's the absence of non-Hispanic/White people.

COMMISSIONER PERNICK: So was there anything -- This goes to the point that everybody here only had a day to look at these maps. I think we all need more time. I might want to take more time to understand the maps and I think that I would invite my colleagues to do the same with our map.

I want to circle back to this coalition just for a point. So let's say, and I understand you haven't done any cohesion, any RPV, but let's say that there was evidence, which I'll tell you there is, but let's say that there was evidence that Black and Latino voters voted in cohesion. Is it fair to say

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that that would create an obligation to draw Black, Latino majority/minority districts where the circumstances are warranted?

CHAIRMAN MORONEY: Excuse me. I don't think that hypothetical questions should be asked under the circumstances and why we're here. Ask questions about the map? That's okay, but to create a hypothetical situation is just not -- is just putting extra stuff on the record.

COMMISSIONER MEJIAS: Why not?

CHAIRMAN MORONEY: Because it's hypothetical. It's not real.

COMMISSIONER MEJIAS: This entire thing is hypothetical. These maps are not adopted. This is a hypothetical map, isn't it?

CHAIRMAN MORONEY: Perhaps I'm taking this more serious than others, but what I do understand is that a hypothetical creates another hypothetical which builds upon another hypothetical and we don't need to go in circles.

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Let's just stick with the facts and what we know and what's in front of us.

COMMISSIONER MEJIAS: I think hypotheticals create the basis for what the actual analysis is of the thought process behind it. That's my opinion. An expert can be asked a hypothetical because they're an expert. We do it all the time in court.

CHAIRMAN MORONEY: Well, we're not in court and I think --

COMMISSIONER MEJIAS: We will be.

CHAIRMAN MORONEY: God bless you. Good luck. Mr. Pernick was very, very pointed in his questions that weren't hypothetical, so let's keep going.

COMMISSIONER PERNICK: I'll move on. I want to be clear, let me ask, did you make any effort to draw any majority/minority Black/Latino coalition districts?

MR. SCHAEFER: I didn't make an effort to do it. No. I made an effort to see if I could create -- Because

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District 1 in 2013 was majority, that's the effort I made as far as race goes. Everything else -- After it was over, we created four and nearly a fifth minority district, and, again, today I'm defining it as absence of non-Hispanic/White population. So we have four.

COMMISSIONER PERNICK: Are you aware that there have been significant calls from the public for five majority/minority coalition districts?

MR. SCHAEFER: I've heard that recently.

COMMISSIONER PERNICK: But you made no effort to evaluate whether that's been possible to achieve?

MR. SCHAEFER: I didn't, because after I heard it's -- Substantially, this plan does create five. The fifth one right now is 49.5%.

COMMISSIONER PERNICK: Forty-nine point five percent White --

MR. SCHAEFER: Majority/minority. If there were a fifth one in this Plan 5,

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I could create a fifth district by just moving around some census blocs and it would be a majority district.

COMMISSIONER PERNICK: How do you define the majority/minority in that sense?

MR. SCHAEFER: Right now it's just by population, voting age population.

COMMISSIONER PERNICK: So you're saying that you have five districts that are majority/minority voting age population?

MR. SCHAEFER: Almost five. Yes. Just past the line.

COMMISSIONER PERNICK: I don't understand the almost.

MR. SCHAEFER: The fifth district is right now 49.5% majority/minority, 49.5. Moving one census bloc would make it 50.5.

COMMISSIONER PERNICK: And when you say majority/minority in this case, am I understanding properly that you are looking at Black, Latino, Asian, Pacific

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Islander and other and you're aggregating all of those groups for the purpose of defining majority/minority?

MR. SCHAEFER: For the purpose of this, yes.

COMMISSIONER PERNICK: Is that the proper definition of majority/minority district --

MR. SCHAEFER: No, because --
(Whereupon, there was crosstalk.)

COMMISSIONER PERNICK: Is that the proper definition of majority/minority districts, to aggregate Black --

MR. SCHAEFER: No --

COMMISSIONER: Please let him finish the question.

COMMISSIONER PERNICK: Is that the proper definition of majority/minority districts to aggregate black, Latino, Asian, Pacific Islander, Native American and other into one category? Is that the right way to define majority/minority district?

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MR. SCHAEFER: It wouldn't be, under the federal law, but under the Municipal Home Rule Law I think that recognizing neighborhoods or areas of different language and racial minority groups is something to be considered.

I think if this were a federal voting rights case, then you would have to do all those things. I think, in my opinion, drawing this map the only district that potentially was subject to the Voting Rights Act was the African-American district.

COMMISSIONER PERNICK: And you've done no assessment of whether any of the, I guess, five districts that you're referring to that have substantial minority populations, have you done any assessment of whether they would perform for candidates preferred by voters of color?

MR. SCHAEFER: No.

COMMISSIONER PERNICK: Are you familiar with the New York Voting Rights

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Act?

MR. SCHAEFER: The John Lewis one?

COMMISSIONER PERNICK: That's right. The John Lewis Voting Rights Act of New York. Do you believe the John Lewis Voting Rights Act of New York will apply to these maps at some point in the future?

MR. SCHAEFER: I think that I would wait to see what happens when it's first applied. I think -- I don't know how they'll apply the law to the current plan. I think part of law -- For example, the Attorney General has some jurisdiction over some parts of the law if she chooses. So if she doesn't choose to comply with pre-clearance, then it wouldn't apply.

So I think that there's a lot in the John Lewis Law that I don't understand yet, and I'm hoping it becomes clear when it fits in a little bit more.

COMMISSIONER PERNICK: So I understand that you're referencing the

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pre-clearance provisions of the law.
That's not what I'm specifically referring to. There's a section of the law, 17-206.2 which is a prohibition against vote dilution, and I quote, "No Board of Elections or political subdivision shall use any method of election having the effect of impairing the ability of members of a protected class to allow candidates of their choice or influence the outcome of elections as a result of the dilution," and then it goes on to provide details in standards for evaluating that violation.

Are you familiar with that section of the New York Voting Rights Act?

MR. SCHAEFER: I'm familiar. I've read it, yes.

COMMISSIONER PERNICK: So you're familiar with that section?

MR. SCHAEFER: Yes.

COMMISSIONER PERNICK: And do you believe that that section will apply to Nassau County's Legislative districts?

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MR. SCHAEFER: If protected classes are in a partisan, then they would. I don't know what's going to happen when the John Lewis Law is applied.

COMMISSIONER PERNICK: Well, I just want to clarify. So you said the protected classes are included. I'm going refer back to Section 17-204.5 which defines protected class, I'll quote, "Protected Class means a class of eligible voters who are members of a race, color or language minority group."

So you're familiar with that phraseology? It tracks the Federal VRA in Federal Case Law?

MR. SCHAEFER: It tracks it but it's -- In my discussions, these are -- Language minority is not well defined. We're wondering what's going to happen when two language minorities are in the same area with each other to see which one would get precedence or maybe not precedence, maybe both of them could be done.

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I think the changes with the John Lewis Law and the Municipal Home Rule Law make a lot more gray area and -- because it adds a lot more things that are -- have to be looked at in redistricting. As a person who's done this for a while, Section 2 has been pretty easy. You clear the three Gingles preconditions and then go to federal court. It's easy to measure at least one of the Gingles preconditions without a statistician as far as racially Black voting and majority voting against the candidates. That's usually discussed and proven in court in every case.

COMMISSIONER PERNICK: I just want to cut to the heart of the issue here. Is it fair to say that you've taken no steps to ensure that this map complies with the John Lewis Voting Rights Act?

MR. SCHAEFER: I think it probably does, but I've taken no affirmative steps.

COMMISSIONER PERNICK: Okay. I just

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want to circle back for a moment. You said that there was a fifth district that wasn't majority/minority, but if you combine all of the different census subgroups, it's almost be a majority/minority. Could you just tell me what district is that?

MR. SCHAEFER: It's 1, 2, 3, 5 and 6. Six it would be.

COMMISSIONER PERNICK: That's the district, I believe, with Malvern/Lynbrook in it?

MR. SCHAEFER: Yes. Well, on it it says Lynbrook in the center of it.

COMMISSIONER PERNICK: Yes. I'm referring to District 6 that is a majority/minority district almost, according to Mr. Schaefer, and that's District 6 which has Malvern/Lynbrook is the 5th District that you're saying might give minority voters an opportunity to elect a candidate of their choice?

MR. SCHAEFER: (Inaudible.)

COMMISSIONER PERNICK: Okay. Do you

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have any reason to believe that that district would perform for a candidate preferred by voters of color?

MR. SCHAEFER: No.

COMMISSIONER PERNICK: Did you use the current map as a starting point for drawing this map?

MR. SCHAEFER: I did.

COMMISSIONER PERNICK: You tried to preserve the current map as much as possible, right?

MR. SCHAEFER: Yes. In this draft, I did and it's also required by the same section of the MHRL that requires that villages stay whole, and favoring district incumbents shouldn't be done.

COMMISSIONER PERNICK: If the current map was adjudicated to be unlawful under the Voting Rights Act or under another provision of state law, would you still have to use that map as a starting point for the drawing of this map?

MR. SCHAEFER: It's not unlawful. I

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presume and the courts presume in my experience that every map is presumed to be legal.

COMMISSIONER PERNICK: That's not my question. If this map were deemed illegal, if there was substantial evidence that this map were illegal, would you use the map as a starting point? Would that --

MR. SCHAEFER: It's not illegal. That would be --

COMMISSIONER PERNICK: That's not my question. I understand that it's your position that it's not illegal.

MR. SCHAEFER: -- five miles an hour I would be guilty, but -- If this was illegal, it would be illegal. I don't understand the question.

COMMISSIONER PERNICK: The question is if the current map were illegal, would it be methodologically appropriate to use that map as a starting point for drawing a new map for Nassau County?

MR. SCHAEFER: Well, if the

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Municipal Home Rule Law says cores of legal districts have to be used, then yes, but it doesn't say that. It says cores of existing districts.

COMMISSIONER PERNICK: So to make sure that I understand, it's your position that even if this map were deemed illegal, you would still think it appropriate to use that under the Municipal Home Rule Law; is that correct?

COMMISSIONER BEE: Respectfully, I think he's answered the question which is he followed the Municipal Home Rule Law which says to use the existing districts. If the statute said something else, he'd do something else, but the statute says to do this, this is what he did.

COMMISSIONER PERNICK: Is it methodologically sound to base a map that you're drawing for a client on an illegal starting point?

COMMISSIONER BEE: Again, I think he's answered that question.

COMMISSIONER MEJIAS: No he hasn't.

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That's a question on methodology. So I want to hear the answer to this question.

Methodologically. This is not hypothetical. This is methodology. I want to hear the answer to the question about Mr. Schaefer's methodology.

So Mr. Pernick, can you --

COMMISSIONER BEE: But he's giving you the methodology that he used. The methodology that he used was to start with --

COMMISSIONER MEJIAS: No. The question isn't what methodology did you use. The question is a particular methodology appropriate?

CHAIRMAN MORONEY: And you're asking him to ask something in futuro and that's --

COMMISSIONER MEJIAS: That's not hypothetical. It is a current --

CHAIRMAN MORONEY: Please don't interrupt me.

COMMISSIONER MEJIAS: You're trying to put answers in your expert's mouth.

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It's his methodology. This is his map.

CHAIRMAN MORONEY: The person who's trying to put words into his mouth is sitting you your left, not your right.

COMMISSIONER MEJIAS: I'm asking -- The question is is it methodologically sound to do X, Y and Z? So please, answer the question.

COMMISSIONER BEE: Can I simply ask, though, that we take turns asking questions and answering questions and not just shout over each other.

COMMISSIONER MEJIAS: Well, take your own advice.

COMMISSIONER PERNICK: I'm not trying to trip you up. It's a simple question. From a methodological perspective, is it appropriate to use an unlawful map as a starting point for drawing a new map for a jurisdiction?

MR. SCHAEFER: I would say two things. The starting point of a map is irrelevant as a person who's done this for four decades. The map that is passed

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and the map that was passed ten years ago is legal as soon as the legislature passes it, and until somebody finds that it's not legal, it's not legal.

So starting with a blank map, methodologically, but not legally in New York, is just as good as what some people do. For example, they produce every permutation of map that can be drawn in a geography with that starting point not existing.

Here's a hundred trillion different maps and this is the best one that the algorithm picks. All of the starting points, whether it's a blank piece of paper; whether it's the existing districts; whether it's, you know, drawing circles and squares first, none of them are a good or bad starting point because there's commission that might decide the people's will is going to be enforced by the map that's passed by the legislature.

COMMISSIONER PERNICK: So

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Mr. Schaefer, I want to circle back to something you said a moment ago and unpack it a little bit. You have drawn a distinction between preserving the cores and preserving the legal cores. Am I quoting you correctly?

MR. SCHAEFER: I think you did that. You told me to start with an illegal map. I'm saying the law doesn't say legal core at all. I didn't make a distinction. I'm saying that phrase doesn't exist in the law.

COMMISSIONER PERNICK: So because the law doesn't say legal cores, am I understanding you correctly that you do not -- that you would follow the current district regardless of whether or not you believed the current districts were lawful?

MR. SCHAEFER: I believe that every map in the country is lawful that people have been elected on.

COMMISSIONER PERNICK: You said before that when you drew the current map

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you considered other criteria, like
partisanship, right?

MR. SCHAEFER: No. I never said
that.

COMMISSIONER PERNICK: You
considered other criteria?

MR. SCHAEFER: I never said that.

COMMISSIONER PERNICK: When you drew
the current map in 2013 you didn't say
that you considered other criteria beyond
what you considered in this map?

MR. SCHAEFER: Oh. I thought you
were talking about this map. I don't
remember what happened in 2013.

COMMISSIONER PERNICK: You do know
if you considered other criteria beyond
what you reported for this map, correct?

MR. SCHAEFER: I can't tell you what
I did ten years ago.

COMMISSIONER PERNICK: Are you aware
that members of the Democratic delegation
have submitted a couple of short
preliminary reports into the record?

MR. SCHAEFER: I haven't seen

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anything.

COMMISSIONER PERNICK: Are you aware that members of the Democratic delegation have submitted a couple of preliminary reports into the record? Are you aware of that?

MR. SCHAEFER: I don't think so. I don't think I'm aware of any specific documents, no.

COMMISSIONER PERNICK: So you're not aware of the fact that we submitted two preliminary reports into the record before the Commission?

MR. SCHAEFER: I know the Commission's been meeting for several weeks, but I'm presuming that pieces of paper were moved during that time.

COMMISSIONER PERNICK: Are you familiar with a report issued by Dr. Gall concerning VRA's compliance of the current map?

MR. SCHAEFER: I saw that today for the first time.

COMMISSIONER PERNICK: So you have

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reviewed Dr. Gall's preliminary report.

MR. SCHAEFER: I read it, yes.

COMMISSIONER PERNICK: Are you familiar with the preliminary report issued by Dr. Daniel Magleby concerning compliance with partisan gerrymandering rules, the new rules under the Municipal Home Rule Law?

MR. SCHAEFER: I saw that for the first time today. I haven't read the whole thing.

COMMISSIONER PERNICK: It's only two pages long. You didn't read the whole thing?

MR. SCHAEFER: I just saw it before this meeting.

COMMISSIONER PERNICK: But you're aware that both of those reports exist?

MR. SCHAEFER: Yes. Now I am.

COMMISSIONER PERNICK: And do you have any reason to dispute what's in either of those reports?

MR. SCHAEFER: I believe that they believe their conclusions. I don't

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necessarily believe it. I think --

COMMISSIONER PERNICK: Let me start with Dr. Gall. Do have any reasons to dispute any of the conclusions in Dr. Gall's preliminary report that you reviewed earlier today?

MR. SCHAEFER: Without having a lot of time to do it, I would say that the fact that the elections that she referred to were general elections and traditionally when I want to see if there's racially polarized voting between two different minority groups, if voting for the Democrat versus the Republican is what makes two racial groups cohesive, then I disagree with that. I would like to see, and I'm not aware of any primaries in this county in recent history, where there might have been a, possibly, Hispanic-preferred candidate and Black-Preferred candidate.

So the fact that I saw general elections being used to find racially polarized voter would make me ask how do

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you know that wasn't partisan polarized
and not racially polarized?

COMMISSIONER PERNICK: Other than
quibbling with which contest she used, do
you have any other issues with --

MR. SCHAEFER: Well, that was the
main issue. That's very important for
polarization.

COMMISSIONER PERNICK: Are there any
other issues other than that one issue
that you've identified with her report?

MR. SCHAEFER: Well, I don't --
without knowing anything more about it, I
think that use of citizen age voting in
each population, just as a practitioner,
I think I disagree with in this cycle
until better data, and, again, for the
two reasons I mentioned before, the
differential privacy plus the lack of
recent data.

I don't criticize her abilities or
her conclusions. I just think that the
input data is probably data I wouldn't
trust to come up with the conclusion.

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COMMISSIONER PERNICK: Are you familiar with the chopper method?

MR. SCHAEFER: No.

COMMISSIONER PERNICK: You never heard of the chopper method for estimating CVAP?

MR. SCHAEFER: No.

COMMISSIONER PERNICK: It's used by DOJ and widely accepted by courts, you never heard of it?

MR. SCHAEFER: Well I haven't heard of it, but I think that in the case of smaller areas of geography the census, itself, has said that the data is not reliable.

COMMISSIONER PERNICK: You mentioned that your issue with the RPV analysis is that there might be political polarization in Nassau County rather than racial polarization; is that correct?

MR. SCHAEFER: That's something that would have to be determined.

COMMISSIONER PERNICK: Okay. And that would have to be determined because

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it's relative to the analysis of whether there's racial vote dilution; is that correct?

MR. SCHAEFER: Racially polarized voting.

COMMISSIONER PERNICK: Yes, but I'm talking specifically about whether there's partisan polarization. That's relevant to you because you believe it's critical to understanding whether RPV is satisfied.

CHAIRMAN MORONEY: Objection. You believe? How do you know he believes it? Ask another question.

COMMISSIONER PERNICK: All right. Why do we care about political polarization for the RPV question?

MR. SCHAEFER: I think the whole point of representation is not to make sure there's an equal balance of Democrats and Republicans in the legislature. It's to make sure that the voices of all the people, whether they're Black or Hispanic or White or Indian or

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Chinese have an equal ability to access or to use their civil rights.

So in the case of concentrated groups in small geographies that tend to vote for one party or another, that doesn't necessarily prove that there's racial polarization. It just may prove that there's partisan polarization. And that is something that doesn't help the civil rights of any of the minority groups we're talking about.

COMMISSIONER PERNICK: And if you -- If a court finds that there's partisan polarization, is it your belief that there wouldn't be racially polarized voting, that that defeats an argument of racially polarized voting.

MR. SCHAEFER: I wouldn't say it causes it. The court can find whatever it finds. If they find that there's partisan polarization, there's nothing in the law that says you can't create a Democrat district or a Republican district except for the part of the

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Municipal Home Rule Law that now says you can't, but as far as racial polarization, that has nothing to do with who people -- what the makeup of the 19-seat legislature will ultimately be.

COMMISSIONER PERNICK: I want to quote for you a line from the John R. Lewis Voting Rights Act, again, from Section 17-206, which provides the cause of action against racial vote dilution. This is one of the subsections under sub 2(C) --

MR. SCHAEFER: And I would just say too that the John Lewis Act isn't the Voting Rights Act.

COMMISSIONER PERNICK: It's the Voting Rights Act of New York, correct?

MR. SCHAEFER: Yes, but creating -- redeem required to create majority/minority districts of politically cohesive minority groups and then -- I don't know how that's going to play out when it's finally implemented. So I wouldn't speculate because I'm

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wondering, too, what -- For example, Hispanic populations in New York come from South America, Central America, Spain, all over the place. They're potentially different races, White or Black. I would like to see how the John Lewis Act, which is different than the Federal Voting Rights Act, says that just because two people speak Spanish, if one group is from Spain and one is from Mexico, should that group be given a district even if they have politically polarized ideas? I'm interested if that's an academic thing.

COMMISSIONER PERNICK: It's not.

It's a very, very black and white in the law. I'll read it to you.

MR. SCHAEFER: I'm not talking about the law. I'm talking about I'm interested to see how the civil rights of people, just because they speak Spanish, are going to be incorporated in this, because in the federal law, which I've been in the Section 2 case before, I

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understand a history of racial discrimination against, especially in -- different parts of the state are different, but here African-Americans. I understand that Section 5 of the Federal Law gave us three counties and, therefore, the whole state coverage under Section 5 of the Federal Voting Rights Act, and I completely agree that that discrimination over hundreds of years had to be solved. I think the John Lewis State Law is different in that respect because we don't have a long history like we do for the African-Americans.

Racial discrimination against Hispanics, racial discrimination against people from Mexico, Spain, Central America, South America. It's a different concept and I'm interested -- I'm telling you now I can't answer your speculative questions. I'm interested to see how this plays out because in ten years when I draw again for people, I would like to know how I can measure that compared to

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the federal law that's existed for so long.

COMMISSIONER PERNICK: What I was trying to quote for you before, there's a line from the John R. Lewis Law that squarely addresses the question that you're raising, and I quote, "Evidence that subgroups within a protected class have different voting patterns shall not be considered."

What that's saying is that you can't consider what you're doing and pitting different minority groups against each other to decide not to draw anybody a district. That's what that language is saying, is it not?

MR. SCHAEFER: But I don't consider subgroups. There are no subgroups, as far as I know, of African-Americans. What is the subgroup of the Hispanics? It's -- You're either -- I don't know. It's not a well-defined thing, and, again, I'm having the academic discussion because I don't know the answers.

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COMMISSIONER MEJIAS: Wasn't your whole point that there are subgroups of Hispanics? Didn't you just say that someone from Spain and someone from Mexico -- aren't you saying that there are subgroups?

MR. SCHAEFER: No. Those are just different groups, is what I'm saying, not subgroups of some other larger group. I'm saying that there are two different groups. I think the only thing that makes them common is that they speak Spanish. My wife speaks Spanish. But I don't know why they're different and I can't wait to find out when these things are fully implemented.

COMMISSIONER MEJIAS: I'm sorry. So you're saying that there's this diaspora of Latinos in Nassau County that have different voting patterns or different cultures?

MR. SCHAEFER: They probably do and I don't know why they deserve a County Legislative District under the John Lewis

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Law and I want to find that out and I want the Commission to do that.

COMMISSIONER BEE: Could we, fellow commission members, focus on your questions as to the map he has put forth rather than speculate what he did in 2013 or might do in 2033? Can we just focus on the map he's proposed and whether or not you think it meets the current federal and state requirements.

COMMISSIONER MEJIAS: I'm sorry. I did digress. I apologize, Commissioner. As the only Latino up here and the only one that's ever been elected to the County Legislature and that was a long time ago. We haven't had a single Hispanic member since. Considering the fact that there are a quarter million Hispanics in Nassau County and there hasn't been a county legislator elected to the legislature since 2007, I'm interested in that.

COMMISSIONER PERNICK: I just want to point out one other line from the John

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R. Lewis bill that I was trying to quote for you to see if you're aware of it. I'm quoting, "Evidence that voting patterns and election outcomes could be explained by factors other than racially polarized voting including, but not limited to partisanship, shall not be considered."

Are familiar with that line from the John R. Lewis law?

MR. SCHAEFER: No, but I trust that it's there.

COMMISSIONER PERNICK: Okay. Am I understanding correctly that previously, when you were talking about cohesion, you were saying well, there might not be cohesion because it might be better explained by partisan voting outcomes; is that correct?

MR. SCHAEFER: That's true.

COMMISSIONER PERNICK: And under what I just quoted, you can't consider that under the New York Voting Rights Act. Are you aware of that? Maybe now

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you are.

MR. SCHAEFER: I am now.

COMMISSIONER PERNICK: I'd like to introduce into the record a new version of Professor Magleby's assessment. It's very short. Just two pages. If I could ask to pass it down and give one to the clerk (handing).

COMMISSIONER MEJIAS: Just for the record, we had said earlier we were going to provide a copy of Dr. Gall's deck from her PowerPoint presentation. I don't know if we want to give this to the clerk, Mr. Chairman (handing).

COMMISSIONER PERNICK: Mr. Chairman, should I give an extra copy to hand to the clerk? Is that acceptable?

So this is almost the same as the version that you reviewed earlier today. If you want to take a moment and familiarize yourself with it, I just have one or two questions about it (handing).

MR. SCHAEFER: Well, I'm not going to read this now, but ask whatever

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questions you want to ask.

I don't have time to analyze this.

I wouldn't presume to read two pages and look at these graphs.

COMMISSIONER PERNICK: Dr. Magleby concluded that your map is an extreme partisan gerrymander. Does that conclusion surprise you?

MR. SCHAEFER: What's a gerrymander? How is it defined?

COMMISSIONER PERNICK: Dr. Magleby ran a computer simulation of 10,000 maps, randomly simulated maps, measured the outcome using aids, contests, endogenous contests from the last three cycles and based on those outcomes, your map was an extreme outlier, biased in favor of Republicans by significant margins in every instance.

Does that conclusion surprise you?

COMMISSIONER BEE: Are you referring to the 2013 map or the map that's just proposed?

COMMISSIONER PERNICK: No. This

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map.

CHAIRMAN MORONEY: Could I ask you to drill down a little bit on that? When did he determine that it became illegal? Was it 2013, 2014, 2015, 2016 or whenever this was done, 2022? When did he make the determination it was illegal?

COMMISSIONER PERNICK: This memo that I just handed you is with respect to the current -- to this proposed map. So about two hours ago.

CHAIRMAN MORONEY: So this is in relation to --

COMMISSIONER PERNICK: To what we're looking at on the screen right now.

CHAIRMAN MORONEY: But the base of this is that the 2013 map is illegal. So he's a building another layer based upon the fact that he believes. I don't. He believes that 2013 was illegal in 2013.

COMMISSIONER PERNICK: That's not what the report discusses. I'm happy to talk to you about that further, but if I may ask the witness questions --

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CHAIRMAN MORONEY: I need to understand the question too. We, frankly, don't believe that it's illegal, period. That said, it makes no sense for elections to go on for ten years, including one that ended a couple of days ago, on a map that was illegal. It doesn't make any sense. You can't retroactively, you can't ascribe to it something that wasn't that wasn't in existence.

The reason we're doing this process is to correct a map that is imperfect. That's the purpose why we're here. We're not here to go back and look at what happened ten years ago and then say, well, ten years ago if we had what we had now that wouldn't have been any good. So let's put the context of that together.

COMMISSIONER PERNICK: Chairman Moroney, I appreciate your question and I do apologize that I introduced this into the record without giving my usual spiel before doing so. So let me do that now

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to give you some context.

What Dr. Magleby did is he took this map which we received yesterday at around 2:30 in the afternoon or 3 o'clock in the afternoon --

COMMISSIONER MEJIAS: Which was the current Republican Commission's proposed map.

COMMISSIONER PERNICK: Correct. The current proposed map that we're looking at right now, the map proposed by the Republicans, and he ran that map through the ensemble methodology which is the methodology for evaluating partisan bias that's been accepted in the Harkenrider case by the New York Court of Appeals and accepted in other courts around the country. It's the gold standard for evaluating whether a map is a partisan gerrymander. Here's how it works:

You generate a simulation, an ensemble of simulated maps, large numbers of simulated maps. In this case, he did 10,000 simulated maps and he concluded

1
2 that this proposal that we received
3 yesterday afternoon is more extreme, in
4 favor of Republicans than the
5 overwhelming majority of the random
6 simulated maps. And by the way, all of
7 the random simulated maps in the
8 simulations, he coded them to comply with
9 the Municipal Home Rule Law, coded them
10 to ensure minority representation,
11 checked all of those boxes and make sure
12 that they're more compact as well. He
13 checked all those boxes and generated
14 that simulated set of 10,000 random maps
15 and he concluded that this proposal that
16 we're reviewing, the Republican proposal,
17 is more extreme than the overwhelming
18 majority of them. It's straight forward
19 and that's the same methodology that's
20 been accepted by the New York Court of
21 Appeals and other courts.

22 So my question for the witness, do
23 you have any reason to dispute that
24 finding?

25 MR. SCHAEFER: Yes. I disagree with

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this methodology. I think there are probably trillions of maps that could be drawn. He chose 10,000. That's the first place that we'd start. Second, none of these maps were ever viewed or seen by a human. None of them took into account testimony. None of them took into account the fact that the existing map started at a baseline of legal and perfect. It started -- If I'm sure if he did this analysis on the existing boundaries which are legal, he would have come up with the same conclusion.

So that is what I would say his starting point is is that his proposal would say that the existing boundaries are egregious and, therefore, my map, which barely touches them except to comply with the law is equally egregious.

COMMISSIONER PERNICK: So it sounds like your issue is with the methodology.

MR. SCHAEFER: I think that the methodology ignores the principles of why we redistrict.

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COMMISSIONER PERNICK: So you disagree with the New York Court of Appeals decision to rely on this methodology in --

CHAIRMAN MORONEY: Come on. Come on. You're not in court. There's no jury here.

MR. SCHAEFER: I think anything that takes the humanity out of redistricting is a disservice to the public who needs a legislature.

COMMISSIONER PERNICK: All right. Let's talk about the actual map. Are you able to zoom in on this a little bit so we can see the districts more clearly?

MR. SCHAEFER: No.

COMMISSIONER PERNICK: Seriously?

MR. SCHAEFER: I provided maps to the Commission. This is what is on the screen.

COMMISSIONER PERNICK: We can't zoom in? We can't make anything out of this map. I thought this was supposed to be a working session. We can't zoom in?

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COMMISSIONER BEE: I don't have a button on my desk for a zoom button. Do you? If you do, zoom in.

CHAIRMAN MORONEY: By the way, it's the same size as what we got. So I don't know -- Do you have two standards or one?

COMMISSIONER PERNICK: Our expert was prepared to Zoom in and answer any questions you had about any part of the map.

CHAIRMAN MORONEY: Ask away.

COMMISSIONER PERNICK: And she went through every district very clearly. We didn't have any orientation of any of the districts. I'd like to understand the configuration --

MR. SCHAEFER: They're about the same as they are now.

CHAIRMAN MORONEY: We're talking about this since August 31 and you don't know what's on the map? You've been crying out loud meeting, after meeting, after meeting -- Don't interrupt me. Meeting, after meeting, after meeting

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about this being illegal. You have gone down and probably looked at every house in this map one more time. You're now saying it's illegal again.

The changes were made. You had as much time to look at our map as we had to look at your map. We had the same opportunities and you're now saying you don't know what's on the map? You've got to be kidding me. It's absurd.

COMMISSIONER MEJIAS: You're 100% right, Chairman. How can we be doing this for all these months and spend hundreds of hours working on this with hundreds of people have come down and commented and we can't tell, so maybe you can help me out. Maybe we're just stupid.

So when we're looking at -- What road divides the 11th and 18th District, north and south?

CHAIRMAN MORONEY: I don't know. Ask Dr. Gall. She didn't give us roads all the way.

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COMMISSIONER MEJIAS: Yes, she did. She zoomed in on each specific district and went through them, told you what towns were in them and answered your question about Austin Avenue and the other Industrial Avenue and what roads. So we're asking your expert the same question you asked our expert. What road divides the 11th and 18th District? What road the 18th and the 16th District? How about that one?

MR. SCHAEFER: It appears to me that they're just boundaries.

COMMISSIONER MEJIAS: The water boundaries?

MR. SCHAEFER: The village boundaries divide those districts.

COMMISSIONER MEJIAS: Okay. So what village boundary is on the eastern border, bordering Suffolk County, between the 18th and 16th District? What village is that?

MR. SCHAEFER: I'm not prepared with the detail for that.

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COMMISSIONER MEJIAS: Would it surprise you to know that there is not a village there? Okay. Let's move on.

So between the 16th and the 17th District, what is the village boundary there?

MR. SCHAEFER: Well, where I could split census designated places I did to get to equal population.

MR. MEJIAS: Okay. So what's the village -- So there's no village boundary, right, or city?

MR. SCHAEFER: You can presume that all but three of the villages are included in this map.

COMMISSIONER MEJIAS: So that particular boundary divides the Plainview/Old Bethpage community, which is -- POB is one community. So you have Old Bethpage in 17 and Plainview in 16. There's no village there.

My point is we can't tell from this map what's what.

COMMISSIONER PERNICK: So this was

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supposed to be a working session. It's very difficult to have a working session without being able to zoom in, but I'm going to do my best and try and ask you some questions and I'll orient as best I can so that members of the public who are watching know what I'm talking about.

So District 1: District 1 splits the Village of Hempstead in half; is that correct?

MR. SCHAEFER: It does. You don't need --

COMMISSIONER PERNICK: Sure it does. It splits the Village of Hempstead in half. Did you make any effort to keep the Village of Hempstead in a single district?

MR. SCHAEFER: No.

COMMISSIONER PERNICK: Why not?

MR. SCHAEFER: Because I wanted to keep the other villages whole and where I was able to split places or villages, I used that to get to equal population, which is the primary goal of our

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redistricting.

COMMISSIONER PERNICK: So is it possible to achieve equal population and keeping other jurisdictions whole while also keeping the Village of Hempstead in a single district; is that possible?

MR. SCHAEFER: Everything's possible.

COMMISSIONER PERNICK: Did you try?

MR. SCHAEFER: No.

COMMISSIONER PERNICK: Okay. You split Uniondale into three districts; is that right?

MR. SCHAEFER: I'll take your word for it.

COMMISSIONER PERNICK: That's correct. You split Uniondale into three districts. Why did you split Uniondale into three districts?

MR. SCHAEFER: Everything I did I did for equal population.

COMMISSIONER PERNICK: Okay. Is it possible to achieve equal population while also keeping Uniondale in one

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district?

MR. SCHAEFER: Specific to that question, yes. You may not be able to achieve the Municipal Rule Law --

COMMISSIONER PERNICK: Is it possible to comply with the Municipal Home Rule Law guidelines and comply with equal population and also keep Uniondale in a single district?

MR. SCHAEFER: The map I came up with to comply with the Municipal Home Rule Law is this one and it can be modified and changed. I think that if you want to adhere to all of the sections of the Municipal Home Rule Law that this map is close to what you would have to do.

COMMISSIONER PERNICK: So you didn't make any effort to try and keep Uniondale in a single district; is that correct?

MR. SCHAEFER: Not in this first draft, no.

COMMISSIONER PERNICK: And you don't know whether it's possible to keep

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Uniondale in a single district while also complying with all the other requirements. You haven't evaluated that.

MR. SCHAEFER: Well, they wouldn't be as compliant, no.

COMMISSIONER PERNICK: How do you know that? Did you try?

MR. SCHAEFER: No, because I think if District 1 is a non-Hispanic, Black majority district, that population of District 1 spreads Hempstead Village and, therefore, adding any other population that isn't more than 50% non-Hispanic, black in the rest of the village, we dilute that population. I wouldn't be able to create --

COMMISSIONER PERNICK: I'm not talking about adding Uniondale into District 1. I'm asking you a more general question. Did you make any effort to keep Uniondale whole in a single district?

MR. SCHAEFER: Not as a specific

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goal, no.

COMMISSIONER PERNICK: You split Freeport into four districts; is that right?

MR. SCHAEFER: I'll take your word for it.

COMMISSIONER PERNICK: You split Freeport into four districts. Why did you split Freeport into four districts?

MR. SCHAEFER: To get to equal population.

COMMISSIONER PERNICK: Is it possible to achieve equal population without splitting Freeport into four districts?

MR. SCHAEFER: With that criteria, yes.

COMMISSIONER PERNICK: But you didn't try.

MR. SCHAEFER: I tried to make, you know, equally compact, equally populated districts that complied with all of the laws. I think this is as close as I could get in this draft.

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COMMISSIONER PERNICK: So you made zero effort, it sounds like --

MR. SCHAEFER: I wouldn't say zero effort.

COMMISSIONER PERNICK: Did you make any effort, did you make any specific effort to reduce the number of splits of Freeport, yes or no?

MR. SCHAEFER: No. Not after I found out -- No, because I didn't have to.

COMMISSIONER PERNICK: It's really unfortunate that you're not able to zoom in. I have a zoomed-in version in my computer because we do have the data that we've been able to analyze.

I'm going to zoom into a specific portion. We're still talking about District 1, the border between District 1 and Freeport. You're not going to be able to see this because for some reason you don't have access to the roads in your own map, so I'll walk you through what it is that I'm looking at right now.

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Let's say you're in Freeport.
You're driving south along North Long
Beach Avenue. You're starting at Mount
Joy Avenue. As you drive south, left and
right side of the block, of the street,
that's District 1. Then the first block
you hit is Moore, and as soon as you hit
Moore Avenue the right side of the street
is District 5. The left side of the
street is District 1. Then you hit Evans
Avenue, the very next block. At Evans,
the right side is District 5 -- Sorry.
At Evans, both the left and right side
are both District 5. You continue
driving down Evans a block, you hit
Seaman Avenue. On Seaman, for some
reason District 1 curves around. The
left side of the street's in District 1.
The right side of the street's in
District 5. You go to the very next
block, you hit Maxson Avenue, and after
you hit Maxson Avenue both the left and
the right side of the street are back in
District 1, and then you finally hit Lena

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Avenue. So this is, like, all over the course of six blocks, and once you hit Lena Avenue the left and the right side are both in District 5.

So every single block that you drive is switching from one side of the street being both, the other side of the street back and forth, back and forth. How do you justify that?

MR. SCHAEFER: These districts are legal. They're equally populated --

COMMISSIONER PERNICK: No, no, no. Now I'm not asking generally. We want to talk about this specific map. That's a very specific point. How can you justify that?

CHAIRMAN MORONEY: Can you allow him to finish before you start interrupting him? He started an answer and you shout right at him. Let him answer it.

COMMISSIONER PERNICK: Go ahead. How do you justify the specific six-block area along North Long Beach Avenue that I'm referring to, along the border of

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District 1 and District 5. How do you justify that bizarre zigzag pattern?

MR. SCHAEFER: All of these districts are within 1% of the ideal population. All of them are equally populated. All of them adhere to the Municipal Home Rule Law and that is -- The way you do that is to draw districts at the census bloc level and there's a boundary on every street, usually, between districts, and where there's a boundary, everywhere in Nassau County and New York City and Upstate, there are lines that aren't perfectly straight or perfectly circular districts, and because we're not drawing rectangles, that's always going to happen.

COMMISSIONER PERNICK: Did you make any effort to draw the boundary between District 1 and District 5 along a single road rather than zigzagging back and forth every single block along different roads? Did you make any effort --

MR. SCHAEFER: I drew districts to

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comply with equal population, not to adhere to specific street names.

COMMISSIONER PERNICK: And did you evaluate whether it's possible to comply with equal population while also drawing districts that don't have such irregular boundaries specifically along the border between District 1 and District 5?

MR. SCHAEFER: I tried to comply with all of the Municipal Home Rule Law and federal and state laws.

COMMISSIONER PERNICK: So it sounds like you made no effort to clean up that boundary.

(Whereupon, there was crosstalk.)

COMMISSIONER PERNICK: Let me finish the question please.

You made no effort to clean up that boundary. You made no effort to see whether it's possible to clean up the boundary while also complying with the other requirements.

MR. SCHAEFER: If you make condition

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A of the Municipal Home Rule Law that all boundaries have to be continuously on a single street until that street ends, then I would have done that, but it's not part of the Municipal Home Rule Law so that's not a consideration when I'm -- I'm drawing shapes. I'm not drawing lines.

COMMISSIONER PERNICK: **District 2:**

It's pretty irregularly shaped, isn't it. Let me ask a different question. District 2, it crosses into all three towns in Nassau County, correct?

MR. SCHAEFER: Yes.

COMMISSIONER PERNICK: Why did you draw a district that crosses into all three towns in Nassau County?

MR. SCHAEFER: Because it preserves 90%, probably, of the existing core of District 2.

COMMISSIONER PERNICK: So you prioritize preserving the core of District 2 over --

MR. SCHAEFER: Equal population via

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prioritizing.

COMMISSIONER PERNICK: Excuse me.

Let me finish the question. I asked you why did you draw a district that crosses into three different towns and you said because it preserves District 2. Did I understand you correctly?

MR. SCHAEFER: No. You didn't.

COMMISSIONER PERNICK: So why did you draw District 2 crossing into three different towns?

MR. SCHAEFER: In my process of drawing all of the districts, I started with the existing boundaries and then made the villages whole to get and then made equal populated districts. And that's the evolution of District 2.

COMMISSIONER PERNICK: So District 2, the reason that District 2 is in three different towns is because you based it on the current version of District 2; is that correct?

MR. SCHAEFER: Which is required by law, yes.

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COMMISSIONER PERNICK: It's a simple
yes or no question. The reason District
2 --

(Whereupon, there was
crosstalk.)

COMMISSIONER PERNICK: -- is in
three different towns is because you
based on the current district; is that
correct?

COMMISSIONER BEE: If I may, you
can't force the map maker into answering
the question with a yes or no if he
believes something more than that is
necessary.

The purpose here is not
cross-examination to say what did you not
do? What did you not consider? We've
proffered a proposed draft map which the
map maker has indicated was only a draft
and is now subject to further
considerations that we might have about
communities of interest that he did not
take into account, and I think we're
trying to turn this into a trial is not

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the appropriate form.

COMMISSIONER MEJIAS: No, but it's a yes or no question. If I ask you if your mic is on or off, telling me it's plugged in is not an answer. It's a yes or no question.

COMMISSIONER PERNICK: I'll ask it a different way.

MR. SCHAEFER: If you want me to answer yes or no, I will answer yes or no but it won't be as informative.

COMMISSIONER PERNICK: I'll ask it a different way. So when you drew District 2, you prioritized preserving the core over respecting town boundaries; is that correct?

MR. SCHAEFER: No. I think when I was drawing I probably didn't -- I made village boundaries because villages are a new part of the law and the village shapes and sizes in Nassau County were problematic. So I probably -- as I look at the map now, but the portion that's in Oyster Bay it's, I'm guessing, is

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possible to take out of Oyster Bay.
Preserving the town boundaries was a
consideration, but in this case I crossed
the town line that hopefully we'll be
able to correct.

CHAIRMAN MORONEY: I'm just going
give an answer to the question that
Mr. Schaefer asked for himself. That
little triangle that you see going into,
crossing the line into Oyster Bay, that
was actually put there at the request of
former Legislator Bob Troiano. That is a
portion of homes and houses that are
connected right to New Castle. And that
was his request ten years ago. He was
sitting, roughly, where you were sitting
and I was there Mr. McKenna is standing,
and he asked if we could change that and
put that back in and we did. That was
one of the reasons why no one ever
challenged this map is because these
people from the Democratic Party, the
Republican Party would put things
together and they came together. That's

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exactly why that is there. That's a piece of New Castle that crosses the town line.

It's the same thing that happened if you look up north where you see the town line that cuts District 16 apart. That is the same sort of situation of the roads. A lot of these things that we hear -- Mr. Mejias gave testimony in Glen Cove and talked at length about blocs and sections of blocs ten years ago, talking about the water system and everything else to keep that together.

This how this thing came about. It didn't come about because somebody walked into a room, lit a cigar and said how can we screw those people?

What happened was it was it was a genuine hearing. The changes were done genuinely and that one in particular by Bob Troiano was something he praised everybody for doing it.

Keep in mind that this map that's now been declared illegal from, I don't

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know, time of memorial by Magleby and yourself was a creation of the aggregate of testimony that took place over a series of months that I participated in, that Mr. Mejias participated in and lots of other people participated in it and then nobody challenged the thing after it was over. Nobody.

Now you can finish your questions.

COMMISSIONER PERNICK: So Mr. Schaefer, we just got I think some interesting community of interest testimony from our chair. Did you take that community of interest testimony into account when you drew District 2 into three different towns?

MR. SCHAEFER: As I said before, I didn't take any of that into account at this stage of the process.

COMMISSIONER PERNICK: I appreciate our chair's contribution to the record with respect to that triangle that juts into Oyster Bay. My questions right now are not about that testimony. It's about

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what you considered in preparing this map.

In drawing District 2, did you prioritize preserving the core of District 2 over respecting town boundaries?

MR. SCHAEFER: I don't think I preserved one over the other. I think that preserving town boundaries is a goal. I think that preserving the existing districts is a goal. In my head I don't say, at least not until the end, this is more important than that, so when I'm drawing, that's not what my thought process is.

COMMISSIONER PERNICK: When you drew District 2, did you give any consideration to preserving town boundaries?

MR. SCHAEFER: No. As I just said, when I'm drawing I'm considering getting to equal population. After I'm done drawing, I can evaluate did I split any villages? Did I break any town

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boundaries? Is there anything that I did -- You know, it's not that every census bloc that I select on my map I refer back to the MHRL to say okay does this do this, this do this? I draw the first iteration of my map. I look to see what needs to be changed. I do it again and again, and then get to this point.

If you have a flood in crossing that boundary, I'd be happy to fix it because I knew and know every time I do this that there's going to be parts of the map that the commissions that I work for don't like and we can correct those things.

So if town boundary's important to you and the Commission, we can take it out of Oyster Bay.

COMMISSIONER PERNICK: I see that that you split up Westbury and New Castle. They were together in the same district previously and you split them up; is that correct?

MR. SCHAEFER: I'll take your word for it.

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COMMISSIONER PERNICK: Why did you split up Westbury and New Castle?

MR. SCHAEFER: For equal population and to preserve the cores of districts.

COMMISSIONER PERNICK: Are you aware that we received significant public testimony --

MR. SCHAEFER: No. I told you that public testimony has not been part of the process up to this point.

COMMISSIONER PERNICK: Okay. What's your timeline for modifying this map, based on public testimony? There was a lot of public testimony.

MR. SCHAEFER: My timeline is your timeline. When you need to have a final plan, I will have a final plan.

COMMISSIONER PERNICK: Have you been given a timeline yet?

MR. SCHAEFER: They told me to come here today and then we'll find out what happens after today.

COMMISSIONER PERNICK: You split the Lakeview community up, didn't you? You

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can take my word for it. You split the Lakeview community up. We got a lot of testimony to keep Lakeview together. Why did you split Lakeview up?

MR. SCHAEFER: Equal population.

COMMISSIONER PERNICK: Is it possible to keep Lakeview together while also achieving equal population?

MR. SCHAEFER: Everything is possible in these maps.

COMMISSIONER PERNICK: Did you make any effort to keep Lakeview together while also achieving equal population?

MR. SHAEFER: My answer's going to be the same for every specific area.

COMMISSIONER PERNICK: Well I'll ask you for every specific area if you made any effort to keep those areas whole while also achieving equal population? Did you make any effort to keep Lakeview whole while also complying with equal population and the other requirements under the Municipal Home Rule Law?

MR. SCHAEFER: I can tell you that

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the give and take of creating equally populated districts, preserving the villages, creating the minority districts that were created, the African-American district created this map. Specific districts? I didn't spend, except for District 1, where after one of my early iterations I found out was close enough to 50% that I could probably get it over 50%. Except for District 1, I don't think I spent any time on any one specific district to make any one specific district more compact, more straight lines, more anything. I didn't split the villages because the law says not to. Once I got to a point where I was within 1% deviation for all the districts, I named it Plan 5 and I brought it here.

COMMISSIONER PERNICK: So you made no effort to keep Lakeview whole while also complying with the other considerations --

MR. SCHAEFER: I made a lot of

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efforts to come up with Plan 5.

COMMISSIONER PERNICK: I'm talking specifically about Lakeview. You made no effort to keep Lakeview whole while also complying --

MR. SCHAEFER: So they said that Lakeview is part of Nassau County. I spent a lot of time drawing this map. So, yes. I spent a lot of effort in keeping all of the villages whole, to keeping all of the districts compact, contiguous, preserve their cores and after considering everything that the law required, this is the plan that I've come up with.

COMMISSIONER PERNICK: I'm going to move onto **District 3**.

COMMISSIONER BEE: Could I just ask a question of Mr. Mejias as the chairman of your delegation.

COMMISSIONER MEJIAS: Yes.

COMMISSIONER BEE: How many times are we going to ask the same questions and just get argumentative with the

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witness?

COMMISSIONER MEJIAS: You see, you keep asking the same question when it doesn't get answered. So when you're asked a question about Lakeview, Mr. Schaefer, specifically about Lakeview and you say a general I did a general map that I think is legal for everything, that's not a question. Because if we were in a court of law, I would move to strike your answers not responsive, the judge would uphold my objection and direct you to answer the question, and if you kept answering questions in a non-responsive manner, he or she would sanction you.

CHAIRMAN MORONEY: There'll be no badgering witnesses. Stop the badgering.

COMMISSIONER MEJIAS: I didn't badger him.

CHAIRMAN MORONEY: You are yelling at people. Stop it.

COMMISSIONER MEJIAS: No, no, no.
Well --

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CHAIRMAN MORONEY: Talk nice.

What's so hard about that?

COMMISSIONER MEJIAS: We are trying and we're asking the same question over and over very nicely and Mr. Schaefer won't answer the question. I'm whispering now so that you can pay attention.

Mr. Schaefer, specifically to Lakeview, answer the question and then we won't have to ask it five times. I understand that you don't want to answer the question and why, but unfortunately you have to.

(Whereupon, there was crosstalk.)

CHAIRMAN MORONEY: If I was a judge, I would strike that from the record.

COMMISSIONER MEJIAS: Okay. Well, maybe you would, but you're not to judge even though you're ruling on your own objections like a judge. That's fine.

Mr. Schaefer, I would ask you to just answer the question. It's not that

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hard. So what? You didn't consider keeping Lakeview together. Just say it. Answer the question. Everyone wants Lakeview together. We ask you when the final map is going to be done? I don't know, you tell me. No one told you that November 21 we're voting on these maps? Did anyone tell you that, Mr. Schaefer?

MR. SCHAEFER: I was aware that it was in November.

COMMISSIONER MEJIAS: Okay. So at some point in November you're going to consider public comment?

MR. SCHAEFER: If asked by the Commission, yes.

COMMISSIONER MEJIAS: Okay. If the Commission doesn't ask you, are you going to consider the public comment when submitting your final map?

CHAIRMAN MORONEY: Don't answer that.

COMMISSIONER MEJIAS: Why not?

CHAIRMAN MORONEY: Because what he says to the Commission is none of your

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business.

COMMISSIONER MEJIAS: Why not? It's public record. But the people are paying him.

CHAIRMAN MORONEY: You're asking him to talk about strategy, then you're off base.

COMMISSIONER MEJIAS: He's not your lawyer. There's no privilege here. I'm sorry. We can ask him questions. This is a public forum and I want to know when his final map is going to be done? You said some time in November. So let's say it's before December 1. November 21 is when we're voting on this. So we're voting on it on November 21. This is not a hypothetical.

COMMISSIONER BEE: Well, what it is is each of the two sides, your delegation and our delegation have separately engaged map makers. The purpose of tonight is for us to have presented what our map maker has reported to us. We have presented that. The purpose of

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tonight is not to cross-examine or be on trial or say what he did or didn't consider. We're here to say here's the map that our map maker has presented in draft form to us in which he has told us he's now waiting for further instructions from our delegation as to what else he should do.

So that's where we are.

COMMISSIONER MEJIAS: It's a work session.

COMMISSIONER BEE: It's a work session in which -- If you have a suggestion that you'd like to make, if you'd like to say move this line from this corner to that corner, change this, change that, those are your suggestions, we'll be happy to hear them. But you just continue to question him as to what did he not consider in drafting this document.

This document is the document that he's produced. This is what he's put forth as a draft and he's now waiting for

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further input from the Republican delegation, and we haven't given him that further input yet.

COMMISSIONER MEJIAS: Well, this is a work session and a work session means we can ask questions. The reason we all voted unanimously to provide each other with each other's maps the day before is so that our consultants could analyze it and we could come here and ask questions. Those questions deserve answers. The public wants to know what these answers are.

You can't give a non-answer and then say don't keep asking the same question. I'm just wondering when are you going to have a final report done?

COMMISSIONER BEE: You've asked that question a number of times.

COMMISSIONER MEJIAS: And he hasn't answered it.

COMMISSIONER BEE: He's not the one who will be answering it.

COMMISSIONER MEJIAS: He said

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sometime in November, actually. He did answer it.

COMMISSIONER BEE: He'll produce his final when this delegation tells him to produce his final which we haven't done yet. That's the answer.

Now, again, he is not here to be badgered in what we view as badgering. He's here to present what he's produced. He has presented it, and we're not going to let this go on forever. At some point in the game we going to say that's enough. We think you've been badgering and trying to cross-examine him rather than to just ask him questions or make suggestions to him about what might further be done in a further iteration.

So let's go forward from there.

COMMISSIONER MEJIAS: And we're not going to let Mr. Schaefer filibuster and not answer questions and answer questions with not answers. There is some accountability here to the people of Nassau County who are spending a million

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dollars to have these two maps made.

Answer the questions. That's all we're asking.

COMMISSIONER PERNICK: Let's move onto **District 3**. District 3, it looks like it connects -- It splits up Elmont, North Valley Stream, Valley Stream and then connects down into Inwood. Am I seeing that correctly?

MR. SCHAEFER: Yes.

COMMISSIONER PERNICK: Why are you connecting Elmont and Valley Stream to Inwood?

MR. SCHAEFER: To get to equal population.

COMMISSIONER PERNICK: Are there any other considerations other than achieving equal population that motivated your decision to connect Valley Stream and Elmont to Inwood?

MR. SCHAEFER: To preserve the cores of villages, close existing districts, to keep the villages whole and to get to the population.

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COMMISSIONER PERNICK: So the three reasons for connecting Valley Stream and Elmont down to Inwood that I've heard you say is:

1. Equal population
2. Preserving cores
3. Respecting village boundaries;

is that correct?

MR. SCHAEFER: As I was drawing, yes.

COMMISSIONER PERNICK: Are there any other considerations that you factored in when connecting Valley Stream and Elmont down to Inwood?

MR. SCHAEFER: Not while drawing, no.

COMMISSIONER PERNICK: Would it have been a more compact district if you kept Elmont and Valley Stream whole rather than having an appendage going down to Inwood?

MR. SCHAEFER: I don't know. It's a mathematical formula. I'd have to --

COMMISSIONER PERNICK: So sitting

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here right now, you cannot tell us whether it's possible, whether it would be more compact, if you kept Elmont and Valley Stream whole and didn't connect down into Inwood. Really? You can't tell us that?

MR. SCHAEFER: There are nine algorithms I use and, honestly, I don't know even how to do the algorithms on pen and paper. I use my computer to do those algorithms.

COMMISSIONER PERNICK: How many years have you been doing this?

MR. SCHAEFER: In 1990 was my first cycle.

COMMISSIONER PERNICK: And you can't eyeball a map and say yeah, that will probably be more compact?

MR. SCHAEFER: Yes. That's the tenth way of measuring compactness. So in one of the measures of compactness, maybe it would be, maybe it wouldn't be. I'd have to see them side by side. The other nine may show a different --

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COMMISSIONER PERNICK: Does the Valley Stream/Elmont portion of the district connect to the Inwood portion of the district by land?

MR. SCHAEFER: I can't tell from this.

COMMISSIONER PERNICK: You don't know the answer to that question?

MR. SCHAEFER: Not right now, no.

COMMISSIONER PERNICK: I have zoomed in on my own computer and I'll tell you that the only way to get from the Valley Stream/Elmont portion of the district to Inwood is to cross a creek and then to cross a golf course. There's no road that connects them. Are you aware of that?

MR. SCHAEFER: I am now.

COMMISSIONER PERNICK: Does that concern you that there's no road that connects the Valley Stream/Elmont portions of the district to Inwood?

MR. SCHAEFER: Concern me?

COMMISSIONER PERNICK: Does it

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concern you as professional --

MR. SCHAEFER: It does not concern me.

COMMISSIONER PERNICK: It doesn't concern you that there's no road that connects them; that the only way to get from one part of the district to the other is to cross a creek and to cross a golf course?

MR. SCHAEFER: There's a congressional district in Hawaii that's dozens of miles of road -- without roads -- to get to the next island.

I don't necessarily, in every case, consider water or a golf course as making a district not contiguous. I think all these districts are contiguous.

COMMISSIONER PERNICK: Are there any islands in Elmont, Valley Stream or Inwood?

COMMISSIONER BEE: Excuse me, if I may. I note that we're already 20 minutes past the ending time for this evening. Do you have any estimate as to

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how much more you would like to continue to question what is not a witness but a presenter of a map?

COMMISSIONER PERNICK: Well, I was hoping this would be a work session. It's not.

COMMISSIONER BEE: Well that's unfortunate that you don't see it that way.

COMMISSIONER PERNICK: It's not that I don't see it. A work session is where you can work together to make changes in real time, to zoom in, to roll up our sleeves. That is not what you were prepared to do today, which is unfortunate.

COMMISSIONER BEE: Do you have a proposal to make a change in what he's presented?

COMMISSIONER PERNICK: I've been listing so many issues with what he's presented, so many legal defects, and I hope he takes it into account as he redoes the map.

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If you're concerned about time, let me continue with my questions.

COMMISSIONER MEJIAS: Let me just remind you we were asking whether or not there were any islands in Valley Stream and Elmont since you made the comparison to Hawaii.

Can we get an answer to that question, Mr. Schaefer? I mean, there might be some water holes on the golf course.

MR. SCHAEFER: All of the districts in this plan are contiguous by law and by my practice.

CHAIRMAN MORONEY: For the record, golf courses apparently are okay to do that because in North Hempstead the Democrats drew a map that -- They have to go through a golf course in order to get to one side or the other side.

So we can nitpick all we want. Just get -- The big picture here is to set back from this and take a look and let's look at our goal. Our goal is to come up

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with a map that is legitimate, that is a benefit to the people of Nassau County, the people who live in Nassau County.

We have different approaches to this, obviously, because your map presentation and our map presentation are miles apart. How that's going to change, whether in bits and pieces or in large chunks, I can't tell you that yet, but it would be more productive, I believe, rather than drill down into something that you already know the answer to to make sure that Mr. Schaefer will give the same answer that you know it had to be. You have it in front of you. You have the larger size.

He's explained to you what his theory was. He's explained to you about majority/minority districts. He's explained to you about keeping villages whole and ironically the same villages that Dr. Gall chopped up are the same ones that Mr. Schaefer chopped up.

It seems like we're going nowhere.

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We're going in circles. If you can just drill down as to what your goal is. I mean, I know your goal is to go to court. Mr. Mejias has already said that.

COMMISSIONER MEJIAS: No. I said that's your goal. You're pretty much guaranteeing it.

(Whereupon, an unidentified audience member began to speak.)

CHAIRMAN MORONEY: You're out of order. You're out of order.

COMMISSIONER MEJIAS: This session is not to hear -- We are not hearing public comment at this session, so I would respectfully ask that the public please keep their voices down.

By the way, just for the record, Mr. Chairman, you referenced Legislator Troiano earlier. The vote on the current map was taken on March 5, 2013, and at that time on the map itself, Legislator Troiano voted, "I am proud to cast a loud, emphatic and resounding no." So

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for the record, Mr. Troiano voted against.

CHAIRMAN MORONEY: I recall that as well, but then nobody went to court.

COMMISSIONER PERNICK: Let's move onto **District 4**. Are you aware that District 4 crosses over water to grab up some land in Baldwin?

MR. SCHAEFER: Yes.

COMMISSIONER PERNICK: Are you aware that there's no road that connects that part of District 4 to Baldwin?

MR. SCHAEFER: I'll take your word for it.

COMMISSIONER PERNICK: Why does District 4 cross into Baldwin?

MR. SCHAEFER: For population that's contiguous.

COMMISSIONER PERNICK: Was it possible to guarantee equal population without crossing over water into Baldwin?

MR. SCHAEFER: Just for equal population? Yes.

COMMISSIONER PERNICK: Did you make

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any effort to keep District 4 without crossing over into Baldwin?

MR. SCHAEFER: Specifically, I didn't make any effort to put it in or take it out or both, no.

COMMISSIONER PERNICK: The section of Baldwin that you include has two people. Are you aware of that?

MR. SCHAEFER: Nope.

COMMISSIONER PERNICK: So it was critical to add those two people for equal population purposes; is that what you're saying?

MR. SCHAEFER: That's what I'm saying.

COMMISSIONER PERNICK: It also crosses into Freeport. Are you aware of that?

MR. SCHAEFER: Yes.

COMMISSIONER PERNICK: And it jumps over the water without any road or land connecting it. It jumps over the water to smash up some land in Freeport, correct?

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MR. SCHAEFER: Yes.

COMMISSIONER PERNICK: Why?

MR. SCHAEFER: Equal population.

COMMISSIONER PERNICK: Is it possible to satisfy the equal population requirement without jumping over the water to snatch up a tiny bit of land in Freeport?

MR. SCHAEFER: Yes, and we can fix that.

COMMISSIONER PERNICK: You haven't made any effort to fix that yet?

MR. SCHAEFER: I haven't been asked to.

COMMISSIONER PERNICK: Well, you're being asked to.

COMMISSIONER BEE: Actually, the Democratic delegation can speak with their map maker. We'll speak to our map maker. Right now we are interested in your comments, your suggestions, but at the end of the day, our map maker will respond to our delegation just as your map maker will respond to your

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delegation.

I appreciate that you're asking the Republican delegation to direct their map maker to do something, but please don't try to direct our map maker.

COMMISSIONER MEJIAS: We're just making suggestions.

COMMISSIONER PERNICK: Let's turn to **District 9**. Am I seeing this district correctly in that it connects Mineola and New Hyde Park with the Plandome/Manhasset area up in the northern part of the Town of North Hempstead by looping east and picking up slivers of Albertson, Searingtown, Roslyn Heights? Is that what it's doing?

MR. SCHAEFER: Yes.

COMMISSIONER PERNICK: What was your basis for drawing such an irregular district?

MR. SCHAEFER: Preserving its core.

COMMISSIONER PERNICK: Any other basis other than preserving the core?

MR. SCHAEFER: Keeping the village

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whole. Keeping the population close to zero.

COMMISSIONER PERNICK: Anything else?

MR. SCHAEFER: Not that I recall.

COMMISSIONER PERNICK: Are you aware of any communities of interest that justify this bizarre configuration?

MR. SCHAEFER: I don't think it's bizarre. It's the same district or very close to the same district that exists now.

CHAIRMAN MORONEY: If I may, I think if your researcher goes back and checks the record of the hearing, he or she will find out that the Kings Point to Manhasset district was created with a strong request by the people who lived on the Great Neck Peninsula. And if you look across to the other side to District 11 which follows, you'll see that that district which is currently represented by Delia DeRiggi-Whitton has a long history of a coalition to preserve

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Hempstead Harbor and it happens to be in the 11th District where Glen Cove is. Mr. Mejias actually testified.

So if you take those two districts and you need population to participate in District 9, you're going to have to create one of those little districts. I brings to mind that there's something similar to that in the map created by Dr. Gall, and that is your district number 10, ironically, where it's a long narrow district with some odd changes to it.

It happens because whether we like it or not, whether we think it's great or not, the requirements of districting are restrictive. You have to do certain things. You have to have equal population.

Mimi Johnson who spoke at length at a couple of hearings, two hearings, didn't like the idea that she was across the street from the district that she wanted to be in. She didn't want to

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be -- She wanted to be in a different district. That's my recollection. If I'm off, I'm not off by much.

The line's got to go somewhere. They don't draw themselves. The population is set by census. The State of New York narrowed the ability to have a greater latitude in doing this when they enacted that law last year called the Municipal Home Rule Law -- further and in particular, when you have to recognize the villages.

It's a cascade of small moves and small maneuvers. It's not that simple to do but you have to keep in mind that these lines were not drawn pell-mell in the back room. They were drawn after discussion with people whether they voted in favor of it or not. They got things they asked for. They asked for changes. That was the public who asked for changes, not commissioners. If you keep it in line with that notion that the purpose of districting is to make sure

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that everybody is equal.

COMMISSIONER PERNICK: Mr. Schaefer, we just got some communities of interest testimony from our Chairman about why District 9 was drawn in the way it was ten years ago. Did that community of interest information play any role in your decision to draw District 9 the way you did?

MR. SCHAEFER: Not in this plan, no.

COMMISSIONER PERNICK: Okay. Thank you. That was my only question. I'm trying to understand your basis for drawing District 9. We had some helpful and interesting community of interest testimony from the chairman. That testimony was not relevant so that's helpful with that.

MR. SCHAEFER: One thing I can say having time to look at that other map, there's something like 30 incorporated villages. I just did a quick count. The only territory that isn't a complete village in Hempstead creates that line.

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If you're going to preserve villages, if it's practicable to preserve villages in North Hempstead, this district keeps some of the villages whole, takes some of the census designated places which are able to be split, but because there are fewer building blocks in North Hempstead because of the large number of incorporated villages that border each other, there's fewer choices and so to create this plan, to create District 10 and 11 automatically creates District 9.

COMMISSIONER PERNICK: I want to turn to **District 14**. This district connects Garden City and Stuart Manor which is in the Town of Hempstead up to Carle Place in Westbury in the Town of North Hempstead and then cuts through the middle of Hicksville to capture part of Bethpage. Does that sound about right to you?

MR. SCHAEFER: Yes.

COMMISSIONER PERNICK: So this district, again, is the second district

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that crosses into all three towns,
correct?

MR. SCHAEFER: Yes. It did in the
original plan as well.

COMMISSIONER PERNICK: Why did you
draw a district that cuts across all
three towns?

MR. SCHAEFER: Because that's what
the core of the existing district was.

COMMISSIONER PERNICK: So with
respect to drawing of District 14, you
prioritized preservation of cores over
preserving town boundaries; is that
correct?

MR. SCHAEFER: No. I did them
equally.

COMMISSIONER PERNICK: In what way
did you respect the redistricting
principle of preserving the town
boundaries --

MR. SCHAEFER: I didn't add a town
boundary crossing.

COMMISSIONER PERNICK: Okay.
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MR. SCHAEFER: The same numbers are as they were before. There's not more.

COMMISSIONER PERNICK: How many towns do we have in Nassau County?

MR. SCHAEFER: Three towns, two cities.

COMMISSIONER PERNICK: How many towns does this district touch? All three?

MR. SCHAEFER: No more than it did before.

CHAIRMAN MORONEY: Can I give you another little bit of information? Where it crosses the town's line --

COMMISSIONER PERNICK: Mr. Chairman, if I may, this is not relevant --

CHAIRMAN MORONEY: I'm going to get this in whether you like it or not. That line that crossed the border between North Hempstead and Oyster Bay was breached in the year 2000 by the Democrats when they controlled it then. That's how that breach took place.

COMMISSIONER PERNICK: And that was

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a bad thing; is that what you're saying?

CHAIRMAN MORONEY: No. I'm just stating a fact.

COMMISSIONER PERNICK: Okay. Well, you seemed pretty angry when you were saying it. Perhaps you can direct your map maker to try and fix that breach.

CHAIRMAN MORONEY: I am not angry. I'm firm.

COMMISSIONER PERNICK: Are you familiar with the Five Towns?

MR. SCHAEFER: Yes.

COMMISSIONER PERNICK: What are the Five Towns?

MR. SCHAEFER: I wouldn't name them and get them wrong, so you can name them for me.

COMMISSIONER PERNICK: It's all right. Where in Nassau County are the Five Towns located?

MR. SCHAEFER: In the southwest.

COMMISSIONER PERNICK: Do you understand the Five Towns to be a community of interest?

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MR. SCHAEFER: I do. I don't know if the Commission does.

COMMISSIONER PERNICK: How many districts did you draw on the Five Towns?

MR. SCHAEFER: I don't know. Maybe two?

COMMISSIONER PERNICK: Four. You split the Five Towns into four different districts. Are you aware of that?

MR. SCHAEFER: If you say so.

COMMISSIONER PERNICK: Did you make any attempt to unify the Five Towns in less than four districts?

MR. SCHAEFER: I got no direction to do that, no.

COMMISSIONER PERNICK: So --

MR. SCHAEFER: They weren't before, so I didn't do it now.

CHAIRMAN MORONEY: Just one correction. It was 2003, not 2000.

COMMISSIONER PERNICK: You split Hicksville into how many districts?

MR. SCHAEFER: I don't know.

COMMISSIONER PERNICK: You split

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Hicksville into four districts. Are you aware of that?

MR. SCHAEFER: I don't know.

COMMISSIONER PERNICK: Five? I miscounted. Five districts. Do you know how many districts Hicksville was split into in the 2013 plan?

MR. SCHAEFER: No.

COMMISSIONER PERNICK: Three. So you increased the number of splits of Hicksville from three to five. You made it worse, right?

MR. SCHAEFER: I wouldn't say worse. Hicksville is a designated place. It's not part of the guidelines I put on myself to draw this plan.

COMMISSIONER PERNICK: So you made no effort to try and reduce the number splits of Hicksville; is that correct?

MR. SCHAEFER: Well, Hicksville didn't become an incorporated village, so it's not required to remain whole or split.

COMMISSIONER PERNICK: That's a

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helpful explanation, but I just want to make sure I understand. You did not make any effort to reduce the number of splits --

MR. SCHAEFER: No. I did not.

COMMISSIONER PERNICK: Of Hicksville, correct?

MR. SCHAEFER: Nope.

COMMISSIONER PERNICK: Did you make any effort to reduce the number of splits at East Meadow, which you split three times?

MR. SCHAEFER: No.

COMMISSIONER PERNICK: Did you make any effort to keep Syosset and Woodbury together?

MR. SCHAEFER: No.

COMMISSIONER PERNICK: Did you make any effort to keep Plainview and Old Bethpage together?

MR. SCHAEFER: No.

COMMISSIONER PERNICK: The Roslyn/East Hills community split into five districts, 9, 10, 11, 16, 18. Did

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you make any effort to keep that
community in fewer than five districts?

MR. SCHAEFER: No.

COMMISSIONER MEJIAS: Mr. Schaefer,
you said you did the map ten years ago,
correct?

MR. SCHAEFER: In 2012 and 2013, the
one that's passed now? Yes.

COMMISSIONER MEJIAS: And there have
been changes in the law since then,
correct?

MR. SCHAEFER: In the state law,
yes.

COMMISSIONER MEJIAS: And you've
done maps for other municipalities,
correct?

MR. SCHAEFER: Yes.

COMMISSIONER MEJIAS: Like,
Brookhaven?

MR. SCHAEFER: Yes.

COMMISSIONER MEJIAS: Who hired you
there?

MR. SCHAEFER: The Town Board.

COMMISSIONER MEJIAS: And it was a

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Republican Town Board, correct?

MR. SCHAEFER: I don't know.

COMMISSIONER MEJIAS: You don't know if the Board you worked for was Republican or Democrat in the Town of Brookhaven?

MR. SCHAEFER: I didn't ask them.

COMMISSIONER MEJIAS: Were you ever hired by the New York State Senate Republicans?

MR. SCHAEFER: Yes.

COMMISSIONER MEJIAS: And in the Town of Hempstead, you were hired by the Town of Hempstead as well, correct?

MR. SCHAEFER: Ten years ago.

COMMISSIONER MEJIAS: And that was a Republican Town Board then as well.

MR. SCHAEFER: Okay.

COMMISSIONER MEJIAS: You're aware of that, correct?

MR. SCHAEFER: When I get a contract, I'm happy to get it, and if they were Democrat, I would have taken the contract.

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COMMISSIONER MEJIAS: Have you ever taken a contract with a Democrat?

MR. SCHAEFER: Lots of times.

COMMISSIONER MEJIAS: Who?

MR. SCHAEFER: Ten years ago, I think, in -- I don't have my notes, so if I get it wrong -- Sullivan County I think. A lot of bipartisan commissions. I did legal work for NAACP in Albany. I can't remember if Dutchess is Democrat or Republican -- Ulster County. I do maps and people hire me to do maps.

COMMISSIONER MEJIAS: One Dutchess county attorney was Republican, then how would you correct it?

MR. SCHAEFER: The cycle? That was a nonpartisan commission, the cycle. That was an absolutely nonpartisan --

COMMISSIONER MEJIAS: And the last time?

MR. SCHAEFER: It may have been the county attorney.

COMMISSIONER MEJIAS: And you said you'd worked for Democrats in Sullivan

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County ten years ago?

MR. SCHAEFER: I think it was Sullivan County if I'm recalling it correctly.

COMMISSIONER MEJIAS: But you don't know if Brookhaven was Republican.

MR. SCHAEFER: I didn't know -- If you're telling me it's Republican now, I got the contract. Like I said, I do maps and draw maps.

COMMISSIONER MEJIAS: You only do math and draw maps?

MR. SCHAEFER: No. For redistricting that's what I do. I don't do any subjective work. I don't decide where the lines go. I let my clients do that.

COMMISSIONER MEJIAS: You do have other businesses, correct? You have a consulting business?

MR. SCHAEFER: Yes. I do statistical work for various politicians of both parties.

COMMISSIONER MEJIAS: At Skyline

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political?

MR. SCHAEFER: Yes.

COMMISSIONER MEJIAS: And you do polling, correct?

COMMISSIONER BEE: Mr. Schaefer, as far as I'm concerned, speaking for the Republican delegation, I think the questions are going beyond what we brought you here to do. So I'm going to direct you not to answer.

COMMISSIONER MEJIAS: Well, you can direct him not to answer and you can decide not to answer and you can put that on the record, but you do own a group that does polling, correct? You own a political consulting firm, don't you?

MR. SCHAEFER: I was directed not to answer.

COMMISSIONER MEJIAS: So you're being directed not to answer the questions about -- Do you own Skylinepolitical.com?

COMMISSIONER BEE: Don't respond.

(Whereupon, there was no

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verbal response.)

COMMISSIONER MEJIAS: What is the name of the company that you own that has a contract with the Republican delegation and the Commission?

MR. SCHAEFER: What is the question?

COMMISSIONER MEJIAS: You have a contract, correct, to do this, yes or no?

MR. SCHAEFER: Yes.

COMMISSIONER MEJIAS: And is that contract with you personally or with your company?

MR. SCHAEFER: My corporation, yes.

COMMISSIONER MEJIAS: And what corporation is that?

MR. SCHAEFER: Skyline Demographic Consultants.

COMMISSIONER MEJIAS: And you also own Skyline Political Consultants, don't you?

COMMISSIONER BEE: Don't respond.

(Whereupon, there was no verbal response.)

CHAIRMAN MORONEY: Keep it inside

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this map and -- Look, Dave, we've been around a long time.

COMMISSIONER MEJIAS: Speak for yourself. I'm still a lawyer.

CHAIRMAN MORONEY: Well, maybe I've been around longer than you. Maybe that's what makes me kinder than you.

COMMISSIONER MEJIAS: Maybe.

CHAIRMAN MORONEY: I think if we just stop trying to score points against the witness. If you want to score points, score points for what you're here for which is to draw a map. It's insolent to think that you can go off where you're going right now and think that somehow or other that that's cool and okay to do because you don't like what he's saying.

COMMISSIONER MEJIAS: I would welcome if --

CHAIRMAN MORONEY: Enough. Enough. Enough. Keep it within the bounds of why we're here. Enough is enough.

COMMISSIONER MEJIAS: The reason

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that we're here --

CHAIRMAN MORONEY: You're not here to figure out how he makes his money outside of what we're doing here, and that's what you're asking. It's none of your business.

COMMISSIONER MEJIAS: Someone's motivation and impetus relates to their bias. I would welcome the Republican commissioners to ask any question that we're asking including all of my pointed questions that you may not like of our consultants. We'll bring them back. Dr. Gall has never worked for a partisan organization before the Democrats hired her. Same thing with Mr. Magleby.

Our goal here is to create a nonpartisan, independent map that complies with the law, and to the extent that there are biases in the process, the people deserve to know what those biases are and who has those biases, the Democratic side, the Republican side, our consultants, your consultants? The

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people paying the million dollars deserve to know whether or not we're truly doing this in a nonpartisan manner, because that's what the law tells us we have to do.

So in following the law, I want to know if there's a particular bias.

CHAIRMAN MORONEY: I'm asking you to ask questions in the same tone in which we asked questions of Dr. Gall and you're not. You're way over the line and you know it and you just don't care because you want to sue us so bad that you'll say anything to do it, and that's what's going on here. Leave the man alone.

COMMISSIONER KASSCHAU: It's quite opposite, Mr. Chairman.

CHAIRMAN MORONEY: I would disagree with that. You must be listening to different people than I'm listening to.

COMMISSIONER KASSCHAU: Now you're being unkind to me. As a former county attorney, as a member of this Commission who sat through countless hours before

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the public where the public gave testimony of what was important to them, it is clear to me after hearing what Mr. Schaefer said that none of that was considered in drawing this map. Instead, you've based this current map on the map drawn in 2013, and that map, as we've pointed out, we've had our experts do analysis, is illegal and you are jeopardizing the county with a potential lawsuit for not taking that under consideration, and it's scary to me.

COMMISSIONER BEE: We are aware that you hold that opinion and I think you have made your opinion clear. So repeating the same questions to get the same answer to have your opinion restated twenty times is pointless.

This gentleman reports to the Republican delegation. We've made him available to answer questions about the contours of the map that he has presented to you. You asked questions which you think have shown deficiencies. All

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right. That's your opinion; that's your inferences; that's your conclusions, but we're not very near the end of making him available to you for further badgering.

(Whereupon, there was an interruption from an audience member.)

COMMISSIONER MEJIAS: Mr. McKenna, that is completely out of order. Please sit down. I don't want to ask that you be escorted from the chamber. You are out of order.

(Whereupon, audience interruption continues.)

COMMISSIONER MEJIAS: You are out of order, Mr. McKenna. That's enough. We are here -- We are not here for you to attack any particular commissioner. Stop.

I'm going to ask the Chairman to have you escorted from the chamber if you do not stop. You're out of order. Thank you.

I apologize to Commissioner Bee for

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anybody who said anything to him that's out of order from the public.

CHAIRMAN MORONEY: One more outburst and I will not allow you to stay. You're going to go. Enough is enough. This wouldn't be the first place you've been thrown out of. Let it be the last.

(Whereupon, audience member continues to speak.)

COMMISSIONER MEJIAS: Mr. Chairman, I'm going to ask you to please have Mr. McKenna escorted from the chamber because he is disrupting these proceedings at the tax payers' expense.

We have two officers here in the chamber. Mr. McKenna continues to be out of order. I will ask you respectfully, Mr. Chairman, to have him removed from the chamber.

CHAIRMAN MORONEY: Would the police officers, please escort him out of the room.

(Whereupon, the audience member continues to rant.)

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COMMISSIONER MEJIAS: Just a reminder to the public that all commissioners on both sides here are doing this voluntarily on their own time and are not paid. As much as we bicker and fight with each other, I do have a tremendous amount of respect for all the commissioners who sit here today and given their time to the public. Thank you all for being here.

CHAIRMAN MORONEY: I would join in that.

COMMISSIONER BEE: Thank you very much.

MR. MEJIAS: Mr. Schaefer, have you ever been asked by any organization, partisan or nonpartisan, to draw a map that favored one particular party or another?

MR. SCHAEFER: Not specifically, no.

COMMISSIONER MEJIAS: Have you been asked to draw a map that has a majority of Republican or Democratic legislators or districts?

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MR. SCHAEFER: No.

COMMISSIONER MEJIAS: Have you ever been asked to take partisanship into account when you're drawing a map?

MR. SCHAEFER: Yes.

COMMISSIONER MEJIAS: Mr. Chairman, I believe that's all the questions we have for Mr. Schaefer. I believe that's all he could probably take anyway.

CHAIRMAN MORONEY: Are there any questions on this side?

(Whereupon, there was no response.)

COMMISSIONER MEJIAS: Thank you, Mr. Schaefer.

CHAIRMAN MORONEY: Before I move to adjourn, I would remind people that we're having a hearing on the 16th day of November in this very chamber, and we're having probably our final meeting as a group on the 21st day of November as well.

(Whereupon, there was an interruption from the

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audience.)

COMMISSIONER MEJIAS: I have a procedural question. If the maps from either side are revised, are we bringing our people back? Is there going to be witness testimony? Is there going to be any explanation to the public at the next hearing about what changes to the maps were made and why?

CHAIRMAN MORONEY: That's a good question. I don't have an answer for you yet, but we will work together like we have up to now on this issue.

COMMISSIONER MEJIAS: I'm going to ask if we do make some changes to our maps, even if we don't, I'm going to have Mr. Magleby and Ms. Gall available on the 16th for the public hearing, and I want to ask that you have Mr. Schaefer available as well.

CHAIRMAN MORONEY: Not a problem.

COMMISSIONER MEJIAS: Thank you.

CHAIRMAN MORONEY: Motion to adjourn.

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COMMISSIONER: Second.

CHAIRMAN MORONEY: All in favor?

(Whereupon, all
commissioners joined the motion
by saying, "aye.")

CHAIRMAN MORONEY: Get home safe
everybody.

(Whereupon, the above matter
concluded, 8:50 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK)
 : SS.:
COUNTY OF NASSAU)

I, KAREN LORENZO, a Notary Public for and within the State of New York, do hereby certify:

That the above is a correct transcription of my stenographic notes.

I further certify that I am not related to any of the parties to this action by blood or by marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of November, 2022.

Karen Lorenzo
KAREN LORENZO

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	2	4	<p>70%^[1] - 14:17 72%^[1] - 22:12 72,006^[1] - 18:20 73,522^[1] - 18:18 75,231^[1] - 18:20 79.88%^[1] - 22:10</p>
1	<p>2^[25] - 21:12, 21:25, 45:12, 61:7, 61:19, 74:8, 75:9, 92:25, 120:10, 120:13, 120:21, 120:24, 121:7, 121:11, 121:18, 121:20, 121:22, 122:4, 123:15, 126:16, 127:4, 127:6, 127:18, 141:7 2(C)^[1] - 91:13 20^[1] - 144:23 2000^[2] - 159:22, 161:21 2003^[1] - 161:21 2007^[1] - 96:22 2010^[2] - 8:24, 9:7 2012^[1] - 164:8 2013^[21] - 17:17, 19:15, 36:19, 36:20, 57:23, 58:3, 58:10, 58:12, 67:2, 83:10, 83:15, 96:7, 99:23, 100:6, 100:18, 100:21, 148:22, 162:8, 164:8, 173:8 2014^[2] - 6:20, 100:6 2015^[1] - 100:6 2016^[1] - 100:6 2017^[2] - 13:22, 14:21 2020^[6] - 8:24, 9:7, 15:22, 42:15, 51:5, 51:22 2021^[3] - 6:21, 13:22, 14:10 2022^[3] - 1:18, 100:7, 180:17 2033^[1] - 96:8 21^[3] - 135:8, 136:15, 136:17 21st^[1] - 177:22 24^[1] - 21:23 26^[1] - 22:14 2:30^[1] - 102:5</p>	<p>4^[8] - 22:15, 23:5, 57:12, 149:7, 149:8, 149:13, 149:17, 150:2 4%^[1] - 9:21 4.39%^[1] - 18:21 40^[1] - 58:20 40%^[5] - 19:21, 24:7, 27:11, 35:8, 48:22 49.5^[1] - 68:19 49.5%^[2] - 67:21, 68:19</p>	8
		5	<p>8^[2] - 25:25, 26:9 80%^[1] - 22:11 84^[1] - 14:13 88^[1] - 15:2 8:50^[1] - 179:10</p>
<p>1^[26] - 20:24, 21:2, 21:11, 45:23, 57:12, 67:2, 75:9, 110:9, 113:11, 113:13, 113:21, 115:20, 116:7, 116:11, 116:18, 116:19, 116:25, 118:2, 118:21, 119:9, 131:8, 131:11, 136:15, 141:6 1%^[4] - 44:22, 44:23, 118:5, 131:18 1.8%^[1] - 44:21 10^[11] - 1:18, 9:13, 27:21, 27:22, 28:5, 30:22, 31:8, 58:18, 154:12, 157:12, 163:25 10%^[1] - 9:6 10,000^[4] - 99:13, 102:25, 103:14, 104:4 10.55%^[1] - 9:20 100%^[2] - 54:8, 107:12 100,000^[1] - 9:5 10th^[1] - 180:17 11^[5] - 28:6, 28:14, 153:22, 157:13, 163:25 11th^[3] - 107:21, 108:10, 154:3 12^[1] - 28:15 13^[1] - 28:23 14^[3] - 29:4, 157:15, 158:12 15^[1] - 29:10 1550^[1] - 1:14 16^[5] - 22:25, 29:19, 109:21, 125:7, 163:25 16th^[5] - 108:11, 108:22, 109:5, 177:19, 178:19 17^[10] - 23:13, 30:4, 30:10, 30:24, 31:2, 31:9, 31:14, 31:15, 31:18, 109:21 17-204.5^[1] - 73:9 17-206^[1] - 91:10 17-206.2^[1] - 72:5 17th^[1] - 109:5 18^[3] - 8:15, 30:11, 163:25 18th^[4] - 107:21, 108:10, 108:11, 108:22 19^[2] - 18:17, 30:16 19-seat^[1] - 91:5 1986^[1] - 13:8 1990^[2] - 42:5, 142:15 19_____^[1] - 51:23</p>	3		9
	<p>3^[8] - 22:2, 22:14, 75:9, 102:5, 132:18, 140:6, 141:8 30^[1] - 156:22 30%^[2] - 23:2, 23:14 31^[1] - 106:21 31%^[1] - 9:15 33^[1] - 21:8 34^[1] - 43:22 35%^[1] - 24:9 36%^[1] - 22:14 37%^[1] - 21:23 39%^[1] - 21:8</p>	<p>5^[23] - 23:6, 23:15, 30:23, 31:8, 34:20, 40:9, 57:3, 57:5, 67:25, 75:9, 93:6, 93:9, 116:10, 116:13, 116:15, 116:21, 117:5, 118:2, 118:21, 119:9, 131:19, 132:2, 148:22 5%^[3] - 18:8, 18:10, 44:2 50^[1] - 58:20 50%^[10] - 8:16, 8:17, 10:10, 45:21, 45:23, 60:15, 63:23, 113:15, 131:10, 131:11 50.5^[1] - 68:21 53%^[1] - 22:23 55%^[1] - 23:12 56,000^[1] - 8:25 57%^[1] - 21:21 59^[1] - 15:7 59%^[1] - 21:5 5th^[1] - 75:21</p>	A
		6	<p>abilities^[1] - 87:22 ability^[3] - 72:10, 90:2, 155:8 able^[13] - 16:19, 26:6, 60:21, 105:15, 110:4, 110:23, 112:4, 113:18, 115:14, 115:17, 115:22, 124:6, 157:6 absence^[2] - 64:9, 67:7 absolutely^[1] - 166:19 absurd^[1] - 107:11 academic^[2] - 92:15, 94:24 acceptable^[1] - 98:18 accepted^[5] - 12:21, 88:10, 102:16, 102:18, 103:20 access^[2] - 90:2, 115:23 accompanied^[2] - 9:2, 9:8 accomplishes^[1] - 22:7 according^[1] - 75:19 account^[13] - 37:13, 37:15, 38:8, 39:20, 40:4, 55:9, 104:8, 104:9, 122:24, 126:16, 126:19, 145:24, 177:5 accountability^[1] - 139:24 accurate^[1] - 52:25</p>
		7	<p>6^[4] - 23:16, 75:10, 75:17, 75:20 6,000^[1] - 9:18 60%^[1] - 22:21 61%^[1] - 9:14 61,000^[2] - 9:11, 9:12 62%^[1] - 15:8 63%^[1] - 23:10 64%^[1] - 21:20 65%^[1] - 21:4 66^[1] - 14:17 6:08^[1] - 1:19</p>
			<p>7^[1] - 25:2</p>

achieve [5] - 67:17, 111:4, 111:24, 112:5, 114:14
achieves [1] - 49:24
achieving [4] - 130:9, 130:14, 130:20, 140:18
Act [24] - 16:24, 36:22, 44:25, 45:3, 46:2, 49:17, 60:16, 61:20, 62:18, 70:13, 71:2, 71:5, 71:7, 72:17, 74:21, 76:20, 91:9, 91:15, 91:16, 91:18, 92:8, 92:9, 93:10, 97:25
action [2] - 91:11, 180:13
actual [2] - 66:6, 105:14
add [2] - 150:12, 158:22
adding [2] - 113:14, 113:20
addition [1] - 49:20
additional [1] - 32:24
address [2] - 48:9, 53:13
addresses [4] - 17:18, 39:24, 47:21, 94:7
adds [1] - 74:5
adhere [4] - 43:11, 112:15, 118:7, 119:3
adheres [1] - 55:19
adjoining [1] - 52:17
adjourn [2] - 177:18, 178:25
adjudicated [1] - 76:19
adjusted [7] - 15:21, 18:12, 20:16, 42:16, 51:6, 51:7, 59:14
administration [2] - 43:15, 44:17
adopted [3] - 55:16, 59:10, 65:18
advantage [1] - 17:15
advice [1] - 80:15
advised [1] - 36:23
ADVISORY [1] - 1:4
affect [1] - 47:14
affecting [1] - 48:17
affiliation [1] - 17:14
African [14] - 46:7, 46:15, 49:18, 49:21, 61:2, 62:2, 62:13, 63:2, 63:5, 70:14, 93:5, 93:15, 94:20, 131:5
African-American [8] - 46:7, 49:18, 49:21, 62:2, 63:2, 63:5, 70:14, 131:5
African-American-pref
erred [1] - 46:15
African-Americans [5] - 61:2, 62:13, 93:5, 93:15, 94:20
afternoon [3] - 102:5, 102:6, 103:3

age [32] - 8:15, 8:16, 10:14, 10:18, 11:5, 11:12, 11:21, 20:16, 20:17, 21:5, 21:6, 21:19, 21:21, 22:10, 22:12, 22:21, 22:22, 23:10, 23:11, 24:6, 24:8, 45:17, 45:20, 51:11, 51:13, 51:16, 60:14, 63:12, 63:15, 68:9, 68:12, 87:15
aggregate [5] - 61:11, 61:20, 69:15, 69:21, 126:3
aggregating [1] - 69:2
ago [22] - 42:18, 45:16, 56:15, 58:7, 58:18, 58:22, 58:24, 81:2, 82:3, 83:20, 96:17, 100:12, 101:8, 101:17, 101:18, 124:16, 125:12, 156:7, 164:6, 165:16, 166:6, 167:2
agree [1] - 93:10
ahead [2] - 4:3, 117:22
aids [1] - 99:15
Albany [1] - 166:10
Albertson [2] - 28:17, 152:15
algorithm [1] - 81:15
algorithms [4] - 47:3, 142:9, 142:10, 142:12
align [1] - 24:5
allow [5] - 17:10, 24:3, 72:11, 117:18, 175:5
allowed [1] - 48:25
almost [6] - 54:8, 68:14, 68:17, 75:6, 75:18, 98:19
alone [1] - 172:16
alternative [1] - 7:16
America [4] - 92:4, 93:19
American [10] - 46:7, 46:15, 49:18, 49:21, 62:2, 63:2, 63:2, 63:5, 69:22, 70:14, 131:5
Americans [5] - 61:2, 62:13, 93:5, 93:15, 94:20
amount [2] - 9:19, 176:8
analysis [19] - 6:6, 7:11, 7:12, 8:21, 13:3, 13:16, 13:24, 21:7, 36:20, 37:2, 37:6, 52:21, 52:22, 59:21, 66:6, 88:18, 89:2, 104:12, 173:10
Analysis [5] - 13:17, 21:22, 22:13, 22:24, 23:12
analyze [5] - 7:13, 7:20,

99:3, 115:17, 138:10
analyzed [1] - 13:21
ANDRENA [1] - 2:13
Andrena [1] - 5:10
angry [2] - 160:6, 160:9
answer [38] - 13:10, 40:20, 79:3, 79:6, 80:9, 93:21, 106:9, 117:20, 117:21, 123:6, 123:11, 124:8, 133:14, 134:7, 134:11, 134:13, 134:25, 135:4, 135:21, 138:15, 139:3, 139:7, 139:22, 140:3, 143:9, 146:9, 147:13, 147:15, 168:11, 168:13, 168:14, 168:19, 168:21, 173:18, 173:22, 178:12
answer's [1] - 130:15
answered [6] - 52:11, 78:13, 78:24, 108:5, 133:5, 138:22
answering [4] - 80:12, 122:12, 133:15, 138:24
answers [9] - 52:13, 52:16, 52:19, 79:25, 94:25, 133:12, 138:12, 138:13, 139:23
anticipate [1] - 55:2
anyway [1] - 177:10
apart [2] - 125:7, 147:8
apologize [4] - 25:11, 96:13, 101:23, 174:25
Appeals [3] - 102:17, 103:21, 105:4
appendage [1] - 141:21
applied [2] - 71:12, 73:5
applies [1] - 30:19
apply [4] - 71:7, 71:13, 71:19, 72:24
appointed [1] - 4:5
appointment [1] - 6:17
Apportionment [1] - 15:25
appreciate [3] - 101:22, 126:21, 152:3
approaches [1] - 147:5
appropriate [6] - 53:6, 77:22, 78:10, 79:16, 80:19, 123:2
area [14] - 11:16, 11:19, 12:2, 23:2, 26:7, 28:4, 29:20, 40:18, 73:22, 74:4, 117:24, 130:16, 130:18, 152:13
areas [23] - 10:3, 10:5, 10:18, 20:10, 20:13, 21:10, 23:14, 24:22, 25:6, 26:3, 26:16, 28:2, 28:11, 28:21, 28:22, 29:2, 29:14, 29:25, 30:14, 40:11, 70:5,

88:14, 130:19
argument [1] - 90:17
argumentative [1] - 132:25
ascribe [1] - 101:10
Asian [15] - 9:9, 9:10, 9:13, 11:21, 23:23, 23:25, 24:4, 24:6, 24:12, 24:14, 24:17, 25:14, 68:25, 69:22
assessing [1] - 13:5
assessment [3] - 70:16, 70:20, 98:6
associate [1] - 6:17
assume [1] - 53:19
Atlantic [2] - 30:6, 30:7
attached [1] - 31:16
attack [1] - 174:19
attempt [1] - 161:13
attention [1] - 134:9
attorney [3] - 166:15, 166:23, 172:24
Attorney [2] - 59:2, 71:15
ATTORNEYS [1] - 2:21
audience [7] - 33:19, 148:10, 174:7, 174:14, 175:9, 175:24, 178:2
August [1] - 106:21
Austin [3] - 31:21, 32:3, 108:6
austin [1] - 31:25
automatically [1] - 157:13
available [5] - 51:14, 173:22, 174:5, 178:18, 178:21
Avenue [13] - 1:14, 108:6, 108:7, 116:4, 116:5, 116:9, 116:12, 116:17, 116:22, 116:23, 117:2, 117:4, 117:24
avoid [1] - 16:5
aware [23] - 61:16, 67:9, 83:21, 84:3, 84:6, 84:9, 84:12, 85:19, 86:18, 97:3, 97:25, 129:6, 135:10, 143:17, 149:7, 149:11, 150:9, 150:18, 153:7, 161:10, 162:3, 165:20, 173:14

B

bad [3] - 81:20, 160:2, 172:14
badger [1] - 133:21
badgered [1] - 139:9
badgering [5] - 133:19, 139:9, 139:14, 174:5
balance [1] - 89:21

Baldwin [1] - 10:23, 10:24, 11:16, 22:19, 23:7, 149:9, 149:13, 149:17, 149:22, 150:3, 150:8
ballot [1] - 14:7
barely [1] - 104:19
Barrier [1] - 30:4
base [3] - 78:20, 100:17, 136:8
based [16] - 7:18, 15:22, 16:21, 17:4, 18:11, 36:25, 37:5, 43:10, 47:3, 49:10, 99:17, 100:19, 121:21, 122:9, 129:14, 173:7
baseline [1] - 104:10
basis [6] - 45:13, 54:6, 66:5, 152:20, 152:24, 156:14
battling [1] - 35:11
Baxter [1] - 26:12
Bay [9] - 27:23, 29:24, 56:18, 123:25, 124:2, 124:11, 126:24, 128:18, 159:21
Beach [7] - 30:6, 30:7, 32:4, 116:4, 117:24
became [1] - 100:5
become [1] - 162:22
becomes [1] - 71:22
Bee [4] - 4:13, 26:20, 33:19, 174:25
BEE [37] - 2:5, 4:14, 26:19, 27:14, 27:20, 33:5, 33:24, 34:14, 34:18, 35:10, 35:19, 35:24, 36:12, 78:12, 78:23, 79:9, 80:10, 96:4, 99:22, 106:2, 122:11, 132:19, 132:23, 136:19, 137:13, 138:19, 138:23, 139:4, 144:22, 145:8, 145:18, 151:18, 168:6, 168:24, 169:22, 173:14, 176:14
began [1] - 148:10
behavior [1] - 12:24
behind [1] - 66:7
belief [1] - 90:15
believes [4] - 89:14, 100:20, 100:21, 122:14
Bellerose [2] - 28:6, 28:7
Bellmore [2] - 29:4, 29:5
below [1] - 44:23
benefit [1] - 147:3
Bennett [2] - 14:22, 14:25
Berkeley [1] - 6:19
best [3] - 81:14, 110:5, 110:6
Bethpage [5] - 26:2,

109:19, 109:21, 157:21, 163:21
better [3] - 47:5, 87:18, 97:18
between [21] - 8:24, 11:11, 14:10, 14:13, 14:17, 14:22, 15:7, 18:7, 30:22, 31:7, 62:2, 62:15, 82:5, 86:13, 108:21, 109:5, 115:20, 118:12, 118:20, 119:9, 159:20
beyond [4] - 58:3, 83:11, 83:17, 168:9
bias [3] - 102:15, 171:10, 172:8
biased [1] - 99:18
biases [3] - 171:21, 171:22, 171:23
bicker [1] - 176:6
big [3] - 32:9, 56:18, 146:23
bill [1] - 97:2
bipartisan [1] - 166:9
bit [9] - 8:22, 11:9, 11:14, 71:23, 82:4, 100:4, 105:15, 151:8, 159:14
bits [1] - 147:9
bizarre [3] - 118:3, 153:9, 153:11
black [7] - 8:5, 15:3, 17:23, 20:9, 69:21, 92:17, 113:16
Black [24] - 8:14, 8:18, 9:17, 10:13, 10:18, 11:7, 14:12, 14:13, 14:25, 45:17, 45:20, 46:4, 46:12, 61:11, 62:15, 64:24, 65:3, 68:25, 69:15, 74:13, 86:22, 89:25, 92:7, 113:11
Black-Preferred [1] - 86:22
Black/Latino [1] - 66:21
Blackwell [1] - 6:20
blank [2] - 81:6, 81:16
bless [1] - 66:14
blind [1] - 47:16
bloc [9] - 14:18, 15:8, 52:11, 52:13, 52:17, 52:19, 68:20, 118:10, 128:4
block [9] - 8:8, 116:6, 116:7, 116:12, 116:16, 116:22, 117:6, 117:23, 118:23
blocks [2] - 117:3, 157:8
Blockwell [2] - 3:5, 6:5
blocs [6] - 52:20, 52:23, 56:16, 68:3, 125:11, 125:12

blood [1] - 180:13
Board [6] - 43:17, 72:7, 164:24, 165:2, 165:5, 165:18
BOARD [1] - 2:21
Bob [2] - 124:13, 125:22
bold [1] - 20:8
border [6] - 108:21, 115:20, 117:25, 119:8, 157:10, 159:20
bordering [1] - 108:21
Boulevard [2] - 31:22, 32:3
boulevard [1] - 31:23
boundaries [25] - 17:16, 17:23, 20:8, 47:2, 47:6, 54:10, 54:13, 104:13, 104:17, 108:14, 108:16, 108:18, 119:8, 120:3, 121:15, 123:16, 123:20, 124:3, 127:7, 127:10, 127:20, 128:2, 141:8, 158:14, 158:21
boundary [12] - 108:20, 109:6, 109:13, 109:18, 118:11, 118:13, 118:20, 119:15, 119:21, 119:23, 128:11, 158:23
boundary's [1] - 128:16
bounds [1] - 170:23
boxes [2] - 103:11, 103:13
breach [2] - 159:24, 160:8
breached [1] - 159:22
break [2] - 37:22, 127:25
bring [3] - 40:9, 45:11, 171:14
bringing [1] - 178:5
brings [1] - 154:9
Brookhaven [3] - 164:20, 165:7, 167:7
Brookville [2] - 25:4, 28:18
brought [2] - 131:20, 168:10
Brown [4] - 14:10, 14:12, 14:13, 14:20
building [2] - 100:19, 157:8
builds [1] - 65:24
Bureau [3] - 24:15, 51:13, 52:10
business [4] - 54:19, 136:2, 167:21, 171:7
businesses [1] - 167:20
button [2] - 106:3
BY [1] - 1:22

C

California [2] - 6:18, 6:24
candidate [16] - 8:9, 12:13, 14:11, 14:15, 14:19, 14:24, 15:5, 21:23, 23:13, 46:14, 46:15, 47:19, 75:23, 76:3, 86:21, 86:22
candidates [22] - 8:7, 8:20, 13:12, 13:14, 13:20, 14:6, 15:10, 17:11, 21:8, 22:14, 22:25, 34:24, 36:11, 38:14, 38:24, 44:12, 45:7, 47:11, 62:3, 70:21, 72:11, 74:14
cannot [1] - 142:2
capture [1] - 157:20
care [2] - 89:17, 172:13
Carle [2] - 28:15, 157:18
cascade [1] - 155:14
Case [1] - 73:16
case [11] - 18:17, 68:23, 70:9, 74:16, 88:13, 90:4, 92:25, 102:17, 102:24, 124:4, 144:15
cases [1] - 61:23
cast [1] - 148:24
Castle [8] - 10:21, 11:13, 21:12, 21:15, 124:15, 125:3, 128:21, 129:3
category [1] - 69:23
causes [1] - 90:20
Cedarhurst [1] - 29:22
Census [6] - 15:22, 24:15, 42:15, 51:5, 51:12, 52:9
census [21] - 51:3, 51:18, 52:5, 52:6, 52:11, 52:13, 52:23, 53:6, 54:5, 56:16, 63:15, 68:3, 68:20, 75:5, 88:14, 109:9, 118:10, 128:4, 155:7, 157:6
center [1] - 75:15
Central [2] - 92:4, 93:18
Centre [1] - 22:16
certain [2] - 52:12, 154:18
Certification [1] - 6:16
certified [1] - 6:15
certify [2] - 180:9, 180:12
chair [1] - 126:14
CHAIR [2] - 1:11, 2:11
Chair [1] - 26:20
chair's [1] - 126:22
chairman [5] - 98:16, 101:21, 132:20, 156:17, 159:16
Chairman [11] - 4:12, 5:18, 98:15, 107:13,

148:20, 156:5, 172:18,
174:21, 175:11, 175:19,
177:7
CHAIRMAN [90] - 2:4, 4:2,
4:20, 5:20, 5:23, 24:10,
24:20, 25:10, 25:23,
30:20, 31:6, 31:11,
31:19, 31:23, 32:5,
32:13, 32:18, 33:2,
36:23, 37:3, 37:7, 37:11,
37:16, 37:24, 38:5,
38:13, 38:17, 38:21,
39:4, 39:10, 40:2, 40:7,
40:17, 40:22, 41:12,
41:16, 50:4, 65:6, 65:14,
65:20, 66:11, 66:14,
79:17, 79:22, 80:3,
89:13, 100:3, 100:13,
100:17, 101:2, 105:6,
106:5, 106:12, 106:20,
107:23, 117:18, 124:7,
133:18, 133:22, 134:2,
134:18, 135:21, 135:24,
136:6, 146:16, 148:12,
149:4, 153:14, 159:13,
159:18, 160:3, 160:9,
161:20, 169:25, 170:6,
170:10, 170:22, 171:3,
172:9, 172:19, 175:4,
175:21, 176:12, 177:11,
177:17, 178:11, 178:22,
178:24, 179:3, 179:7
challenge [2] - 45:25, 61:8
challenged [3] - 49:17,
124:22, 126:8
chamber [6] - 174:12,
174:22, 175:13, 175:17,
175:20, 177:20
chance [1] - 33:15
change [7] - 47:12, 62:17,
124:19, 137:17, 137:18,
145:19, 147:8
changed [2] - 112:14,
128:8
changes [16] - 42:19,
43:9, 43:19, 45:18, 50:2,
58:5, 74:2, 107:6,
125:20, 145:13, 154:13,
155:21, 155:23, 164:11,
178:9, 178:16
changing [1] - 55:2
chart [1] - 9:4
check [1] - 59:7
checked [2] - 103:11,
103:13
checks [1] - 153:15
Chinese [1] - 90:2
choice [12] - 8:20, 13:12,
13:14, 14:11, 14:15,
14:24, 15:5, 17:12, 45:8,

56:23, 72:11, 75:23
choices [1] - 157:11
choose [1] - 71:17
chooses [1] - 71:17
choosing [1] - 56:20
chopped [2] - 147:23,
147:24
chopper [2] - 88:3, 88:6
chose [1] - 104:4
CHRISTOPHER [1] - 2:8
Christopher [1] - 4:22
chunks [1] - 147:10
cigar [1] - 125:17
circle [3] - 64:18, 75:2,
82:2
circles [3] - 65:25, 81:19,
148:2
circuit [1] - 61:17
circular [1] - 118:16
circumstances [2] - 65:4,
65:8
cities [8] - 7:7, 19:20,
27:9, 33:13, 35:3, 35:6,
44:14, 159:7
citizen [11] - 8:16, 20:17,
21:6, 21:20, 22:11,
22:22, 23:11, 24:8,
51:13, 51:16, 87:15
Citizens [1] - 6:25
citizens [1] - 49:8
City [6] - 12:5, 23:17, 28:8,
28:9, 118:14, 157:16
city [1] - 109:13
civil [3] - 90:3, 90:11,
92:21
clarify [2] - 26:22, 73:7
class [4] - 72:11, 73:10,
73:11, 94:9
Class [1] - 73:11
classes [2] - 73:2, 73:8
clean [3] - 119:14, 119:20,
119:22
clear [9] - 36:6, 36:8,
39:15, 62:5, 66:19,
71:22, 74:9, 173:4,
173:16
clearance [2] - 71:18, 72:2
clearly [2] - 105:16,
106:14
clerk [3] - 98:9, 98:15,
98:18
Clerk [1] - 13:22
CLERK [13] - 2:24, 4:11,
4:15, 4:18, 4:21, 4:24,
5:3, 5:6, 5:9, 5:12, 5:15,
5:18, 5:21
client [3] - 58:24, 59:5,
78:21
clients [4] - 6:22, 53:19,
167:17

Cliff [1] - 25:3
CLINES [1] - 2:23
close [6] - 112:17, 114:24,
131:9, 140:23, 153:2,
153:12
closely [1] - 49:24
coalition [11] - 14:15,
15:4, 46:3, 61:18, 62:24,
63:4, 64:6, 64:19, 66:21,
67:12, 153:25
coded [2] - 103:8, 103:9
cohesion [11] - 61:21,
61:23, 61:25, 62:6,
62:11, 62:12, 62:15,
64:21, 64:25, 97:16,
97:18
cohesive [3] - 61:3, 86:16,
91:22
cohesively [1] - 8:6
colleagues [1] - 64:16
color [3] - 70:22, 73:13,
76:4
combine [1] - 75:5
combined [11] - 8:14,
21:5, 21:6, 21:19, 21:20,
22:10, 22:11, 22:20,
22:22, 23:9, 23:11
command [1] - 5:24
comment [3] - 135:14,
135:19, 148:16
commented [1] - 107:17
comments [1] - 151:22
commission [3] - 81:21,
96:5, 166:18
Commission [20] - 6:25,
48:14, 48:16, 55:17,
55:20, 56:6, 56:25,
57:19, 59:3, 62:20,
84:14, 96:3, 105:20,
128:17, 135:16, 135:18,
135:25, 161:3, 169:6,
172:24
COMMISSION [1] - 1:4
Commission's [2] - 84:16,
102:8
Commissioner [4] - 4:13,
33:19, 96:13, 174:25
COMMISSIONER [398] -
4:14, 4:17, 4:23, 5:2,
5:5, 5:8, 5:11, 5:14,
5:17, 25:19, 26:19,
27:14, 27:20, 33:5,
33:17, 33:24, 34:9,
34:14, 34:16, 34:18,
34:19, 35:10, 35:17,
35:19, 35:22, 35:24,
36:5, 36:12, 37:19, 38:2,
39:6, 39:21, 40:8, 40:15,
40:19, 41:7, 41:14, 50:6,
50:9, 50:14, 50:19,

50:23, 51:4, 51:8, 51:22,
53:10, 53:14, 53:18,
53:23, 54:4, 54:11,
54:16, 54:25, 55:7,
55:14, 55:22, 56:5, 57:2,
57:6, 57:11, 57:22,
57:25, 58:8, 58:14,
58:23, 59:4, 59:9, 59:19,
60:2, 60:9, 60:17, 61:9,
61:16, 62:4, 62:9, 62:14,
63:6, 63:10, 63:18,
63:25, 64:5, 64:10,
65:13, 65:16, 66:4,
66:13, 66:18, 67:9,
67:15, 67:22, 68:5,
68:10, 68:16, 68:22,
69:7, 69:13, 69:17,
69:19, 70:15, 70:24,
71:4, 71:24, 72:20,
72:23, 73:6, 74:17,
74:25, 75:11, 75:16,
75:25, 76:6, 76:10,
76:18, 77:5, 77:13,
77:20, 78:6, 78:12,
78:19, 78:23, 78:25,
79:9, 79:13, 79:20,
79:24, 80:6, 80:10,
80:14, 80:16, 81:25,
82:14, 82:24, 83:6, 83:9,
83:16, 83:21, 84:3,
84:11, 84:19, 84:25,
85:4, 85:13, 85:18,
85:21, 86:3, 87:4, 87:10,
88:2, 88:5, 88:9, 88:17,
88:24, 89:7, 89:16,
90:13, 91:7, 91:17,
92:16, 94:4, 95:2, 95:18,
96:4, 96:12, 96:24,
97:14, 97:22, 98:4,
98:10, 98:16, 99:6,
99:12, 99:22, 99:25,
100:9, 100:15, 100:22,
101:21, 102:7, 102:10,
104:21, 105:2, 105:13,
105:18, 105:22, 106:2,
106:8, 106:13, 107:12,
108:2, 108:15, 108:19,
109:2, 109:17, 109:25,
110:14, 110:20, 111:3,
111:10, 111:12, 111:17,
111:23, 112:6, 112:19,
112:24, 113:8, 113:19,
114:3, 114:8, 114:13,
114:19, 115:2, 115:6,
115:13, 117:13, 117:22,
118:19, 119:4, 119:13,
119:18, 120:10, 120:16,
120:22, 121:3, 121:10,
121:19, 122:2, 122:7,
122:11, 123:3, 123:8,
123:13, 126:11, 126:21,

127:17, 128:19, 129:2, 129:6, 129:12, 129:19, 129:24, 130:7, 130:12, 130:17, 131:21, 132:3, 132:17, 132:19, 132:22, 132:23, 133:3, 133:20, 133:24, 134:4, 134:20, 135:12, 135:17, 135:23, 136:3, 136:9, 136:19, 137:11, 137:13, 138:5, 138:19, 138:21, 138:23, 138:25, 139:4, 139:20, 140:5, 140:12, 140:17, 141:2, 141:12, 141:18, 141:25, 142:13, 142:17, 143:2, 143:8, 143:11, 143:20, 143:25, 144:5, 144:19, 144:22, 145:5, 145:8, 145:11, 145:18, 145:21, 146:4, 148:6, 148:14, 149:6, 149:11, 149:16, 149:20, 149:25, 150:7, 150:11, 150:17, 150:21, 151:3, 151:5, 151:12, 151:16, 151:18, 152:7, 152:9, 152:19, 152:23, 153:4, 153:7, 156:3, 156:12, 157:14, 157:24, 158:6, 158:11, 158:18, 158:24, 159:4, 159:8, 159:16, 159:25, 160:5, 160:11, 160:14, 160:19, 160:23, 161:4, 161:8, 161:12, 161:17, 161:22, 161:25, 162:5, 162:10, 162:18, 162:25, 163:7, 163:10, 163:15, 163:19, 163:23, 164:5, 164:10, 164:15, 164:19, 164:22, 164:25, 165:4, 165:9, 165:13, 165:17, 165:20, 166:2, 166:5, 166:14, 166:20, 166:24, 167:6, 167:12, 167:19, 167:25, 168:4, 168:6, 168:12, 168:20, 168:24, 169:3, 169:8, 169:11, 169:15, 169:19, 169:22, 170:4, 170:9, 170:20, 170:25, 171:8, 172:17, 172:22, 173:14, 174:9, 174:16, 175:11, 176:2, 176:14, 176:22, 177:3, 177:7, 177:15, 178:3, 178:15, 178:23, 179:2
commissioner^[12] - 4:15, 4:18, 4:22, 4:24, 5:3, 5:6, 5:9, 5:12, 5:15, 33:23, 36:14, 174:19
COMMISSIONERS^[1] - 2:3

commissioners^[11] - 4:5, 41:23, 43:2, 53:20, 53:25, 55:12, 155:23, 171:11, 176:4, 176:9, 179:5
COMMISSIONR^[1] - 59:13
commissions^[2] - 128:14, 166:9
common^[3] - 19:3, 46:9, 95:13
commotion^[1] - 33:21
communities^[7] - 16:18, 16:20, 35:4, 55:23, 122:23, 153:8, 156:4
communities'^[1] - 45:6
community^[13] - 21:16, 26:4, 109:19, 109:20, 126:13, 126:15, 129:25, 130:3, 156:7, 156:16, 160:25, 163:24, 164:3
compact^[16] - 16:3, 18:25, 19:6, 22:8, 28:25, 44:8, 46:22, 46:25, 60:23, 103:12, 114:22, 131:14, 132:12, 141:19, 142:4, 142:19
Compacting^[1] - 46:21
compactness^[11] - 16:3, 19:2, 19:4, 19:7, 19:11, 19:13, 19:14, 20:20, 21:3, 142:21, 142:22
company^[2] - 169:4, 169:13
compared^[2] - 19:15, 93:25
comparison^[1] - 146:7
comparisons^[1] - 10:8
competition^[5] - 34:22, 37:21, 38:10, 44:11, 47:9
complete^[3] - 7:23, 26:9, 156:24
completed^[2] - 47:20, 53:13
completely^[2] - 93:10, 174:10
compliance^[4] - 7:21, 17:7, 84:21, 85:7
compliant^[3] - 7:16, 7:18, 113:7
complied^[1] - 114:23
complies^[5] - 8:11, 19:23, 44:20, 74:20, 171:20
comply^[12] - 42:16, 44:19, 54:23, 71:18, 103:8, 104:20, 112:7, 112:8, 112:12, 119:2, 119:5, 119:10
complying^[6] - 16:4,

113:3, 119:23, 130:22, 131:23, 132:6
computer^[4] - 99:13, 115:16, 142:11, 143:12
concentrated^[1] - 90:4
concentrations^[1] - 11:21
concept^[1] - 93:20
concern^[5] - 143:21, 143:24, 144:2, 144:3, 144:6
concerned^[2] - 146:2, 168:7
concerning^[2] - 84:21, 85:6
concluded^[4] - 99:7, 102:25, 103:15, 179:10
conclusion^[4] - 87:25, 99:9, 99:21, 104:14
conclusions^[5] - 7:24, 85:25, 86:5, 87:23, 174:3
condition^[1] - 119:25
conditions^[2] - 48:18, 49:14
conduct^[1] - 59:20
configuration^[2] - 106:17, 153:9
configurations^[1] - 7:17
confirm^[1] - 7:15
congressional^[1] - 144:12
connect^[3] - 140:20, 142:5, 143:4
connected^[1] - 124:15
connecting^[5] - 16:6, 140:13, 141:3, 141:14, 150:23
connects^[8] - 140:7, 140:9, 143:17, 143:22, 144:7, 149:12, 152:11, 157:16
consider^[23] - 17:13, 17:16, 17:18, 32:11, 32:21, 33:12, 35:21, 35:25, 38:18, 39:8, 39:9, 58:9, 58:15, 94:13, 94:18, 97:23, 122:18, 135:2, 135:14, 135:19, 137:4, 137:21, 144:16
consideration^[19] - 14:5, 32:17, 34:3, 34:6, 34:11, 34:20, 36:3, 36:10, 36:16, 36:20, 39:13, 39:16, 40:6, 41:2, 43:11, 120:7, 124:4, 127:19, 173:13
considerations^[8] - 20:22, 34:7, 42:24, 54:17, 122:22, 131:24, 140:18, 141:13

considered^[15] - 13:23, 35:5, 35:12, 39:23, 58:3, 70:7, 83:2, 83:7, 83:11, 83:12, 83:17, 94:11, 97:9, 127:2, 173:6
considering^[3] - 96:18, 127:22, 132:14
consistent^[1] - 19:10
constitute^[1] - 60:23
Constitution^[1] - 15:16
consultants^[4] - 138:10, 171:14, 171:25
Consultants^[2] - 169:18, 169:20
consulted^[1] - 43:18
Consulting^[6] - 3:5, 3:8, 6:5, 6:21, 41:25, 42:4
consulting^[2] - 167:21, 168:17
contains^[1] - 8:13
contest^[3] - 14:10, 14:22, 87:5
contests^[4] - 13:21, 14:8, 99:15, 99:16
Contests^[1] - 13:23
context^[3] - 10:16, 101:20, 102:2
contiguous^[9] - 16:5, 44:9, 46:21, 46:23, 132:13, 144:17, 144:18, 146:14, 149:19
continue^[4] - 116:15, 137:20, 145:2, 146:3
continues^[4] - 174:15, 175:10, 175:17, 175:25
continuously^[1] - 120:3
contours^[1] - 173:23
contract^[8] - 59:8, 165:23, 165:25, 166:3, 167:10, 169:5, 169:9, 169:12
contribution^[1] - 126:22
controlled^[1] - 159:23
cool^[1] - 170:17
copies^[1] - 25:15
copy^[2] - 98:12, 98:17
core^[11] - 32:9, 36:7, 36:9, 82:10, 120:20, 120:23, 123:15, 127:5, 152:22, 152:24, 158:10
cores^[24] - 17:17, 23:6, 32:12, 32:22, 33:12, 34:4, 34:25, 35:12, 36:19, 44:13, 49:3, 49:5, 49:7, 56:2, 78:2, 78:5, 82:5, 82:6, 82:15, 129:5, 132:13, 140:22, 141:7, 158:13
corner^[3] - 20:11, 137:17
corporation^[2] - 169:14,

169:16
correct [46] - 27:6, 27:19, 31:2, 32:20, 37:9, 37:10, 40:12, 53:21, 56:25, 61:13, 63:11, 78:11, 83:18, 88:21, 89:4, 91:18, 97:20, 101:14, 110:11, 111:18, 112:21, 120:14, 121:23, 122:10, 123:17, 124:6, 128:15, 128:23, 141:9, 150:25, 158:3, 158:15, 162:20, 163:8, 164:7, 164:12, 164:17, 165:2, 165:15, 165:21, 166:16, 167:20, 168:5, 168:16, 169:9, 180:10
Correct [1] - 102:10
correction [1] - 161:21
correctly [9] - 35:16, 55:5, 82:7, 82:16, 97:15, 121:8, 140:10, 152:11, 167:5
COSCHIGNANO [1] - 2:18
counsel [1] - 6:24
count [1] - 156:23
counties [4] - 7:7, 42:8, 42:13, 93:7
countless [1] - 172:25
country [3] - 52:21, 82:22, 102:19
county [12] - 9:20, 10:16, 14:5, 17:19, 18:15, 50:3, 86:19, 96:21, 166:15, 166:23, 172:23, 173:11
COUNTY [2] - 1:2, 180:5
County [40] - 1:13, 6:6, 7:15, 8:3, 8:23, 9:23, 10:25, 11:17, 12:7, 13:22, 15:17, 16:7, 49:9, 59:2, 59:5, 61:13, 62:6, 62:16, 77:24, 88:20, 95:20, 95:24, 96:16, 96:20, 108:21, 118:13, 120:14, 120:18, 123:22, 132:8, 139:25, 147:3, 147:4, 159:5, 160:20, 166:8, 166:12, 167:2, 167:4
County's [2] - 42:15, 72:25
couple [8] - 9:22, 10:20, 13:25, 51:15, 83:23, 84:5, 101:7, 154:22
course [7] - 16:10, 117:3, 143:16, 144:10, 144:16, 146:12, 146:20
courses [1] - 146:17
Court [3] - 102:17, 103:20, 105:3

court [10] - 66:10, 66:12, 74:10, 74:15, 90:14, 90:20, 105:7, 133:11, 148:5, 149:5
COURT [1] - 1:22
courts [7] - 12:21, 19:8, 42:10, 77:2, 88:10, 102:18, 103:21
Cove [4] - 25:3, 25:4, 125:11, 154:3
coverage [1] - 93:8
crafting [2] - 27:3, 27:17
create [20] - 23:25, 43:3, 43:24, 45:13, 45:22, 49:19, 61:5, 65:2, 65:10, 66:5, 66:25, 67:20, 68:2, 90:23, 91:20, 113:18, 154:8, 157:12, 171:18
created [8] - 18:25, 62:23, 67:5, 131:5, 131:6, 153:18, 154:10
creates [3] - 65:23, 156:25, 157:13
creating [5] - 47:18, 49:17, 91:19, 131:2, 131:4
creation [1] - 126:3
credentials [1] - 6:11
creek [2] - 143:15, 144:9
criteria [11] - 7:19, 15:13, 33:10, 33:11, 33:16, 58:2, 83:2, 83:7, 83:11, 83:17, 114:17
critical [2] - 89:11, 150:12
criticize [1] - 87:22
cross [8] - 122:17, 137:2, 139:15, 143:15, 143:16, 144:9, 149:17
cross-examination [1] - 122:17
cross-examine [2] - 137:2, 139:15
crossed [2] - 124:4, 159:20
crosses [8] - 120:13, 120:17, 121:5, 125:3, 149:8, 150:18, 158:2, 159:15
crossing [6] - 121:11, 124:11, 128:10, 149:22, 150:3, 158:23
crosstalk [4] - 69:12, 119:17, 122:6, 134:17
crying [1] - 106:23
cultures [1] - 95:22
current [20] - 6:22, 71:13, 76:7, 76:11, 76:19, 77:21, 79:21, 82:17, 82:19, 82:25, 83:10, 84:22, 96:10, 100:11, 102:8, 102:11, 121:22,

122:9, 148:21, 173:7
curves [1] - 116:18
cut [1] - 74:18
cuts [3] - 125:7, 157:19, 158:7
CVAP [6] - 51:10, 51:19, 53:6, 63:13, 63:14, 88:7
cycle [8] - 42:5, 42:11, 58:12, 60:13, 87:17, 142:16, 166:17, 166:18
cycles [2] - 58:21, 99:16

D

Daniel [1] - 85:6
darker [2] - 10:3, 10:9
data [16] - 18:12, 46:6, 46:10, 47:16, 51:3, 51:19, 52:8, 53:11, 54:5, 58:9, 87:18, 87:21, 87:24, 88:15, 115:16
Dave [1] - 170:2
David [3] - 5:3, 41:24, 42:2
DAVID [2] - 2:11, 3:7
days [1] - 101:7
deal [1] - 38:13
deals [1] - 43:22
decades [2] - 12:21, 80:25
December [1] - 136:15
decennial [1] - 51:18
Decennial [1] - 15:22
decide [8] - 53:7, 62:20, 62:21, 62:25, 81:22, 94:15, 167:16, 168:14
decides [1] - 48:16
decision [3] - 105:4, 140:20, 156:9
deck [2] - 25:20, 98:12
declared [1] - 125:25
decline [1] - 9:3
deemed [2] - 77:6, 78:9
defeat [2] - 14:19, 15:9
defeated [1] - 13:14
defeats [2] - 8:9, 90:17
defects [1] - 145:23
deficiencies [1] - 173:25
define [4] - 24:12, 24:17, 68:6, 69:24
defined [4] - 24:15, 73:19, 94:23, 99:11
defines [1] - 73:10
defining [3] - 36:7, 67:6, 69:4
definition [4] - 25:14, 69:8, 69:14, 69:20
definitive [1] - 19:11
degree [1] - 12:15
delegation [16] - 26:21, 83:22, 84:4, 132:21,

136:20, 136:21, 137:8, 138:3, 139:5, 151:19, 151:24, 152:2, 152:4, 168:8, 169:5, 173:21
Delia [1] - 153:24
Democrat [6] - 86:15, 90:24, 165:6, 165:24, 166:3, 166:11
Democratic [6] - 83:22, 84:4, 124:23, 151:19, 171:24, 176:24
Democrats [5] - 89:22, 146:19, 159:23, 166:25, 171:16
demographer [1] - 4:4
Demographic [2] - 15:24, 169:17
demographics [4] - 8:23, 9:23, 12:7, 45:18
demonstrate [1] - 60:21
Department [1] - 7:4
DeRiggi [1] - 153:24
DeRiggi-Whitton [1] - 153:24
derive [2] - 12:25, 18:13
description [1] - 34:13
deserve [4] - 95:24, 138:12, 171:22, 172:2
designated [3] - 109:9, 157:6, 162:15
desirable [1] - 16:19
desk [1] - 106:3
detached [2] - 30:25, 31:13
detail [2] - 8:2, 108:25
details [3] - 20:18, 20:20, 72:14
determination [1] - 100:8
determine [3] - 16:24, 47:25, 100:5
determined [2] - 88:23, 88:25
DEVANE [2] - 2:8, 4:23
Devane [1] - 4:22
deviation [5] - 18:11, 20:20, 44:2, 44:21, 131:18
deviations [1] - 42:20
diaspora [1] - 95:19
difference [1] - 18:6
different [34] - 41:20, 50:16, 58:2, 70:5, 75:5, 81:13, 86:14, 92:6, 92:8, 93:4, 93:5, 93:13, 93:19, 94:10, 94:14, 95:9, 95:11, 95:15, 95:21, 118:23, 120:12, 121:6, 121:12, 121:21, 122:8, 123:9, 123:14, 126:17, 142:25, 147:5, 155:2,

161:9, 172:21
differential [2] - 52:4, 87:20
difficult [4] - 33:21, 46:5, 56:15, 110:3
digress [1] - 96:13
dilute [1] - 113:17
dilution [4] - 72:6, 72:13, 89:3, 91:11
diminishing [1] - 44:4
direct [7] - 32:7, 133:14, 152:4, 152:6, 160:7, 168:11, 168:13
directed [2] - 168:18, 168:21
direction [2] - 38:7, 161:15
directly [1] - 39:25
DIRECTORS [1] - 2:17
disagree [5] - 86:17, 87:17, 103:25, 105:3, 172:19
discourage [4] - 34:22, 37:21, 44:10, 47:9
discouraged [1] - 38:9
discrimination [4] - 93:3, 93:11, 93:16, 93:17
discussed [2] - 58:4, 74:15
discusses [1] - 100:23
discussion [4] - 4:3, 31:12, 94:24, 155:19
discussions [1] - 73:18
disfavor [1] - 39:18
disfavoring [4] - 34:23, 38:11, 44:11, 47:10
dispersed [1] - 11:9
dispersion [1] - 10:13
disputable [1] - 48:10
dispute [3] - 85:22, 86:5, 103:23
disrupting [1] - 175:14
disservice [1] - 105:11
distinct [2] - 12:12
distinction [2] - 82:5, 82:11
distribute [1] - 52:18
district [126] - 17:23, 18:8, 18:17, 19:14, 19:22, 20:2, 20:8, 20:12, 20:13, 20:18, 20:19, 21:2, 21:4, 21:19, 22:8, 22:9, 22:20, 23:9, 23:23, 23:25, 24:4, 24:6, 24:13, 25:2, 25:25, 26:10, 27:3, 27:18, 28:6, 28:15, 28:25, 29:4, 29:12, 29:13, 29:18, 29:19, 30:3, 30:4, 30:5, 30:11, 32:12, 32:22, 33:13, 35:8, 36:8, 36:9,

36:18, 44:22, 45:22, 48:4, 48:12, 48:22, 49:18, 49:22, 53:8, 56:11, 56:21, 60:14, 60:24, 61:5, 62:22, 63:2, 67:6, 68:2, 68:4, 68:18, 69:9, 69:25, 70:12, 70:14, 75:3, 75:8, 75:12, 75:18, 76:3, 76:17, 82:18, 90:24, 90:25, 92:13, 94:16, 106:14, 108:3, 110:18, 111:7, 112:2, 112:10, 112:21, 113:2, 113:12, 113:24, 120:10, 120:13, 120:17, 121:5, 122:9, 128:22, 131:6, 131:13, 131:14, 140:6, 141:19, 143:4, 143:5, 143:14, 143:23, 144:8, 144:12, 144:17, 152:10, 152:21, 153:11, 153:12, 153:18, 153:23, 154:11, 154:13, 154:24, 155:3, 157:4, 157:15, 157:25, 158:7, 158:10, 159:9
District [102] - 20:24, 21:11, 21:12, 21:25, 22:2, 22:14, 22:15, 23:5, 23:6, 23:15, 23:16, 26:9, 26:18, 27:22, 28:5, 28:14, 28:23, 29:10, 30:10, 30:16, 30:22, 30:23, 31:2, 31:7, 31:8, 31:9, 31:13, 31:14, 31:18, 34:21, 40:9, 43:13, 45:23, 67:2, 75:17, 75:20, 75:21, 95:25, 107:21, 108:10, 108:11, 108:22, 109:6, 110:9, 113:11, 113:13, 113:21, 115:20, 116:7, 116:10, 116:11, 116:13, 116:15, 116:18, 116:19, 116:21, 116:25, 117:5, 118:2, 118:21, 119:9, 120:21, 120:24, 121:7, 121:11, 121:18, 121:19, 121:20, 121:22, 122:3, 123:14, 125:7, 126:16, 127:4, 127:6, 127:18, 131:8, 131:11, 132:18, 140:6, 149:7, 149:8, 149:13, 149:17, 150:2, 152:10, 153:21, 154:3, 154:7, 156:6, 156:9, 156:15, 157:12, 157:13, 157:15, 158:12
DISTRICTING [1] - 1:3
districting [5] - 7:16, 7:19, 7:20, 154:17, 155:25

districts [107] - 8:13, 8:18, 13:18, 16:5, 16:6, 16:25, 17:3, 17:4, 17:9, 17:22, 17:24, 18:9, 18:16, 19:6, 20:4, 20:23, 32:7, 32:10, 34:4, 35:2, 35:13, 35:21, 35:23, 36:2, 36:17, 42:16, 42:24, 44:3, 44:8, 44:13, 45:13, 45:15, 45:16, 45:19, 46:3, 46:22, 46:24, 47:8, 47:15, 47:18, 49:3, 49:5, 49:8, 49:20, 54:2, 56:3, 61:18, 62:24, 63:4, 65:4, 66:22, 67:12, 68:11, 69:15, 69:21, 70:17, 72:25, 78:3, 78:5, 78:15, 81:18, 82:19, 91:21, 105:16, 106:16, 108:18, 111:13, 111:19, 111:20, 114:4, 114:9, 114:10, 114:16, 114:23, 117:11, 118:5, 118:9, 118:12, 118:16, 118:25, 119:7, 121:14, 121:17, 127:12, 129:5, 131:3, 131:4, 131:7, 131:19, 132:12, 140:23, 144:18, 146:13, 147:20, 154:5, 154:8, 161:5, 161:10, 161:14, 161:23, 162:2, 162:6, 162:7, 163:25, 164:3, 176:25
Districts [2] - 6:7, 37:20
divide [2] - 18:16, 108:18
divided [3] - 19:22, 27:11, 35:9
divides [3] - 107:21, 108:10, 109:18
Doctor [1] - 33:15
doctor [4] - 26:19, 30:20, 35:20, 36:12
document [3] - 137:22, 137:23
documents [1] - 84:10
DOJ [1] - 88:10
dollars [2] - 140:2, 172:2
done [24] - 21:17, 45:8, 49:10, 51:19, 51:25, 58:19, 62:5, 64:20, 70:16, 70:19, 73:25, 74:7, 76:17, 80:24, 100:7, 120:5, 125:20, 127:23, 135:6, 136:13, 138:18, 139:6, 139:18, 164:16
down [16] - 33:18, 33:21, 98:8, 100:4, 107:3, 107:16, 116:16, 140:9, 141:4, 141:15, 141:21,

142:6, 147:12, 148:3, 148:18, 174:11
dozens [1] - 144:13
DR [29] - 3:4, 6:2, 24:14, 24:21, 25:24, 27:5, 27:19, 27:21, 31:3, 31:10, 31:16, 31:21, 31:25, 32:11, 32:16, 32:21, 36:18, 36:25, 37:5, 37:10, 37:14, 38:12, 38:16, 38:20, 39:2, 39:19, 40:5, 40:13, 41:5
Dr [19] - 4:3, 4:8, 6:4, 24:10, 33:22, 41:8, 84:20, 85:2, 85:6, 86:4, 86:6, 98:12, 99:12, 102:3, 107:24, 147:23, 154:11, 171:15, 172:11
dr [3] - 5:23, 39:21, 99:6
draft [9] - 42:25, 54:20, 76:13, 112:23, 114:25, 122:19, 122:20, 137:6, 137:25
drafting [1] - 137:21
dramatic [1] - 9:3
draw [27] - 7:18, 8:10, 47:4, 47:15, 50:11, 57:23, 60:13, 65:3, 66:20, 93:24, 94:15, 118:9, 118:20, 120:17, 121:5, 121:11, 128:6, 155:6, 156:9, 158:7, 161:5, 162:17, 167:11, 167:13, 170:14, 176:18, 176:23
drawing [34] - 32:12, 32:22, 39:17, 42:24, 48:11, 49:10, 50:25, 54:6, 61:12, 70:11, 76:8, 76:23, 77:23, 78:21, 80:21, 81:19, 118:17, 119:6, 120:8, 121:14, 123:19, 127:4, 127:15, 127:22, 127:24, 132:9, 141:10, 141:16, 152:20, 156:15, 158:12, 173:6, 177:5
drawn [13] - 34:21, 37:20, 44:10, 47:9, 61:18, 61:19, 81:10, 82:4, 104:4, 155:17, 155:18, 156:6, 173:8
drew [9] - 36:16, 45:10, 82:25, 83:9, 118:25, 123:14, 126:16, 127:17, 146:19
drill [3] - 100:4, 147:12, 148:3
drive [2] - 116:5, 117:6

driving [2] - 116:3, 116:16
drop [2] - 9:6, 9:7
dropped [1] - 9:5
during [1] - 84:18
Dutchess [2] - 166:11, 166:14

E

early [1] - 131:8
East [8] - 21:14, 27:24, 28:16, 28:18, 28:24, 30:18, 163:12
east [3] - 11:23, 11:24, 152:14
eastern [1] - 108:20
easy [3] - 10:8, 74:8, 74:10
ecological [6] - 12:14, 12:17, 12:18, 13:9, 45:9
effect [1] - 72:9
efficient [2] - 43:15, 44:16
effort [32] - 66:20, 66:24, 67:3, 67:16, 110:16, 112:20, 113:23, 115:3, 115:5, 115:7, 115:8, 118:20, 118:24, 119:14, 119:20, 119:21, 130:13, 130:19, 130:21, 131:22, 132:5, 132:10, 150:2, 150:5, 151:13, 162:19, 163:4, 163:11, 163:16, 163:20, 164:2
efforts [1] - 132:2
egregious [2] - 104:18, 104:20
EI [1] - 12:18
either [6] - 20:24, 39:7, 46:6, 85:23, 94:22, 178:5
elect [3] - 8:20, 17:11, 75:23
elected [3] - 82:23, 96:15, 96:21
electing [1] - 45:7
election [6] - 14:3, 17:14, 46:17, 48:6, 72:9, 97:5
elections [15] - 8:3, 13:18, 13:24, 14:2, 43:16, 44:17, 46:12, 46:19, 46:20, 48:8, 72:12, 86:10, 86:11, 86:24, 101:6
Elections [2] - 43:18, 72:7
eligible [1] - 73:12
eliminated [1] - 63:3
ELISABETTA [1] - 2:18
Elmont [13] - 11:3, 11:17, 20:25, 28:10, 140:7, 140:13, 140:21, 141:4,

141:14, 141:20, 142:4, 144:20, 146:7
emphatic [1] - 148:25
enacted [2] - 58:6, 155:10
end [5] - 32:23, 43:17, 127:13, 151:23, 174:4
ended [1] - 101:7
ending [1] - 144:24
endogenous [2] - 14:2, 99:15
ends [1] - 120:4
enforced [1] - 81:23
engaged [1] - 136:22
engagement [1] - 41:3
enrollment [1] - 48:6
ensemble [2] - 102:14, 102:23
ensure [2] - 74:20, 103:10
entire [4] - 25:20, 34:10, 52:20, 65:16
entirely [1] - 29:11
Equal [1] - 141:6
equal [35] - 15:14, 15:15, 18:4, 43:25, 56:22, 89:21, 90:2, 109:10, 110:24, 111:4, 111:22, 111:24, 112:9, 114:11, 114:14, 119:2, 119:6, 120:25, 121:17, 127:23, 129:4, 130:6, 130:9, 130:14, 130:20, 130:22, 140:15, 140:19, 149:21, 149:23, 150:13, 151:4, 151:6, 154:19, 156:2
equally [7] - 104:20, 114:22, 117:12, 118:6, 131:2, 158:17
ERA [1] - 37:8
ERIC [1] - 2:9
Eric [1] - 4:24
error [2] - 53:4, 53:9
escort [1] - 175:22
escorted [3] - 174:12, 174:22, 175:13
especially [1] - 93:3
ESQ [2] - 2:22, 2:23
established [1] - 13:7
Estates [4] - 23:20, 23:22, 26:12, 26:14
estimate [1] - 144:25
estimated [1] - 20:17
estimates [2] - 12:23, 12:25
estimating [1] - 88:7
ethnic [1] - 12:11
evaluate [3] - 67:16, 119:5, 127:24
evaluated [1] - 113:4
evaluating [3] - 72:15, 102:15, 102:20

Evans [4] - 116:11, 116:12, 116:14, 116:16
evening [1] - 144:25
everywhere [1] - 118:13
evidence [4] - 61:14, 64:22, 64:24, 77:8
Evidence [2] - 94:8, 97:4
evolution [1] - 121:18
exact [1] - 53:7
exactly [1] - 125:2
examination [1] - 122:17
examine [2] - 137:2, 139:15
example [5] - 46:17, 56:16, 71:15, 81:9, 92:2
ensemble [1] - 18:8
exceeds [1] - 40:20
Excel [3] - 50:17, 50:20, 63:21
except [9] - 19:20, 27:10, 35:7, 43:12, 48:25, 90:25, 104:19, 131:7, 131:11
excuse [4] - 33:17, 65:6, 121:3, 144:22
excused [2] - 2:7, 4:20
EXECUTIVE [1] - 2:17
exercise [2] - 13:15, 15:20
exist [2] - 82:12, 85:19
existed [1] - 94:2
existence [2] - 56:24, 101:12
existent [1] - 35:2
existing [30] - 32:9, 33:12, 34:4, 35:2, 35:13, 35:18, 35:21, 35:23, 35:25, 44:13, 45:15, 46:25, 47:6, 49:7, 54:9, 54:13, 56:2, 78:5, 78:15, 81:12, 81:17, 104:9, 104:12, 104:17, 120:20, 121:15, 127:12, 140:23, 158:10
exists [2] - 12:10, 153:12
expense [1] - 175:15
experience [5] - 46:5, 54:15, 57:7, 60:25, 77:3
expert [7] - 7:3, 42:9, 66:8, 66:9, 106:8, 108:8, 108:9
expert's [1] - 79:25
experts [1] - 173:9
explained [5] - 97:6, 97:19, 147:18, 147:19, 147:21
explanation [2] - 163:2, 178:8
extending [1] - 11:13
extent [4] - 19:19, 27:9, 35:6, 171:20
extra [2] - 65:12, 98:17

extreme [4] - 99:7, 99:18, 103:3, 103:17
eye [1] - 10:9
eyeball [1] - 142:18

F

fact [11] - 32:19, 46:23, 48:9, 48:10, 84:12, 86:10, 86:23, 96:19, 100:20, 104:9, 160:4
factored [1] - 141:13
factors [4] - 17:13, 39:23, 40:5, 97:6
exceed [1] - 66:2
fair [2] - 64:25, 74:19
familiar [10] - 70:25, 72:16, 72:18, 72:21, 73:14, 84:20, 85:5, 88:3, 97:10, 160:12
familiarize [1] - 98:22
far [7] - 38:18, 44:25, 67:3, 74:13, 91:3, 94:20, 168:7
Farmingdale [2] - 26:7, 30:17
favor [7] - 39:18, 44:11, 47:10, 99:18, 103:4, 155:20, 179:3
avored [1] - 176:19
favoring [4] - 34:23, 37:22, 38:10, 76:16
features [2] - 16:7, 20:22
Federal [6] - 45:25, 73:15, 73:16, 92:9, 93:6, 93:9
federal [16] - 7:21, 8:11, 42:10, 42:18, 43:5, 45:3, 45:14, 49:16, 50:2, 70:3, 70:8, 74:10, 92:24, 94:2, 96:11, 119:12
fellow [2] - 36:14, 96:4
few [2] - 34:11, 49:8
fewer [3] - 157:7, 157:11, 164:3
fifth [9] - 23:8, 33:11, 34:6, 67:5, 67:20, 67:25, 68:2, 68:18, 75:3
fight [1] - 176:7
figure [1] - 171:4
filibuster [1] - 139:21
final [10] - 43:7, 129:17, 129:18, 135:6, 135:20, 136:13, 138:18, 139:5, 139:6, 177:21
finally [6] - 7:22, 11:20, 16:23, 30:16, 91:24, 116:25
findings [2] - 7:23, 7:25
fine [3] - 41:4, 41:16,

134:23
finger [1] - 31:12
finish [5] - 69:17, 117:19, 119:18, 121:4, 126:10
finished [1] - 33:25
firm [2] - 160:10, 168:17
firms [2] - 7:5
first [21] - 7:11, 8:22, 15:14, 18:4, 18:13, 42:25, 50:17, 54:20, 58:25, 60:20, 61:6, 71:11, 81:19, 84:24, 85:11, 104:5, 112:22, 116:7, 128:7, 142:15, 175:7
fits [1] - 71:23
Fitzgerald [1] - 4:19
FITZGERALD [1] - 2:7
five [16] - 8:13, 17:2, 49:11, 63:20, 67:11, 67:20, 67:23, 68:11, 68:14, 70:17, 77:16, 134:12, 162:6, 162:12, 163:25, 164:3
Five [9] - 29:19, 160:12, 160:15, 160:21, 160:24, 161:5, 161:9, 161:13, 162:5
fix [4] - 128:11, 151:10, 151:13, 160:8
flawed [5] - 49:24, 54:21, 55:15, 55:21, 56:7
flip [1] - 11:10
flood [1] - 128:10
Floral [3] - 11:2, 28:7, 28:8
Flower [1] - 26:12
focus [2] - 96:5, 96:8
folks [1] - 24:16
follow [3] - 33:6, 39:2, 82:17
follow-up [1] - 33:6
followed [2] - 43:24, 78:14
following [1] - 172:7
follows [3] - 43:4, 49:14, 153:22
Force [1] - 15:24
force [1] - 122:12
forever [1] - 139:12
forgo [1] - 25:9
form [3] - 39:20, 123:2, 137:6
formed [1] - 43:14
former [2] - 124:13, 172:23
formula [1] - 141:24
forth [6] - 11:10, 96:6, 117:9, 118:23, 137:25
forty [2] - 54:14, 67:22
forty-nine [1] - 67:22
forum [1] - 136:12

forward [2] - 103:18, 139:19
foundation [1] - 12:6
four [18] - 18:22, 51:21, 63:3, 63:6, 63:16, 63:22, 64:6, 67:5, 67:8, 80:25, 114:4, 114:9, 114:10, 114:15, 161:8, 161:9, 161:14, 162:2
fourth [1] - 42:4
framework [2] - 13:5, 13:6
FRANCIS [2] - 1:10, 2:4
Frank [3] - 5:18, 25:10, 30:21
Franklin [4] - 1:14, 27:22, 27:25, 28:10
frankly [1] - 101:4
Freeport [14] - 10:23, 11:16, 22:19, 23:7, 114:4, 114:9, 114:10, 114:15, 115:9, 115:21, 116:2, 150:18, 150:24, 151:9
front [8] - 24:18, 25:18, 31:4, 33:8, 37:25, 41:21, 66:3, 147:16
full [6] - 10:16, 14:5, 17:7, 19:21, 20:24, 35:8
fully [2] - 19:23, 95:17
future [2] - 48:7, 71:9
futuro [1] - 79:18

G

gall [1] - 39:21
GALL [29] - 3:4, 6:2, 24:14, 24:21, 25:24, 27:5, 27:19, 27:21, 31:3, 31:10, 31:16, 31:21, 31:25, 32:11, 32:16, 32:21, 36:18, 36:25, 37:5, 37:10, 37:14, 38:12, 38:16, 38:20, 39:2, 39:19, 40:5, 40:13, 41:5
Gall [15] - 4:3, 4:8, 5:23, 6:4, 24:10, 33:22, 41:8, 84:20, 86:4, 107:24, 147:23, 154:11, 171:15, 172:11, 178:18
Gall's [3] - 85:2, 86:6, 98:12
game [1] - 139:13
Garden [5] - 12:5, 23:17, 28:8, 28:9, 157:16
Gardens [2] - 23:19, 23:22
gathering [1] - 30:25
general [6] - 46:19, 86:11, 86:23, 113:22, 133:8

General [1] - 71:15
generally [3] - 8:5, 8:7, 117:14
generate [1] - 102:22
generated [1] - 103:13
gentleman [1] - 173:20
genuine [1] - 125:20
genuinely [1] - 125:21
geographic [2] - 10:13, 52:7
Geographic [1] - 6:13
geographically [1] - 60:22
geographies [3] - 52:24, 53:4, 90:5
geography [4] - 14:3, 56:17, 81:11, 88:14
gerrymander [3] - 99:8, 99:10, 102:21
gerrymandering [1] - 85:7
Gingles [6] - 13:3, 13:7, 60:19, 61:6, 74:9, 74:11
GIS [2] - 6:15, 6:16
given [8] - 19:8, 36:3, 36:13, 43:9, 92:12, 129:20, 138:3, 176:10
Glen [4] - 25:3, 25:4, 125:10, 154:3
Glenwood [1] - 25:3
goal [11] - 22:7, 110:25, 114:2, 127:11, 127:12, 146:25, 148:3, 148:4, 148:7, 171:18
goals [1] - 49:25
god [1] - 66:14
gold [1] - 102:19
golf [6] - 143:16, 144:10, 144:16, 146:11, 146:17, 146:20
Google [1] - 20:9
grab [1] - 149:8
graphs [1] - 99:5
gray [2] - 17:25, 74:4
Great [4] - 23:21, 26:15, 153:20
great [2] - 34:15, 154:16
greater [1] - 155:9
greens [1] - 10:9
Greenville [1] - 28:19
grew [3] - 9:10, 9:12, 9:17
group [9] - 12:24, 60:21, 61:2, 73:13, 92:11, 92:12, 95:10, 168:15, 177:22
groups [13] - 12:11, 12:12, 45:2, 69:3, 70:6, 86:14, 86:16, 90:5, 90:12, 91:22, 94:14, 95:9, 95:12
growth [5] - 8:25, 9:8, 9:13, 9:14, 9:20

guarantee [1] - 149:21
guaranteeing [1] - 148:8
guess [2] - 49:13, 70:17
guessing [1] - 123:25
guided [1] - 15:13
guidelines [2] - 112:8, 162:16
guilty [1] - 77:17

H

half [3] - 26:2, 110:10, 110:16
hand [5] - 10:15, 10:17, 38:3, 98:17, 180:17
handed [1] - 100:10
handing [3] - 98:9, 98:15, 98:23
handy [1] - 34:15
happy [6] - 32:24, 38:5, 100:23, 128:11, 137:19, 165:23
Harbor [5] - 10:24, 23:20, 26:15, 29:24, 154:2
hard [2] - 134:3, 135:2
Harkenrider [1] - 102:16
harmed [1] - 48:2
Hawaii [2] - 144:12, 146:8
head [1] - 127:12
Head [1] - 25:4
hear [8] - 4:9, 33:22, 37:4, 79:3, 79:6, 125:10, 137:19, 148:15
heard [10] - 12:18, 22:3, 26:3, 36:13, 67:13, 67:19, 88:6, 88:11, 88:12, 141:4
hearing [8] - 41:24, 125:20, 148:15, 153:16, 173:4, 177:19, 178:9, 178:19
hearings [4] - 57:8, 57:16, 154:22
heart [1] - 74:18
Heights [3] - 26:13, 28:17, 152:16
held [1] - 61:17
help [4] - 16:24, 47:19, 90:10, 107:18
helped [1] - 48:2
helpful [4] - 24:18, 156:15, 156:19, 163:2
Hempstead [23] - 10:22, 11:15, 22:2, 22:3, 22:5, 22:17, 22:18, 110:10, 110:15, 110:17, 111:6, 113:13, 146:18, 152:14, 154:2, 156:25, 157:4, 157:8, 157:17, 157:19,

159:21, 165:14, 165:15
hereby [1] - 180:8
hereunto [1] - 180:16
Herricks [2] - 12:4, 23:18
Hewlett [4] - 29:22, 29:23, 29:24
hi [1] - 6:14
hi-tech [1] - 6:14
Hicksville [14] - 11:14, 11:25, 26:2, 26:6, 29:13, 157:20, 161:23, 162:2, 162:7, 162:12, 162:15, 162:20, 162:21, 163:8
high [4] - 10:19, 21:3, 53:5, 53:8
higher [3] - 10:3, 10:11, 19:5
Hill [1] - 26:13
Hills [4] - 23:19, 23:21, 28:18, 163:24
himself [1] - 124:9
hire [5] - 59:24, 60:3, 60:5, 60:10, 166:13
hired [5] - 60:8, 164:22, 165:10, 165:14, 171:16
Hispanic [11] - 46:4, 46:7, 46:13, 62:2, 63:4, 86:21, 89:25, 92:3, 96:18, 113:11, 113:15
Hispanic-preferred [1] - 86:21
Hispanic/Black [2] - 60:14, 62:22
Hispanic/White [2] - 64:9, 67:7
Hispanics [4] - 93:17, 94:21, 95:4, 96:20
historical [1] - 45:5
history [4] - 86:20, 93:2, 93:14, 153:25
hit [8] - 116:8, 116:11, 116:16, 116:22, 116:23, 116:25, 117:3
hold [2] - 6:17, 173:15
holes [1] - 146:11
Home [58] - 15:19, 16:14, 18:5, 18:23, 19:18, 19:24, 20:14, 21:10, 21:24, 23:3, 23:15, 24:23, 25:7, 26:8, 26:17, 26:24, 27:4, 27:8, 28:3, 28:12, 29:2, 29:8, 29:15, 30:2, 30:9, 30:14, 30:19, 32:8, 32:15, 33:9, 34:2, 40:11, 43:4, 43:12, 43:21, 47:7, 48:18, 48:20, 49:2, 49:4, 54:12, 70:4, 74:3, 78:2, 78:11, 78:14, 85:9, 91:2, 103:9, 112:8, 112:12, 112:16,

118:8, 119:11, 120:2, 120:6, 130:24, 155:11
home [3] - 47:21, 48:8, 179:7
homes [1] - 124:14
honestly [1] - 142:9
hope [1] - 145:24
hopefully [2] - 36:12, 124:5
hoping [2] - 71:22, 145:6
hour [2] - 64:4, 77:16
hours [3] - 100:12, 107:15, 172:25
house [1] - 107:3
houses [1] - 124:14
human [1] - 104:7
humanity [1] - 105:10
hundred [1] - 81:13
hundreds [3] - 93:11, 107:15, 107:16
hurt [1] - 47:19
Hyde [4] - 12:4, 23:16, 23:17, 152:12
hypothetical [13] - 65:7, 65:11, 65:15, 65:17, 65:18, 65:23, 65:24, 66:8, 66:17, 79:5, 79:21, 136:18
hypotheticals [1] - 66:5

I

idea [3] - 9:25, 52:9, 154:23
ideal [6] - 18:14, 18:17, 44:21, 44:23, 44:24, 118:5
ideas [1] - 92:14
identified [1] - 87:12
ignored [1] - 32:20
ignores [1] - 104:24
illegal [2] - 35:18, 77:7, 77:8, 77:11, 77:15, 77:18, 77:21, 78:9, 78:21, 82:9, 100:5, 100:8, 100:18, 100:21, 101:4, 101:8, 107:2, 107:5, 125:25, 173:10
impairing [1] - 72:9
imperfect [1] - 101:14
impetus [1] - 171:9
implemented [2] - 91:24, 95:17
importance [1] - 33:11
important [6] - 24:5, 48:17, 87:8, 127:14, 128:16, 173:3
impression [1] - 27:2
improve [1] - 19:12

IN [1] - 180:16
inaudible [1] - 75:24
include [4] - 17:13, 25:14, 36:9, 150:8
included [3] - 6:23, 73:8, 109:16
includes [19] - 12:3, 20:24, 21:12, 22:2, 22:15, 23:16, 25:2, 25:25, 26:10, 27:22, 28:6, 28:15, 28:23, 29:4, 29:10, 29:21, 30:5, 30:11, 30:16
including [7] - 7:7, 28:19, 35:3, 42:7, 97:7, 101:7, 171:12
incorporate [1] - 16:19
incorporated [4] - 92:23, 156:22, 157:10, 162:22
increased [1] - 162:11
incumbencies [1] - 37:15
incumbency [3] - 36:10, 37:13, 39:19
incumbent [6] - 17:19, 38:11, 39:18, 47:22, 47:25, 48:9
incumbents [8] - 34:23, 39:9, 44:12, 47:10, 47:23, 48:3, 53:12, 76:17
independent [1] - 171:19
Indian [1] - 89:25
indicate [1] - 19:6
indicated [1] - 122:20
indicating [2] - 20:12, 33:3
indicating) [1] - 10:14
indiscernible) [1] - 40:21
individual [1] - 19:14
Industrial [2] - 32:2, 108:7
inference [5] - 12:14, 12:17, 12:19, 13:9, 45:10
inferences [1] - 174:3
influence [4] - 23:23, 23:25, 24:4, 72:12
Information [1] - 6:14
information [6] - 43:8, 50:24, 54:5, 54:22, 156:8, 159:14
informative [1] - 123:12
innocuous [1] - 57:17
inoculate [1] - 49:15
inoculates [1] - 45:24
input [4] - 43:2, 87:24, 138:2, 138:4
inputs [2] - 54:17, 55:8
inquiry [1] - 62:5
inside [1] - 169:25
insolent [1] - 170:15

instance [1] - 99:20
instead [1] - 24:23
Instead [1] - 173:6
Institute [1] - 6:16
instructions [2] - 7:10, 137:7
intended [2] - 31:14, 31:17
intent [1] - 44:3
intentionally [1] - 47:19
interest [14] - 16:18, 16:20, 21:17, 26:4, 35:5, 55:24, 122:23, 126:13, 126:15, 153:8, 156:4, 156:8, 156:16, 160:25
interested [7] - 92:14, 92:21, 93:20, 93:22, 96:23, 151:21, 180:15
interesting [2] - 126:13, 156:16
interests [1] - 46:9
interrupt [3] - 24:11, 79:23, 106:24
interrupting [2] - 25:12, 117:19
interruption [3] - 174:7, 174:15, 177:25
introduce [1] - 98:5
introduced [1] - 101:23
invite [1] - 64:16
involved [1] - 63:16
Inwood [12] - 29:22, 140:9, 140:14, 140:21, 141:4, 141:15, 141:22, 142:6, 143:4, 143:15, 143:23, 144:21
ironically [2] - 147:22, 154:12
irregular [2] - 119:7, 152:20
irregularly [1] - 120:11
irrelevant [1] - 80:24
Island [2] - 30:4, 30:8
island [1] - 144:14
Islander [2] - 69:2, 69:22
islands [2] - 144:20, 146:6
issue [6] - 74:18, 87:8, 87:11, 88:18, 104:22, 178:14
issued [2] - 84:20, 85:6
issues [3] - 87:6, 87:11, 145:22
item [1] - 34:20
items [3] - 37:17, 38:18, 40:3
iteration [2] - 128:7, 139:18
iterations [1] - 131:9
itself [2] - 88:15, 148:23
IX [1] - 1:6

J

James [1] - 5:12
JAMES [1] - 2:14
Jared [1] - 5:6
JARED [1] - 2:12
jeopardizing [1] - 173:11
Jericho [3] - 11:25, 29:10, 29:17
JOHN [1] - 2:6
John [16] - 4:15, 71:3, 71:5, 71:6, 71:21, 73:5, 74:2, 74:21, 91:8, 91:15, 92:7, 93:12, 94:6, 95:25, 96:25, 97:11
Johnson [1] - 154:21
join [1] - 176:12
joined [1] - 179:5
Joy [1] - 116:5
Jr [1] - 5:13
JR [1] - 2:14
judge [4] - 133:13, 134:18, 134:21, 134:23
jumping [1] - 151:7
jumps [2] - 150:21, 150:23
jurisdiction [3] - 14:4, 71:16, 80:21
jurisdictions [3] - 7:7, 7:8, 111:5
jury [1] - 105:8
Justice [1] - 7:4
justify [5] - 117:10, 117:16, 117:23, 118:3, 153:9
juts [1] - 126:23

K

Karen [1] - 180:19
KAREN [3] - 1:22, 180:7, 180:20
Kasschau [1] - 5:7
KASSCHAU [4] - 2:12, 5:8, 172:17, 172:22
keep [31] - 16:5, 33:18, 33:20, 66:17, 110:16, 110:22, 112:9, 112:20, 112:25, 113:23, 125:14, 125:24, 130:4, 130:8, 130:13, 130:19, 130:21, 131:22, 132:5, 133:4, 138:16, 140:24, 148:18, 150:2, 155:16, 155:23, 163:16, 163:20, 164:2, 169:25, 170:23
keeping [11] - 21:15, 29:16, 111:5, 111:6, 111:25, 132:11, 132:12,

135:3, 147:21, 152:25, 153:2
keeps [3] - 19:24, 30:4, 157:4
Kensington [1] - 26:15
kept [12] - 21:25, 23:4, 26:9, 26:18, 28:4, 28:13, 28:22, 30:3, 30:9, 133:15, 141:19, 142:4
key [1] - 29:16
kidding [1] - 107:11
kind [1] - 52:7
kinder [1] - 170:8
Kings [2] - 26:15, 153:17
knowing [1] - 87:14

L

lack [1] - 87:20
Lake [2] - 12:4, 23:18
Lakeview [18] - 10:24, 22:17, 129:25, 130:3, 130:4, 130:5, 130:8, 130:13, 130:21, 131:22, 132:4, 132:5, 132:8, 133:6, 133:7, 134:11, 135:3, 135:5
land [6] - 30:24, 143:5, 149:9, 150:22, 150:24, 151:8
Landing [1] - 25:3
language [7] - 44:5, 45:2, 70:6, 73:13, 73:21, 94:16
Language [1] - 73:19
large [4] - 60:22, 102:23, 147:9, 157:9
largely [1] - 16:21
larger [4] - 52:17, 52:24, 95:10, 147:17
largest [1] - 22:5
last [6] - 46:10, 58:20, 99:16, 155:10, 166:20, 175:8
Latino [19] - 8:5, 8:14, 8:19, 9:9, 9:11, 9:14, 11:5, 11:12, 14:11, 14:14, 14:25, 15:3, 61:11, 62:15, 64:24, 65:3, 68:25, 69:21, 96:14
latino [1] - 11:8
Latinos [1] - 95:20
latitude [1] - 155:9
Lattington [1] - 25:5
Law [73] - 15:19, 16:14, 18:5, 18:24, 19:18, 19:24, 20:14, 21:11, 21:25, 23:3, 23:15,

24:23, 25:7, 26:8, 26:17, 26:25, 27:4, 27:8, 28:3, 28:12, 29:3, 29:8, 29:15, 30:2, 30:9, 30:15, 30:19, 32:8, 32:15, 33:9, 34:3, 40:11, 42:19, 43:4, 43:12, 43:22, 44:7, 47:8, 48:19, 48:20, 49:2, 49:4, 49:15, 49:25, 54:9, 54:12, 58:6, 70:4, 71:21, 73:5, 73:16, 74:3, 78:2, 78:11, 78:14, 85:9, 91:2, 93:7, 93:13, 94:6, 96:2, 103:9, 112:5, 112:8, 112:13, 112:16, 118:8, 119:11, 120:2, 120:6, 130:24, 155:11
law [43] - 7:5, 7:18, 7:22, 19:25, 27:15, 27:17, 36:8, 36:13, 42:18, 45:3, 45:14, 50:3, 55:20, 70:3, 71:13, 71:14, 71:16, 72:2, 72:5, 76:21, 82:10, 82:13, 82:15, 90:23, 92:18, 92:20, 92:24, 94:2, 97:11, 104:20, 121:25, 123:21, 131:16, 132:14, 133:11, 146:14, 155:10, 164:11, 164:13, 171:20, 172:5, 172:7
lawful [2] - 82:20, 82:22
Lawrence [1] - 29:21
laws [4] - 43:5, 54:24, 114:24, 119:12
lawsuit [1] - 173:12
lawyer [2] - 136:10, 170:5
layer [1] - 100:19
least [4] - 18:7, 40:23, 74:11, 127:13
leave [2] - 43:16, 172:16
left [9] - 10:17, 27:21, 80:5, 116:5, 116:10, 116:14, 116:19, 116:23, 117:4
left-hand [1] - 10:17
legal [19] - 8:12, 13:4, 23:24, 35:22, 55:18, 77:4, 78:3, 81:3, 81:5, 82:6, 82:10, 82:15, 104:10, 104:13, 117:12, 133:9, 145:23, 166:10
legally [1] - 81:7
Legislative [8] - 6:7, 15:24, 17:17, 19:15, 36:19, 36:21, 72:25, 95:25
legislative [4] - 36:2, 42:12, 54:10, 54:13
Legislator [3] - 124:13, 148:20, 148:23

legislator [1] - 96:21
legislators [2] - 17:19, 176:24
legislature [6] - 81:3, 81:24, 89:23, 91:6, 96:22, 105:12
Legislature [3] - 1:13, 59:5, 96:16
legitimate [1] - 147:2
Lena [2] - 116:25, 117:4
length [4] - 52:4, 53:3, 125:11, 154:21
lengthy [1] - 24:16
less [1] - 161:14
level [3] - 7:5, 7:6, 118:10
levels [1] - 52:7
Levittown [2] - 28:24, 30:13
Lewis [15] - 71:3, 71:5, 71:6, 71:21, 73:5, 74:3, 74:21, 91:9, 91:15, 92:8, 93:12, 94:6, 95:25, 97:2, 97:11
Lido [1] - 30:6
lighter [1] - 10:5
likely [1] - 43:19
limited [1] - 97:8
line [15] - 68:15, 91:8, 94:6, 96:25, 97:10, 124:5, 124:11, 125:4, 125:7, 137:16, 155:24, 156:25, 159:15, 159:20, 172:12
line's [1] - 155:5
lines [9] - 17:23, 17:25, 20:9, 42:12, 118:15, 120:9, 131:15, 155:17, 167:17
list [4] - 24:16, 25:13, 39:23, 40:3
listed [1] - 25:8
listening [2] - 172:20, 172:21
listing [1] - 145:22
lists [1] - 33:10
lit [1] - 125:17
literally [1] - 58:19
live [1] - 147:4
lived [2] - 52:10, 153:19
local [2] - 15:18, 16:14
located [2] - 10:2, 160:21
Look [1] - 170:2
look [20] - 13:17, 20:6, 45:4, 51:9, 52:12, 53:10, 63:13, 63:25, 64:12, 99:5, 101:16, 107:7, 107:8, 123:23, 125:6, 128:7, 146:24, 146:25, 153:21, 156:21
looked [5] - 16:23, 59:18,

74:6, 107:3
looking [6] - 20:7, 68:25, 100:16, 102:11, 107:20, 115:25
Lookout [1] - 30:7
looks [1] - 140:6
looping [1] - 152:14
LORENZO [3] - 1:22, 180:7, 180:20
Lorenzo [1] - 180:19
lose [1] - 48:5
loud [2] - 106:23, 148:25
love [2] - 52:3, 53:2
lower [1] - 10:5
luck [1] - 66:15
Lynbrook [3] - 27:23, 75:15

M

MAGIN [2] - 2:14, 5:14
Magin [1] - 5:13
Magleby [7] - 85:6, 99:6, 99:12, 102:3, 126:2, 171:17, 178:18
Magleby's [1] - 98:6
main [1] - 87:8
maintain [1] - 16:2
maintained [4] - 32:9, 33:14, 34:5, 44:15
maintaining [1] - 36:3
maintenance [1] - 34:25
majority [14] - 45:16, 45:20, 49:18, 49:21, 60:23, 61:5, 63:2, 67:2, 68:4, 74:13, 103:5, 103:18, 113:12, 176:23
majority/minority [28] - 8:13, 8:18, 16:25, 17:3, 21:4, 21:18, 22:9, 22:20, 23:9, 49:20, 65:3, 66:21, 67:12, 67:24, 68:6, 68:12, 68:19, 68:23, 69:4, 69:8, 69:14, 69:20, 69:24, 75:4, 75:7, 75:18, 91:21, 147:20
maker [11] - 122:12, 122:20, 136:24, 137:5, 151:20, 151:21, 151:23, 151:25, 152:5, 152:6, 160:8
makers [1] - 136:22
makeup [1] - 91:5
Malette [1] - 4:25
MALLETTE [2] - 2:9, 5:2
Malvern [2] - 22:18, 27:23
Malvern/Lynbrook [2] - 75:13, 75:20
man [1] - 172:16

maneuvers [1] - 155:15
Manhasset [3] - 23:19, 26:10, 153:18
manner [2] - 133:16, 172:4
Manor [3] - 26:12, 28:8, 157:16
Manorhaven [1] - 26:11
map [156] - 6:14, 8:11, 10:15, 11:20, 15:13, 17:20, 20:8, 31:4, 32:6, 32:13, 35:18, 39:17, 41:20, 41:22, 43:3, 43:6, 50:12, 51:2, 54:7, 54:20, 55:2, 55:9, 55:13, 55:14, 55:15, 55:19, 56:6, 57:3, 57:16, 57:23, 58:3, 58:10, 59:9, 59:14, 61:12, 64:17, 65:10, 65:18, 70:11, 74:20, 76:7, 76:8, 76:11, 76:19, 76:22, 76:24, 77:3, 77:6, 77:8, 77:9, 77:21, 77:23, 77:24, 78:8, 78:20, 80:2, 80:20, 80:21, 80:23, 80:25, 81:2, 81:6, 81:10, 81:23, 82:9, 82:22, 82:25, 83:10, 83:12, 83:14, 83:18, 84:22, 96:6, 96:9, 99:7, 99:17, 99:23, 100:2, 100:11, 100:18, 101:8, 101:14, 102:4, 102:9, 102:11, 102:12, 102:13, 102:20, 104:10, 104:18, 105:14, 105:24, 106:11, 106:22, 107:4, 107:7, 107:8, 107:10, 109:16, 109:24, 112:11, 112:17, 115:24, 117:15, 122:12, 122:19, 122:20, 123:24, 124:22, 125:24, 127:3, 128:4, 128:7, 128:13, 129:13, 131:6, 132:9, 133:8, 135:6, 135:20, 136:13, 136:22, 136:24, 137:5, 142:18, 145:4, 145:25, 146:19, 147:2, 147:6, 147:7, 148:22, 148:23, 151:20, 151:23, 151:25, 152:4, 152:6, 154:10, 156:21, 160:8, 164:6, 170:2, 170:14, 171:19, 173:6, 173:7, 173:8, 173:23, 176:18, 176:23, 177:5
Map [2] - 36:19, 36:21
Maps [1] - 20:9
maps [37] - 9:22, 9:24, 10:7, 32:12, 45:10, 47:4, 57:10, 58:20, 64:13,

64:15, 65:17, 71:8, 81:14, 99:13, 99:14, 102:23, 102:24, 102:25, 103:6, 103:7, 103:14, 104:3, 104:6, 105:19, 130:11, 135:8, 138:9, 140:2, 164:16, 166:12, 166:13, 167:10, 167:11, 167:13, 178:4, 178:9, 178:17
Maptitude [5] - 50:12, 50:15, 50:20, 50:25, 53:16
maptitude [1] - 50:13
March [1] - 148:22
margins [3] - 53:4, 53:8, 99:19
marriage [1] - 180:14
Massapequa [5] - 30:11, 30:13, 30:17, 30:18, 30:19
Masters [1] - 6:13
math [1] - 167:13
mathematical [1] - 141:24
mathematically [1] - 61:4
matter [3] - 16:10, 179:9, 180:15
MAUREEN [1] - 2:7
Maureen [1] - 4:19
Maxson [2] - 116:22, 116:23
McKenna [4] - 124:18, 174:9, 174:17, 175:13
mcKenna [1] - 175:17
Meadow [3] - 21:14, 28:24, 163:12
mean [8] - 17:10, 18:8, 24:11, 26:25, 38:6, 58:12, 146:10, 148:4
meaning [1] - 14:2
means [3] - 18:10, 73:11, 138:6
measurable [1] - 47:24
measure [8] - 12:15, 12:19, 17:16, 19:2, 19:10, 47:5, 74:11, 93:25
measured [1] - 99:14
measures [4] - 19:4, 19:8, 19:9, 142:22
measuring [2] - 13:2, 142:21
meeting [9] - 84:16, 85:17, 106:23, 106:24, 106:25, 177:21
MEETING [1] - 1:6
meets [1] - 96:10
MEGAN [1] - 3:4
Megan [1] - 6:4
MEJIAS [93] - 2:11, 5:5,

25:19, 33:17, 36:5, 65:13, 65:16, 66:4, 66:13, 78:25, 79:13, 79:20, 79:24, 80:6, 80:14, 95:2, 95:18, 96:12, 98:10, 102:7, 107:12, 108:2, 108:15, 108:19, 109:2, 109:11, 109:17, 123:3, 132:22, 133:3, 133:20, 133:24, 134:4, 134:20, 135:12, 135:17, 135:23, 136:3, 136:9, 137:11, 138:5, 138:21, 138:25, 139:20, 146:4, 148:6, 148:14, 152:7, 164:5, 164:10, 164:15, 164:19, 164:22, 164:25, 165:4, 165:9, 165:13, 165:17, 165:20, 166:2, 166:5, 166:14, 166:20, 166:24, 167:6, 167:12, 167:19, 167:25, 168:4, 168:12, 168:20, 169:3, 169:8, 169:11, 169:15, 169:19, 170:4, 170:9, 170:20, 170:25, 171:8, 174:9, 174:16, 175:11, 176:2, 176:16, 176:22, 177:3, 177:7, 177:15, 178:3, 178:15, 178:23
Mejias [6] - 5:4, 125:10, 126:6, 132:20, 148:5, 154:4
mell [1] - 155:17
member [9] - 48:12, 49:9, 60:24, 96:18, 148:10, 172:24, 174:8, 175:9, 175:25
members [12] - 47:22, 48:12, 56:9, 57:17, 57:18, 72:10, 73:12, 83:22, 84:4, 96:5, 110:7
memo [1] - 100:9
memorial [1] - 126:2
mention [1] - 9:16
mentioned [3] - 21:9, 87:19, 88:17
Merrick [3] - 23:8, 29:5, 29:6
MESSINA [1] - 2:22
met [1] - 61:7
method [3] - 72:8, 88:3, 88:6
methodological [1] - 80:18
methodologically [4] - 77:22, 78:20, 80:7, 81:7
Methodologically [1] - 79:4

methodology [15] - 79:2, 79:5, 79:7, 79:10, 79:11, 79:14, 79:16, 80:2, 102:14, 102:15, 103:19, 104:2, 104:22, 104:24, 105:5
Mexico [3] - 92:12, 93:18, 95:6
MHRL [2] - 76:15, 128:5
mic [1] - 123:5
Michael [2] - 4:10, 5:16
MICHAEL [2] - 2:15, 2:25
middle [1] - 157:20
might [14] - 31:25, 40:25, 43:20, 64:14, 75:21, 81:21, 86:20, 88:19, 96:8, 97:17, 97:18, 122:22, 139:17, 146:11
miles [3] - 77:16, 144:13, 147:8
million [3] - 96:19, 139:25, 172:2
Mimi [1] - 154:21
mind [3] - 125:24, 154:9, 155:16
Mineola [3] - 1:15, 28:16, 152:11
minorities [3] - 44:5, 44:6, 73:21
minority [28] - 4:5, 8:9, 13:13, 13:19, 14:6, 17:5, 17:10, 21:7, 21:22, 22:13, 22:25, 23:13, 45:2, 45:6, 60:20, 61:2, 67:5, 70:6, 70:19, 73:13, 73:19, 75:22, 86:14, 90:11, 91:22, 94:14, 103:10, 131:4
minority's [2] - 14:19, 15:9
minority-preferred [1] - 8:9
minutes [1] - 144:24
miscounted [1] - 162:6
misunderstood [1] - 39:11
modified [1] - 112:14
modifying [1] - 129:13
MOLONEY [1] - 40:7
moment [4] - 35:11, 75:2, 82:3, 98:21
money [1] - 171:4
months [2] - 107:14, 126:5
Moore [2] - 116:8, 116:9
MORONEY [90] - 1:10, 2:4, 4:2, 4:20, 5:20, 5:23, 24:10, 24:20, 25:10, 25:23, 30:20, 31:6, 31:11, 31:19, 31:23, 32:5, 32:13, 32:18, 33:2, 36:23, 37:3, 37:7, 37:11, 37:16,

37:24, 38:5, 38:13, 38:17, 38:21, 39:4, 39:10, 40:2, 40:17, 40:22, 41:12, 41:16, 50:4, 65:6, 65:14, 65:20, 66:11, 66:14, 79:17, 79:22, 80:3, 89:13, 100:3, 100:13, 100:17, 101:2, 105:6, 106:5, 106:12, 106:20, 107:23, 117:18, 124:7, 133:18, 133:22, 134:2, 134:18, 135:21, 135:24, 136:6, 146:16, 148:12, 149:4, 153:14, 159:13, 159:18, 160:3, 160:9, 161:20, 169:25, 170:6, 170:10, 170:22, 171:3, 172:9, 172:19, 175:4, 175:21, 176:12, 177:11, 177:17, 178:11, 178:22, 178:24, 179:3, 179:7
Moroney [4] - 5:19, 25:11, 30:21, 101:22
most [2] - 13:23, 18:7
motion [2] - 178:24, 179:5
motivated [1] - 140:19
motivation [1] - 171:9
Mount [1] - 116:4
mouth [2] - 79:25, 80:4
move [10] - 8:21, 15:11, 66:18, 109:4, 132:18, 133:11, 137:16, 140:5, 149:6, 177:17
moved [1] - 84:18
moves [1] - 155:14
moving [3] - 25:24, 68:3, 68:20
MR [262] - 42:2, 50:8, 50:13, 50:16, 50:21, 51:3, 51:6, 51:11, 51:24, 53:12, 53:17, 53:22, 54:3, 54:8, 54:14, 54:18, 55:6, 55:11, 55:18, 55:25, 56:8, 57:4, 57:7, 57:14, 57:24, 58:5, 58:11, 58:16, 58:25, 59:7, 59:12, 59:17, 59:23, 60:6, 60:11, 60:18, 61:14, 61:22, 62:8, 62:10, 62:19, 63:7, 63:12, 63:21, 64:3, 64:8, 66:23, 67:13, 67:18, 67:24, 68:8, 68:14, 68:18, 69:5, 69:10, 69:16, 70:2, 70:23, 71:3, 71:10, 72:18, 72:22, 73:2, 73:17, 74:22, 75:9, 75:14, 75:24, 76:5, 76:9, 76:13, 76:25, 77:11,

77:16, 77:25, 80:22, 82:8, 82:21, 83:4, 83:8, 83:13, 83:19, 83:25, 84:8, 84:15, 84:23, 85:3, 85:10, 85:16, 85:20, 85:24, 86:8, 87:7, 87:13, 88:4, 88:8, 88:12, 88:22, 89:5, 89:19, 90:19, 91:14, 91:19, 92:19, 94:18, 95:8, 95:23, 97:12, 97:21, 98:3, 98:24, 99:10, 103:25, 104:23, 105:9, 105:17, 105:19, 106:18, 108:13, 108:17, 108:24, 109:8, 109:11, 109:14, 110:12, 110:19, 110:21, 111:8, 111:11, 111:15, 111:21, 112:3, 112:11, 112:22, 113:6, 113:10, 113:25, 114:6, 114:11, 114:17, 114:21, 115:4, 115:10, 117:11, 118:4, 118:25, 119:10, 119:25, 120:15, 120:19, 120:25, 121:9, 121:13, 121:24, 123:10, 123:18, 127:8, 127:21, 128:24, 129:4, 129:9, 129:16, 129:21, 130:6, 130:10, 130:15, 130:25, 131:25, 132:7, 135:10, 135:15, 140:11, 140:15, 140:22, 141:10, 141:16, 141:23, 142:8, 142:15, 142:20, 143:6, 143:10, 143:19, 143:24, 144:3, 144:11, 146:13, 149:10, 149:14, 149:18, 149:23, 150:4, 150:10, 150:15, 150:20, 151:2, 151:4, 151:10, 151:14, 152:18, 152:22, 152:25, 153:6, 153:10, 156:11, 156:20, 157:23, 158:4, 158:9, 158:16, 158:22, 159:2, 159:6, 159:11, 160:13, 160:16, 160:22, 161:2, 161:6, 161:11, 161:15, 161:18, 161:24, 162:4, 162:9, 162:14, 162:21, 163:6, 163:9, 163:14, 163:18, 163:22, 164:4, 164:8, 164:13, 164:18, 164:21, 164:24, 165:3, 165:8, 165:12, 165:16, 165:19, 165:22, 166:4, 166:6, 166:17, 166:22, 167:3, 167:8, 167:14, 167:22, 168:3, 168:18, 169:7, 169:10, 169:14, 169:17, 176:16, 176:21,

177:2, 177:6
municipal [1] - 15:18
Municipal [63] - 16:14, 18:5, 18:23, 19:18, 19:23, 20:14, 21:10, 21:24, 23:3, 23:15, 24:23, 25:7, 26:8, 26:17, 26:24, 27:4, 27:8, 28:3, 28:12, 29:2, 29:8, 29:15, 29:25, 30:8, 30:14, 30:18, 32:8, 32:15, 33:9, 34:2, 40:10, 42:19, 43:4, 43:12, 43:21, 44:7, 47:7, 48:18, 48:20, 49:2, 49:15, 49:25, 54:9, 54:12, 58:6, 70:3, 74:3, 78:2, 78:11, 78:14, 85:8, 91:2, 103:9, 112:5, 112:7, 112:12, 112:16, 118:8, 119:11, 120:2, 120:6, 130:24, 155:11
municipalities [1] - 164:16
Munsey [1] - 26:13
must [3] - 33:12, 60:21, 172:20
Muttontown [1] - 28:18

N

NAACP [1] - 166:10
name [5] - 6:4, 57:16, 160:16, 160:17, 169:4
named [1] - 131:19
names [3] - 38:25, 57:21, 119:3
naming [1] - 57:10
narrow [1] - 154:13
narrowed [1] - 155:8
NASSAU [2] - 1:2, 180:5
Nassau [28] - 1:13, 6:6, 7:14, 8:3, 8:23, 13:21, 15:17, 16:6, 42:15, 49:8, 61:12, 62:6, 62:16, 72:25, 77:24, 88:20, 95:20, 96:20, 118:13, 120:14, 120:18, 123:22, 132:8, 139:25, 147:3, 147:4, 159:5, 160:20
National [1] - 7:4
nationalities [1] - 24:13
Native [1] - 69:22
naturally [1] - 24:3
near [1] - 174:4
nearly [4] - 9:5, 9:6, 9:17, 67:5
necessarily [3] - 86:2, 90:7, 144:15
necessary [1] - 122:15
Neck [6] - 23:21, 23:22,

25:4, 26:15, 29:22, 153:20
need [9] - 40:24, 41:9, 42:16, 64:13, 65:25, 101:2, 110:13, 129:17, 154:6
needs [2] - 105:11, 128:8
negative [1] - 47:13
neighborhoods [1] - 70:5
never [6] - 60:7, 83:4, 83:8, 88:5, 88:11, 171:15
new [10] - 13:18, 42:18, 44:6, 47:7, 49:9, 77:24, 80:21, 85:8, 98:5, 123:21
New [34] - 1:15, 10:21, 11:12, 12:4, 15:23, 18:5, 18:23, 21:12, 21:15, 23:16, 23:17, 42:6, 46:5, 60:25, 70:25, 71:5, 71:7, 72:17, 81:7, 91:18, 92:3, 97:24, 102:17, 103:20, 105:3, 118:14, 124:15, 125:3, 128:20, 129:3, 152:12, 155:8, 165:10, 180:8
NEW [1] - 180:4
Next [1] - 11:5
next [6] - 12:8, 55:13, 116:12, 116:21, 144:14, 178:8
nice [1] - 134:2
nicely [1] - 134:6
nine [5] - 18:22, 47:2, 67:22, 142:8, 142:25
nitpick [1] - 146:22
nobody [3] - 126:8, 126:9, 149:5
non [11] - 7:4, 7:12, 48:10, 60:14, 62:22, 64:9, 67:7, 113:11, 113:15, 133:16, 138:15
non-answer [1] - 138:15
non-disputable [1] - 48:10
non-Hispanic [2] - 113:11, 113:15
non-Hispanic/Black [2] - 60:14, 62:22
non-Hispanic/White [2] - 64:9, 67:7
non-partisan [1] - 7:12
non-profit [1] - 7:4
non-responsive [1] - 133:16
none [8] - 45:19, 81:19, 104:6, 104:7, 104:8, 135:25, 171:6, 173:5
nonpartisan [5] - 166:18, 166:19, 171:19, 172:4,

176:18
north [4] - 31:9, 32:3, 107:22, 125:6
North [20] - 11:3, 11:18, 12:4, 20:25, 23:17, 26:11, 27:23, 29:4, 29:5, 30:12, 30:13, 116:3, 117:24, 140:8, 146:18, 152:14, 157:4, 157:8, 157:19, 159:21
northern [2] - 56:18, 152:13
Norwich [1] - 28:19
Notary [1] - 180:7
note [5] - 6:11, 12:22, 19:7, 24:21, 144:23
noted [1] - 29:20
notes [3] - 58:16, 166:7, 180:11
nothing [5] - 40:23, 50:22, 56:3, 90:22, 91:4
notice [1] - 11:6
notion [1] - 155:24
November [11] - 1:18, 135:8, 135:11, 135:13, 136:14, 136:15, 136:17, 139:2, 177:20, 177:22, 180:17
nowhere [1] - 147:25
number [11] - 18:16, 34:20, 43:13, 115:8, 138:20, 154:12, 157:9, 162:11, 162:19, 163:4, 163:11
numbered [1] - 17:24
numbers [6] - 9:16, 19:5, 53:7, 63:19, 102:23, 159:2
numerous [2] - 7:6, 42:8

O

o'clock [1] - 102:5
O'Connell [5] - 14:10, 14:16, 14:22, 15:6, 15:7
Oaks [1] - 22:18
objection [2] - 89:13, 133:13
objections [1] - 134:23
obligation [2] - 23:24, 65:2
obligations [1] - 62:17
obvious [1] - 47:24
obviously [3] - 34:6, 48:4, 147:6
occasions [1] - 57:15
Oceanside [1] - 27:25
October [1] - 42:18
odd [1] - 154:13

OF [2] - 180:4, 180:5
office [1] - 4:12
officers [2] - 175:16, 175:22
OFFICIAL [1] - 1:22
old [1] - 51:20
Old [4] - 25:4, 28:17, 109:21, 163:20
older [1] - 51:21
once [3] - 55:2, 117:3, 131:17
one [76] - 10:20, 11:14, 15:17, 19:5, 19:7, 20:4, 20:11, 29:11, 30:5, 31:5, 32:5, 34:7, 37:7, 37:18, 42:17, 43:17, 44:19, 45:16, 48:4, 48:5, 48:12, 49:14, 52:10, 56:12, 56:21, 59:10, 60:8, 60:10, 60:20, 67:20, 67:25, 68:20, 69:23, 71:3, 73:23, 74:11, 81:14, 87:11, 90:6, 91:12, 92:10, 92:11, 96:15, 96:25, 98:8, 98:23, 101:7, 106:7, 107:4, 108:12, 109:20, 111:25, 112:13, 117:7, 124:21, 125:21, 127:9, 131:8, 131:12, 131:13, 135:7, 138:23, 142:22, 144:8, 146:21, 154:8, 161:20, 164:9, 166:14, 175:4, 176:19
One [1] - 156:20
ones [1] - 147:24
online [1] - 40:24
opened [1] - 6:20
opinion [6] - 66:7, 70:11, 173:15, 173:16, 173:18, 174:2
opportunities [1] - 107:9
opportunity [4] - 6:9, 17:11, 55:3, 75:22
opposite [1] - 172:18
order [12] - 16:25, 33:10, 56:12, 146:20, 148:13, 174:10, 174:13, 174:17, 174:23, 175:3, 175:18
orderly [1] - 43:14
organization [2] - 171:16, 176:17
orient [3] - 31:3, 31:5, 110:6
orientation [2] - 17:20, 106:15
original [1] - 158:5
otherwise [1] - 16:4
ourselves [1] - 49:16
outburst [1] - 175:4

outcome [3] - 72:12, 99:15, 180:15
outcomes [4] - 48:7, 97:5, 97:19, 99:17
outlier [1] - 99:18
outside [1] - 171:5
overall [4] - 17:4, 18:21, 19:13, 20:19
overlayed [1] - 47:21
overview [2] - 17:22, 50:10
overwhelming [2] - 103:5, 103:17
own [12] - 36:25, 37:5, 80:15, 115:24, 134:22, 143:12, 168:15, 168:16, 168:22, 169:4, 169:20, 176:5
Oyster [7] - 56:18, 123:25, 124:2, 124:11, 126:24, 128:18, 159:21

P

p.m [2] - 1:19, 179:10
Pacific [2] - 68:25, 69:22
pages [3] - 85:14, 98:7, 99:4
paid [1] - 176:6
pain [1] - 43:20
paired [2] - 47:23, 48:11
pairing [1] - 47:23
pairings [1] - 48:15
paper [3] - 81:17, 84:18, 142:11
paragraph [1] - 49:6
Park [17] - 11:3, 12:5, 22:18, 23:16, 23:17, 26:14, 27:24, 28:7, 28:8, 28:16, 29:24, 30:8, 30:18, 30:19, 152:12
part [18] - 13:3, 13:4, 13:15, 44:6, 56:18, 59:25, 71:14, 90:25, 106:10, 120:6, 123:21, 129:10, 132:8, 144:8, 149:13, 152:13, 157:20, 162:16
participate [1] - 154:6
participated [3] - 126:5, 126:6, 126:7
participation [1] - 25:16
particular [11] - 34:24, 36:10, 38:14, 41:20, 79:15, 109:18, 125:21, 155:12, 172:8, 174:19, 176:19
parties [6] - 34:25, 38:15, 44:12, 47:11, 167:24,

180:13
partisan [19] - 7:12, 17:15, 53:11, 53:15, 53:25, 58:9, 73:3, 85:7, 87:2, 89:9, 90:9, 90:14, 90:22, 97:19, 99:8, 102:15, 102:20, 171:15, 176:18
partisanship [3] - 83:3, 97:8, 177:4
parts [3] - 71:16, 93:4, 128:13
party [4] - 17:14, 17:15, 90:6, 176:19
Party [2] - 124:23, 124:24
pass [2] - 43:19, 98:8
passed [4] - 80:25, 81:2, 81:23, 164:9
passes [1] - 81:4
past [9] - 6:22, 9:13, 13:17, 46:3, 48:6, 52:15, 57:16, 68:15, 144:24
pattern [1] - 118:3
patterns [9] - 7:13, 8:4, 11:8, 17:6, 17:7, 46:13, 94:10, 95:21, 97:5
pay [1] - 134:8
payers' [1] - 175:15
paying [2] - 136:4, 172:2
pell [1] - 155:17
pell-mell [1] - 155:17
pen [1] - 142:10
Peninsula [1] - 153:20
people [38] - 8:25, 9:6, 9:11, 9:12, 18:18, 18:20, 38:23, 52:6, 60:7, 64:9, 81:8, 82:22, 89:24, 91:4, 92:10, 92:22, 93:18, 93:24, 107:16, 124:23, 125:18, 126:7, 133:23, 136:4, 139:24, 147:3, 147:4, 150:9, 150:12, 153:19, 155:19, 166:13, 171:22, 172:2, 172:21, 177:18, 178:6
people's [1] - 81:22
per [1] - 29:12
percent [2] - 18:22, 67:23
percentage [2] - 9:19, 53:7
percentages [3] - 10:4, 10:6, 10:19
perfect [1] - 104:11
perfectly [2] - 118:15, 118:16
perform [5] - 7:11, 13:19, 17:9, 70:20, 76:3
performance [2] - 13:16, 21:7
Performance [5] - 13:17, 21:22, 22:13, 22:24,

23:12
perhaps [2] - 65:20, 160:7
period [1] - 101:5
permutation [1] - 81:10
PERNICK [261] - 2:15, 5:17, 34:9, 34:16, 34:19, 35:17, 35:22, 37:19, 38:2, 39:6, 39:21, 41:7, 41:14, 50:6, 50:9, 50:14, 50:19, 50:23, 51:4, 51:8, 51:22, 53:10, 53:14, 53:18, 53:23, 54:4, 54:11, 54:16, 54:25, 55:7, 55:14, 55:22, 56:5, 57:2, 57:6, 57:11, 57:22, 57:25, 58:8, 58:14, 58:23, 59:4, 59:9, 59:13, 59:19, 60:2, 60:9, 60:17, 61:9, 61:16, 62:4, 62:9, 62:14, 63:6, 63:10, 63:18, 63:25, 64:5, 64:10, 66:18, 67:9, 67:15, 67:22, 68:5, 68:10, 68:16, 68:22, 69:7, 69:13, 69:19, 70:15, 70:24, 71:4, 71:24, 72:20, 72:23, 73:6, 74:17, 74:25, 75:11, 75:16, 75:25, 76:6, 76:10, 76:18, 77:5, 77:13, 77:20, 78:6, 78:19, 80:16, 81:25, 82:14, 82:24, 83:6, 83:9, 83:16, 83:21, 84:3, 84:11, 84:19, 84:25, 85:4, 85:13, 85:18, 85:21, 86:3, 87:4, 87:10, 88:2, 88:5, 88:9, 88:17, 88:24, 89:7, 89:16, 90:13, 91:7, 91:17, 92:16, 94:4, 96:24, 97:14, 97:22, 98:4, 98:16, 99:6, 99:12, 99:25, 100:9, 100:15, 100:22, 101:21, 102:10, 104:21, 105:2, 105:13, 105:18, 105:22, 106:8, 106:13, 109:25, 110:14, 110:20, 111:3, 111:10, 111:12, 111:17, 111:23, 112:6, 112:19, 112:24, 113:8, 113:19, 114:3, 114:8, 114:13, 114:19, 115:2, 115:6, 115:13, 117:13, 117:22, 118:19, 119:4, 119:13, 119:18, 120:10, 120:16, 120:22, 121:3, 121:10, 121:19, 122:2, 122:7, 123:8, 123:13, 126:11, 126:21, 127:17, 128:19, 129:2,

129:6, 129:12, 129:19, 129:24, 130:7, 130:12, 130:17, 131:21, 132:3, 132:17, 140:5, 140:12, 140:17, 141:2, 141:12, 141:18, 141:25, 142:13, 142:17, 143:2, 143:8, 143:11, 143:20, 143:25, 144:5, 144:19, 145:5, 145:11, 145:21, 149:6, 149:11, 149:16, 149:20, 149:25, 150:7, 150:11, 150:17, 150:21, 151:3, 151:5, 151:12, 151:16, 152:9, 152:19, 152:23, 153:4, 153:7, 156:3, 156:12, 157:14, 157:24, 158:6, 158:11, 158:18, 158:24, 159:4, 159:8, 159:16, 159:25, 160:5, 160:11, 160:14, 160:19, 160:23, 161:4, 161:8, 161:12, 161:17, 161:22, 161:25, 162:5, 162:10, 162:18, 162:25, 163:7, 163:10, 163:15, 163:19, 163:23
pernick [1] - 66:15
Pernick [3] - 5:16, 37:17, 79:8
person [9] - 15:17, 42:17, 44:19, 52:10, 52:14, 52:16, 74:7, 80:3, 80:24
personally [2] - 60:7, 169:12
perspective [1] - 80:19
Peter [2] - 4:13, 26:20
PETER [2] - 2:5, 2:23
Ph.D [1] - 6:12
phenomenon [1] - 12:10
phrase [1] - 82:12
phraseology [1] - 73:15
picking [1] - 152:15
picks [1] - 81:15
picture [1] - 146:23
piece [5] - 27:7, 30:24, 56:17, 81:16, 125:3
pieces [2] - 84:17, 147:9
pitting [1] - 94:13
Place [3] - 28:15, 32:2, 157:18
place [6] - 92:5, 104:5, 126:4, 159:24, 162:15, 175:7
places [3] - 109:9, 110:23, 157:6
Plainedge [1] - 30:17
Plainview [3] - 25:25, 109:21, 163:20
Plainview/Old [1] - 109:19

Plan [6] - 17:17, 19:15, 57:5, 67:25, 131:19, 132:2
plan [41] - 7:18, 17:2, 18:4, 18:19, 18:25, 19:12, 19:13, 19:16, 19:23, 22:6, 43:7, 44:20, 46:22, 46:23, 46:24, 47:20, 48:10, 48:14, 48:24, 49:6, 49:13, 49:23, 53:13, 54:23, 55:8, 61:8, 63:8, 63:9, 63:19, 63:20, 67:20, 71:14, 129:18, 132:15, 146:14, 156:11, 157:12, 158:5, 162:8, 162:17
Plandome [3] - 26:12, 26:13
Plandome/Manhasset [1] - 152:12
plans [2] - 7:20, 57:12
play [2] - 91:24, 156:8
plays [1] - 93:23
Plaza [1] - 23:21
plugged [1] - 123:5
plus [1] - 87:20
POB [1] - 109:20
pocket [3] - 10:21, 11:2, 12:2
pockets [5] - 10:20, 11:7, 11:11, 11:22, 11:24
Point [4] - 26:11, 26:16, 30:7, 153:17
point [32] - 18:22, 20:21, 41:20, 43:6, 43:10, 51:9, 53:11, 59:6, 64:11, 64:19, 67:23, 71:8, 76:7, 76:23, 77:10, 77:23, 78:22, 80:20, 80:23, 81:11, 81:20, 89:20, 95:3, 96:25, 104:16, 109:23, 117:16, 128:9, 129:11, 131:17, 135:13, 139:12
pointed [3] - 66:16, 171:12, 173:9
pointless [1] - 173:19
points [4] - 81:16, 170:11, 170:13
polarization [10] - 87:9, 88:20, 88:21, 89:9, 89:18, 90:8, 90:9, 90:15, 90:22, 91:3
polarized [23] - 7:14, 8:4, 12:9, 12:15, 12:20, 13:2, 13:8, 13:11, 14:9, 14:23, 17:6, 46:18, 59:20, 86:13, 86:25, 87:2, 87:3, 89:5, 90:16, 90:18, 92:14, 97:7

police [1] - 175:21
political [14] - 16:11, 19:17, 19:24, 34:24, 35:3, 38:14, 42:23, 46:9, 47:16, 72:7, 88:19, 89:17, 168:2, 168:17
Political [2] - 6:12, 169:20
politically [4] - 46:18, 61:3, 91:22, 92:13
politicians [1] - 167:23
polling [2] - 168:5, 168:16
Polsby [1] - 19:3
Polsby-Popper [1] - 19:3
Popper [1] - 19:3
populace [1] - 18:7
populated [5] - 114:22, 117:12, 118:7, 121:17, 131:3
population [107] - 8:15, 8:17, 8:25, 9:3, 9:5, 9:10, 9:12, 9:17, 10:4, 10:6, 10:10, 10:14, 10:19, 11:6, 11:12, 11:22, 15:15, 15:21, 17:5, 18:4, 18:6, 18:9, 18:10, 18:14, 18:15, 18:18, 18:19, 18:21, 20:15, 20:16, 20:17, 20:19, 21:5, 21:6, 21:20, 21:21, 22:10, 22:12, 22:21, 22:23, 23:10, 23:11, 24:2, 24:7, 24:8, 40:21, 42:20, 43:25, 44:22, 44:23, 44:24, 45:17, 45:19, 45:21, 51:5, 51:7, 51:12, 51:14, 51:17, 52:18, 52:23, 56:22, 63:13, 63:15, 67:8, 68:9, 68:13, 87:16, 109:10, 110:24, 111:4, 111:22, 111:24, 112:9, 113:12, 113:14, 113:17, 114:12, 114:14, 118:6, 119:2, 119:6, 120:25, 127:23, 129:4, 130:6, 130:9, 130:14, 130:20, 130:23, 140:16, 140:19, 140:25, 141:6, 149:18, 149:21, 149:24, 150:13, 151:4, 151:6, 153:2, 154:6, 154:20, 155:7
populations [10] - 9:9, 10:2, 11:8, 18:11, 42:15, 46:4, 46:8, 46:16, 70:19, 92:3
Port [1] - 26:11
portion [9] - 22:3, 31:7, 31:8, 115:19, 123:24, 124:14, 143:3, 143:4, 143:14

portions [13] - 20:25, 21:14, 22:17, 23:7, 27:25, 28:10, 28:20, 28:23, 29:6, 29:7, 29:13, 30:12, 143:23
position [2] - 77:15, 78:8
positive [1] - 47:13
possession [1] - 38:23
possible [21] - 7:17, 8:10, 16:3, 61:4, 67:17, 76:12, 111:4, 111:7, 111:9, 111:24, 112:7, 112:25, 114:14, 119:5, 119:22, 124:2, 130:8, 130:11, 142:3, 149:21, 151:6
possibly [2] - 43:13, 86:21
potential [1] - 173:11
potentially [2] - 70:12, 92:6
PowerPoint [2] - 25:20, 98:13
practicable [4] - 27:9, 35:6, 48:23, 157:3
practical [1] - 19:19
practice [4] - 43:16, 47:15, 54:19, 146:15
practitioner [1] - 87:16
praised [1] - 125:22
pre [3] - 35:2, 71:18, 72:2
pre-clearance [2] - 71:18, 72:2
pre-existent [1] - 35:2
precedence [2] - 73:23, 73:24
precondition [1] - 61:6
preconditions [4] - 13:4, 60:19, 74:9, 74:12
predict [1] - 48:7
predominant [1] - 12:19
preferences [1] - 12:13
Preferred [1] - 86:22
preferred [15] - 8:9, 13:19, 14:19, 15:10, 21:8, 21:23, 22:13, 22:24, 22:25, 23:13, 46:14, 46:15, 70:21, 76:4, 86:21
preliminary [6] - 83:24, 84:5, 84:13, 85:2, 85:5, 86:6
prepared [6] - 6:6, 58:10, 59:11, 106:9, 108:24, 145:16
preparing [1] - 127:2
present [7] - 4:14, 5:14, 5:20, 14:9, 14:24, 18:12, 139:10
presentation [7] - 4:6, 25:17, 32:23, 50:10, 98:13, 147:7

presentations [1] - 50:17
presented [9] - 41:22, 55:3, 136:23, 136:25, 137:5, 139:11, 145:20, 145:23, 173:23
presenter [1] - 145:4
Preservation [1] - 49:3
preservation [1] - 158:13
preserve [12] - 16:11, 16:17, 19:17, 52:5, 55:23, 76:11, 129:5, 132:13, 140:22, 153:25, 157:2, 157:3
preserved [1] - 127:9
preserves [3] - 49:7, 120:19, 121:7
preserving [15] - 82:5, 82:6, 120:23, 123:15, 124:3, 127:5, 127:10, 127:11, 127:19, 131:3, 141:7, 152:22, 152:24, 158:14, 158:20
President [1] - 42:3
PRESIDENT [1] - 3:7
presume [4] - 77:2, 99:4, 109:14
presumed [1] - 77:3
presuming [2] - 45:10, 84:17
presumption [1] - 60:12
pretty [4] - 74:8, 120:11, 148:7, 160:6
prevent [1] - 45:6
prevents [1] - 47:17
previously [4] - 21:9, 42:21, 97:15, 128:22
primaries [1] - 86:19
primarily [1] - 42:6
primary [4] - 44:18, 46:17, 51:15, 110:25
PRINCIPAL [1] - 3:4
principal [2] - 6:5, 41:25
principle [3] - 16:9, 16:13, 158:20
principles [2] - 24:3, 104:24
printed [1] - 64:4
prioritize [2] - 120:23, 127:5
prioritized [2] - 123:15, 158:13
prioritizing [1] - 121:2
prison [2] - 15:21, 51:7
prison-adjusted [2] - 15:21, 51:7
privacy [3] - 52:4, 52:5, 87:20
private [1] - 7:5
privilege [1] - 136:10
probative [1] - 13:24

problem [1] - 178:22
problematic [1] - 123:23
procedural [1] - 178:4
proceedings [1] - 175:15
process [12] - 15:14, 42:25, 51:18, 52:2, 58:22, 66:7, 101:13, 121:13, 126:20, 127:16, 129:11, 171:21
produce [4] - 54:20, 81:9, 139:4, 139:6
produced [2] - 137:24, 139:10
produces [1] - 43:5
production [1] - 45:5
productive [1] - 147:11
professional [2] - 6:15, 144:2
Professor [1] - 98:6
proffered [1] - 122:19
profit [1] - 7:4
prohibition [1] - 72:5
project [1] - 7:2
projects [1] - 42:7
promote [2] - 43:14, 44:16
proper [3] - 69:8, 69:14, 69:20
properly [1] - 68:24
proposal [6] - 43:24, 103:2, 103:15, 103:16, 104:16, 145:19
proposed [17] - 7:20, 17:2, 18:2, 18:3, 18:19, 19:12, 19:16, 19:22, 36:16, 43:19, 96:9, 99:24, 100:11, 102:8, 102:11, 102:12, 122:19
protected [5] - 72:10, 73:2, 73:8, 73:10, 94:9
Protected [1] - 73:11
proud [1] - 148:24
prove [2] - 90:7, 90:8
proven [1] - 74:15
provide [4] - 7:22, 72:14, 98:12, 138:8
provided [1] - 105:19
provides [1] - 91:10
provision [2] - 27:17, 76:21
provisions [1] - 72:2
Public [1] - 180:7
public [32] - 16:21, 21:15, 29:12, 29:20, 54:21, 55:4, 55:10, 57:8, 57:15, 57:18, 67:11, 105:11, 110:7, 129:7, 129:10, 129:14, 129:15, 135:14, 135:19, 136:4, 136:12, 138:13, 148:16, 148:17, 155:22, 173:2, 175:3,

176:3, 176:10, 178:8,
178:19
published [1] - 15:23
PULITZER [13] - 2:25,
4:11, 4:15, 4:18, 4:21,
4:24, 5:3, 5:6, 5:9, 5:12,
5:15, 5:18, 5:21
purpose [11] - 34:22,
37:21, 38:10, 61:12,
69:3, 69:5, 101:15,
122:16, 136:22, 136:25,
155:25
purposes [2] - 31:13,
150:13
put [16] - 41:19, 52:16,
55:12, 56:12, 56:21,
79:25, 80:4, 96:6,
101:20, 124:12, 124:20,
124:24, 137:24, 150:5,
162:16, 168:14
putting [2] - 41:21, 65:12

Q

quarter [1] - 96:19
questions [41] - 13:10,
32:25, 33:3, 33:4, 39:25,
50:5, 65:7, 65:9, 66:16,
80:12, 93:22, 96:6,
98:23, 99:2, 100:25,
106:10, 110:6, 126:10,
126:24, 132:24, 133:15,
136:11, 138:7, 138:11,
138:12, 139:16, 139:22,
140:3, 146:3, 168:9,
168:22, 171:13, 172:10,
172:11, 173:17, 173:22,
173:24, 177:8, 177:12
quibbling [1] - 87:5
quick [5] - 6:11, 17:20,
20:5, 20:6, 156:23
quite [2] - 24:16, 172:17
quorum [1] - 5:21
quotation [1] - 33:8
quote [8] - 34:10, 36:13,
72:6, 73:11, 91:8, 94:5,
94:8, 97:2
quoted [1] - 97:23
quoting [2] - 82:7, 97:4

R

race [2] - 67:3, 73:13
races [1] - 92:6
RACHEL [1] - 2:19
racial [13] - 12:11, 44:4,
45:2, 70:6, 86:16, 88:21,
89:3, 90:8, 91:3, 91:11,

93:2, 93:16, 93:17
racially [19] - 7:14, 8:4,
12:8, 12:15, 12:20, 13:2,
13:8, 13:11, 14:8, 14:23,
17:6, 59:20, 74:13,
86:13, 86:24, 87:3,
90:16, 90:18, 97:6
Racially [2] - 12:9, 89:5
raising [1] - 94:8
ran [2] - 99:13, 102:13
random [4] - 57:21, 103:5,
103:7, 103:14
randomly [3] - 52:18,
57:9, 99:14
range [2] - 18:19, 18:21
ranged [1] - 15:2
rant [1] - 175:25
rate [3] - 9:13, 9:14, 9:20
rather [7] - 9:2, 88:20,
96:7, 118:22, 139:15,
141:20, 147:12
ratio [2] - 19:21, 35:8
read [10] - 34:17, 37:23,
38:4, 72:19, 85:3, 85:11,
85:14, 92:18, 98:25,
99:4
reading [2] - 24:24, 25:9
real [2] - 65:15, 145:14
really [3] - 33:6, 115:13,
142:6
reason [12] - 44:18, 60:15,
76:2, 85:22, 101:13,
103:23, 115:22, 116:18,
121:20, 122:3, 138:7,
170:25
reasons [7] - 13:25, 51:15,
51:16, 86:4, 87:19,
124:21, 141:3
reassigned [2] - 52:9,
52:22
recalling [1] - 167:4
received [4] - 63:22,
102:4, 103:2, 129:7
recent [4] - 13:25, 56:4,
86:19, 87:21
recently [1] - 67:14
recognize [2] - 49:5,
155:13
recognizing [1] - 70:4
recollection [2] - 34:2,
155:3
record [18] - 25:21, 36:6,
39:14, 65:12, 83:24,
84:6, 84:13, 98:5, 98:11,
101:24, 126:22, 134:19,
136:4, 146:16, 148:19,
149:2, 153:16, 168:15
rectangles [1] - 118:17
red [2] - 20:10, 23:4
redeem [1] - 91:20

redistrict [1] - 104:25
Redistricting [1] - 6:25
redistricting [16] - 15:11,
15:12, 16:9, 16:13, 24:2,
42:5, 42:7, 42:11, 44:18,
47:13, 58:20, 74:6,
105:10, 111:2, 158:19,
167:15
redoes [1] - 145:25
reduce [5] - 26:5, 115:8,
162:19, 163:4, 163:11
reduction [1] - 42:23
refer [3] - 40:24, 73:9,
128:5
reference [1] - 20:10
referenced [2] - 12:18,
148:20
referencing [2] - 27:12,
71:25
referred [1] - 86:10
referring [5] - 70:18, 72:4,
75:17, 99:22, 117:25
reflect [1] - 12:23
reflected [1] - 9:15
regard [1] - 40:10
regarding [5] - 28:12,
29:8, 29:15, 30:2, 30:15
regardless [1] - 82:18
regression [1] - 45:9
regular [1] - 63:14
Reinhardt [1] - 4:16
REINHARDT [5] - 2:6,
4:17, 40:8, 40:15, 40:19
related [1] - 180:12
relates [1] - 171:9
relation [1] - 100:14
relative [1] - 89:2
relayed [1] - 16:21
released [1] - 51:17
relevant [3] - 89:10,
156:18, 159:17
reliable [1] - 88:16
rely [1] - 105:4
remain [4] - 40:23, 42:22,
49:11, 162:23
remains [1] - 32:19
remember [6] - 58:11,
58:18, 58:21, 59:8,
83:15, 166:11
remind [2] - 146:5, 177:18
reminder [1] - 176:3
removed [1] - 175:19
Reock [1] - 19:2
repeating [1] - 173:17
rephrase [1] - 39:3
replaced [1] - 63:3
report [11] - 7:23, 53:19,
53:24, 58:17, 84:20,
85:2, 85:5, 86:6, 87:12,

100:23, 138:18
reported [3] - 51:12,
83:18, 136:24
REPORTER [1] - 1:22
reports [6] - 83:24, 84:6,
84:13, 85:19, 85:23,
173:20
represent [1] - 9:18
representation [2] - 89:20,
103:10
represented [1] - 153:23
Republican [24] - 26:20,
41:23, 53:20, 53:24,
86:15, 90:24, 102:8,
103:16, 124:24, 138:2,
152:4, 165:2, 165:6,
165:18, 166:12, 166:15,
167:7, 167:9, 168:8,
169:5, 171:10, 171:24,
173:21, 176:24
Republicans [5] - 89:22,
99:19, 102:13, 103:4,
165:11
request [5] - 26:5, 55:12,
124:12, 124:16, 153:19
require [5] - 34:3, 42:20,
42:22, 42:23, 45:14
required [8] - 16:13, 34:8,
42:21, 76:14, 91:20,
121:24, 132:15, 162:23
requirement [2] - 32:17,
151:7
requirements [8] - 8:12,
15:18, 17:8, 96:11,
113:4, 119:24, 130:23,
154:17
requires [4] - 34:5, 45:4,
49:4, 76:15
research [1] - 6:17
Research [1] - 15:25
researcher [1] - 153:15
residential [2] - 11:8, 17:5
resounding [1] - 148:25
respect [6] - 93:13,
100:10, 126:23, 158:12,
158:19, 176:8
respectfully [3] - 78:12,
148:17, 175:18
respecting [3] - 123:16,
127:6, 141:8
respects [1] - 7:12
respond [4] - 151:24,
151:25, 168:24, 169:22
responded [1] - 52:6
response [3] - 169:2,
169:24, 177:14
responsive [2] - 133:12,
133:16
rest [1] - 113:16
restate [1] - 60:4

restated [1] - 173:18
restrictive [1] - 154:18
result [2] - 44:4, 72:13
results [5] - 6:10, 12:23, 14:21, 17:14, 48:7
retroactively [1] - 101:10
revealing [1] - 57:19
review [2] - 33:8, 33:15
reviewed [3] - 85:2, 86:7, 98:20
reviewing [1] - 103:16
revised [1] - 178:5
right-hand [1] - 10:15
Rights [22] - 16:24, 36:22, 44:25, 45:3, 45:25, 49:16, 60:16, 61:20, 62:18, 70:13, 70:25, 71:5, 71:7, 72:17, 74:21, 76:20, 91:9, 91:16, 91:18, 92:9, 93:9, 97:24
rights [7] - 6:19, 13:5, 45:6, 70:9, 90:3, 90:11, 92:21
road [10] - 107:21, 108:9, 108:11, 118:22, 143:16, 143:21, 144:6, 144:13, 149:12, 150:22
roads [6] - 107:24, 108:7, 115:23, 118:24, 125:9, 144:14
roadway [2] - 31:20, 31:21
roadways [1] - 31:17
Rock [2] - 23:20
Rockaway [1] - 27:24
Rockville [2] - 22:16, 23:2
role [1] - 156:8
roll [3] - 4:10, 4:12, 145:14
room [3] - 125:17, 155:18, 175:23
Roosevelt [3] - 10:23, 11:15, 22:16
roots [1] - 15:15
Roslyn [5] - 26:14, 28:17, 152:16
Roslyn/East [1] - 163:24
roughly [1] - 124:17
RPV [4] - 64:21, 88:18, 89:11, 89:18
rule [1] - 47:7
Rule [65] - 15:19, 16:14, 18:5, 18:23, 19:18, 19:24, 20:14, 21:10, 21:25, 23:3, 23:15, 24:23, 25:7, 26:8, 26:17, 26:24, 27:4, 27:8, 28:3, 28:12, 29:2, 29:8, 29:15, 30:2, 30:9, 30:14, 30:19, 32:8, 32:15, 33:9, 34:3, 40:11, 42:19, 43:4, 43:12, 43:22, 44:7, 47:8,

48:18, 48:20, 49:2, 49:4, 49:15, 49:25, 54:9, 54:12, 58:6, 70:4, 74:3, 78:2, 78:11, 78:14, 85:9, 91:2, 103:9, 112:5, 112:8, 112:13, 112:16, 118:8, 119:11, 120:2, 120:6, 130:24, 155:11
rules [4] - 43:23, 55:19, 85:8
ruling [1] - 134:22
run [2] - 19:4, 48:3
rundown [2] - 20:5, 20:7
runs [1] - 32:3
Russell [1] - 23:22

S

Saddle [2] - 23:20
safe [1] - 179:7
Salisbury [2] - 21:13, 28:24
sanction [1] - 133:17
Sands [1] - 26:10
sat [1] - 172:25
satisfied [1] - 89:12
satisfy [1] - 151:6
saw [5] - 46:20, 84:23, 85:10, 85:16, 86:23
scale [1] - 10:7
scary [1] - 173:13
Schaefer [23] - 41:24, 42:2, 50:7, 75:19, 82:2, 124:9, 126:12, 133:7, 134:6, 134:10, 135:9, 139:21, 146:10, 147:14, 147:24, 156:3, 164:5, 168:6, 173:5, 176:16, 177:9, 177:16, 178:20
schaefer [1] - 134:24
SCHAEFFER [260] - 3:7, 42:2, 50:8, 50:13, 50:16, 50:21, 51:3, 51:6, 51:11, 51:24, 53:12, 53:17, 53:22, 54:3, 54:8, 54:14, 54:18, 55:6, 55:11, 55:18, 55:25, 56:8, 57:4, 57:7, 57:24, 58:5, 58:11, 58:16, 58:25, 59:7, 59:12, 59:17, 59:23, 60:6, 60:11, 60:18, 61:14, 61:22, 62:8, 62:10, 62:19, 63:7, 63:12, 63:21, 64:3, 64:8, 66:23, 67:13, 67:18, 67:24, 68:8, 68:14, 68:18, 69:5, 69:10, 69:16, 70:2, 70:23, 71:3, 71:10, 72:18, 72:22,

73:2, 73:17, 74:22, 75:9, 75:14, 75:24, 76:5, 76:9, 76:13, 76:25, 77:11, 77:16, 77:25, 80:22, 82:8, 82:21, 83:4, 83:8, 83:13, 83:19, 83:25, 84:8, 84:15, 84:23, 85:3, 85:10, 85:16, 85:20, 85:24, 86:8, 87:7, 87:13, 88:4, 88:8, 88:12, 88:22, 89:5, 89:19, 90:19, 91:14, 91:19, 92:19, 94:18, 95:8, 95:23, 97:12, 97:21, 98:3, 98:24, 99:10, 103:25, 104:23, 105:9, 105:17, 105:19, 106:18, 108:13, 108:17, 108:24, 109:8, 109:14, 110:12, 110:19, 110:21, 111:8, 111:11, 111:15, 111:21, 112:3, 112:11, 112:22, 113:6, 113:10, 113:25, 114:6, 114:11, 114:17, 114:21, 115:4, 115:10, 117:11, 118:4, 118:25, 119:10, 119:25, 120:15, 120:19, 120:25, 121:9, 121:13, 121:24, 123:10, 123:18, 126:18, 127:8, 127:21, 128:24, 129:4, 129:9, 129:16, 129:21, 130:6, 130:10, 130:25, 131:25, 132:7, 135:10, 135:15, 140:11, 140:15, 140:22, 141:10, 141:16, 141:23, 142:8, 142:15, 142:20, 143:6, 143:10, 143:19, 143:24, 144:3, 144:11, 146:13, 149:10, 149:14, 149:18, 149:23, 150:4, 150:10, 150:15, 150:20, 151:2, 151:4, 151:10, 151:14, 152:18, 152:22, 152:25, 153:6, 153:10, 156:11, 156:20, 157:23, 158:4, 158:9, 158:16, 158:22, 159:2, 159:6, 159:11, 160:13, 160:16, 160:22, 161:2, 161:6, 161:11, 161:15, 161:18, 161:24, 162:4, 162:9, 162:14, 162:21, 163:6, 163:9, 163:14, 163:18, 163:22, 164:4, 164:8, 164:13, 164:18, 164:21, 164:24, 165:3, 165:8, 165:12, 165:16, 165:19, 165:22, 166:4, 166:6, 166:17, 166:22, 167:3, 167:8, 167:14, 167:22,

168:3, 168:18, 169:7, 169:10, 169:14, 169:17, 176:21, 177:2, 177:6
Schaefer's [1] - 79:7
SCHAEFFER [1] - 57:14
schedule [1] - 41:17
Science [3] - 6:12, 6:13, 6:14
score [4] - 21:3, 170:11, 170:12, 170:13
scores [2] - 53:15, 53:25
screen [4] - 24:25, 25:8, 100:16, 105:21
screens [1] - 41:21
screw [1] - 125:18
Sea [1] - 25:3
Seaford [1] - 30:12
Seaman [2] - 116:17
Searingtown [3] - 23:18, 28:20, 152:16
second [9] - 16:2, 34:12, 40:9, 52:2, 59:2, 61:17, 104:5, 157:25, 179:2
Second [1] - 8:10
secretaries [1] - 7:6
section [8] - 32:15, 49:12, 72:4, 72:16, 72:21, 72:24, 76:15, 150:7
Section [10] - 43:22, 45:12, 61:7, 61:19, 73:9, 74:8, 91:10, 92:25, 93:6, 93:9
sections [2] - 112:15, 125:12
see [32] - 4:8, 9:4, 9:15, 10:12, 11:10, 13:18, 20:11, 43:18, 45:4, 46:16, 47:22, 66:25, 71:11, 73:22, 86:12, 86:18, 92:7, 92:21, 93:22, 97:3, 105:16, 115:22, 119:21, 124:10, 125:6, 128:7, 128:19, 133:3, 142:24, 145:9, 145:12, 153:22
seeing [2] - 140:10, 152:10
select [1] - 128:4
Senate [1] - 165:10
send [1] - 38:6
sending [1] - 25:15
sense [3] - 68:7, 101:5, 101:9
sentence [2] - 34:12, 34:13
separately [1] - 136:21
series [2] - 13:10, 126:5
serious [1] - 65:21
seriously [1] - 105:18
SESSION [1] - 1:7

session [11] - 105:25, 110:2, 110:3, 137:12, 137:14, 138:6, 145:6, 145:12, 148:14, 148:16
set [6] - 7:10, 9:24, 103:14, 146:23, 155:7, 180:16
sets [1] - 18:12
Several [2] - 28:11, 29:24
several [7] - 24:22, 25:5, 25:6, 26:16, 26:22, 28:20, 84:16
shaded [1] - 20:10
shading [2] - 10:3, 10:4
SHAEFER [1] - 130:15
shall [13] - 18:8, 19:22, 27:11, 34:21, 35:5, 35:9, 37:20, 43:14, 44:10, 47:8, 72:8, 94:10, 97:8
shape [1] - 39:20
shaped [1] - 120:11
Shapefile [1] - 64:2
shapes [2] - 120:8, 123:22
share [1] - 6:10
shifts [1] - 45:19
short [2] - 83:23, 98:7
shorthand [1] - 18:9
shout [2] - 80:13, 117:20
show [5] - 8:3, 46:12, 61:21, 61:22, 142:25
showing [3] - 9:22, 11:20, 20:15
shown [3] - 17:25, 23:4, 173:25
shows [2] - 20:8, 46:7
shuffled [1] - 52:7
sic [1] - 14:17
side [27] - 10:15, 10:17, 11:17, 11:24, 12:3, 20:13, 116:6, 116:9, 116:10, 116:13, 116:14, 116:19, 116:20, 116:24, 117:4, 117:7, 117:8, 142:24, 146:21, 153:21, 171:24, 177:12, 178:5
sides [2] - 136:20, 176:4
significant [5] - 9:8, 43:3, 67:10, 99:19, 129:7
similar [3] - 11:7, 14:21, 154:10
simple [3] - 80:17, 122:2, 155:15
simply [1] - 80:10
simulated [7] - 99:14, 102:23, 102:24, 102:25, 103:6, 103:7, 103:14
simulation [2] - 99:13, 102:22
simulations [1] - 103:8
single [14] - 20:2, 29:17,

60:24, 96:17, 110:17, 111:7, 112:10, 112:21, 113:2, 113:24, 117:6, 118:21, 118:23, 120:4
sit [2] - 174:11, 176:9
sitting [4] - 80:5, 124:17, 141:25
situation [2] - 65:11, 125:8
six [5] - 33:10, 34:7, 75:10, 117:3, 117:23
six-block [1] - 117:23
sixty [1] - 49:11
sixty-five [1] - 49:11
size [3] - 48:22, 106:6, 147:17
sizes [2] - 7:8, 123:22
Skyline [6] - 3:8, 41:25, 42:3, 167:25, 169:17, 169:20
Skylinepolitical.com [1] - 168:23
sleeves [1] - 145:15
slide [2] - 10:12, 39:22
slides [2] - 20:5, 27:13
slivers [1] - 152:15
small [5] - 52:7, 53:4, 90:5, 155:14, 155:15
smaller [4] - 17:24, 42:20, 48:21, 88:14
smallest [1] - 56:17
smash [1] - 150:24
snatch [1] - 151:8
software [3] - 47:4, 50:11, 50:15
sole [1] - 7:2
solved [1] - 93:12
someone [3] - 45:11, 95:5
sometime [1] - 139:2
somewhere [2] - 57:13, 155:5
soon [2] - 81:3, 116:8
sorry [8] - 25:16, 31:24, 37:3, 39:6, 60:4, 95:18, 96:12, 136:11
Sorry [1] - 116:13
sort [4] - 11:23, 53:15, 53:25, 125:8
sound [3] - 78:20, 80:8, 157:21
sounds [3] - 104:21, 115:3, 119:13
south [4] - 10:22, 107:22, 116:3, 116:5
South [9] - 11:2, 11:4, 21:13, 22:16, 28:7, 28:9, 30:17, 92:4, 93:19
southern [3] - 31:7, 31:8, 40:18
southwest [1] - 160:22
Spain [4] - 92:5, 92:11,

93:18, 95:5
Spanish [4] - 92:10, 92:22, 95:14
speaking [3] - 27:6, 33:20, 168:7
speaks [1] - 95:14
special [2] - 7:8, 20:21
specific [16] - 58:22, 84:9, 108:3, 112:3, 113:25, 115:7, 115:18, 117:15, 117:16, 117:23, 119:3, 130:16, 130:18, 131:6, 131:13, 131:14
specifically [16] - 9:10, 15:20, 16:16, 26:6, 27:5, 27:7, 27:12, 52:14, 72:3, 89:8, 119:8, 132:4, 133:7, 134:10, 150:4, 176:21
speculate [2] - 91:25, 96:7
speculative [1] - 93:21
spend [2] - 107:14, 131:7
spending [1] - 139:25
spent [3] - 131:12, 132:9, 132:10
spiel [1] - 101:24
split [29] - 28:4, 28:21, 48:23, 48:24, 56:20, 109:9, 110:23, 111:13, 111:18, 111:19, 114:3, 114:8, 114:10, 127:24, 128:20, 128:22, 129:3, 129:24, 130:2, 130:5, 131:16, 157:7, 161:9, 161:22, 161:25, 162:7, 162:24, 163:12, 163:24
splits [13] - 26:5, 27:7, 29:15, 30:2, 30:15, 110:9, 110:15, 115:8, 140:7, 162:11, 162:20, 163:5, 163:11
splitting [3] - 28:13, 29:9, 114:15
spreads [1] - 113:13
Square [3] - 27:22, 28:2, 28:10
squarely [2] - 18:22, 94:7
squares [1] - 81:19
SS [1] - 180:4
stage [2] - 54:18, 126:20
standard [1] - 102:19
standards [2] - 72:14, 106:7
standing [1] - 124:18
start [6] - 5:25, 79:11, 82:9, 86:3, 104:5, 117:19
started [7] - 42:5, 57:9, 57:20, 104:10, 104:11, 117:20, 121:14

starting [15] - 43:6, 43:10, 76:7, 76:23, 77:9, 77:23, 78:22, 80:20, 80:23, 81:6, 81:11, 81:15, 81:20, 104:16, 116:4
state [16] - 7:5, 7:6, 7:21, 8:12, 42:10, 42:17, 43:5, 48:21, 50:2, 61:24, 76:21, 93:4, 93:8, 96:11, 119:12, 164:13
STATE [1] - 180:4
State [9] - 15:23, 42:7, 42:12, 46:6, 60:25, 93:13, 155:7, 165:10, 180:8
states [3] - 18:6, 19:18, 47:8
States [1] - 22:6
statewide [1] - 42:8
stating [1] - 160:4
statistic [1] - 12:14
statistical [2] - 52:22, 167:23
statistician [6] - 7:2, 46:11, 53:2, 53:3, 59:24, 74:12
statisticians [1] - 52:3
statistics [1] - 18:3
statute [2] - 78:16, 78:17
stay [2] - 76:16, 175:5
stenographic [1] - 180:11
steps [3] - 55:23, 74:20, 74:24
stick [1] - 66:2
still [5] - 9:18, 76:22, 78:9, 115:19, 170:5
stop [4] - 133:19, 133:23, 170:11, 174:23
Stop [1] - 174:20
straight [3] - 103:18, 118:15, 131:15
strategy [1] - 136:7
Stream [17] - 11:3, 11:4, 11:18, 20:25, 21:2, 140:8, 140:13, 140:20, 141:3, 141:14, 141:20, 142:5, 144:20, 146:6
Stream/Elmont [3] - 143:3, 143:14, 143:22
street [11] - 116:6, 116:9, 116:11, 116:24, 117:7, 117:8, 118:11, 119:3, 120:4, 154:24
street's [2] - 116:19, 116:20
strike [2] - 133:12, 134:19
strong [1] - 153:19
strongly [1] - 62:11
Strumwasser [1] - 6:23
Stuart [2] - 28:8, 157:16

stuff [1] - 65:12
stupid [1] - 107:19
sub [1] - 91:12
subdivision [1] - 72:8
subdivisions [5] - 16:12, 17:25, 19:17, 19:25, 35:3
subgroup [1] - 94:21
subgroups [7] - 75:6, 94:9, 94:19, 95:3, 95:7, 95:10
subject [26] - 19:25, 20:13, 21:10, 21:24, 23:3, 23:14, 24:22, 25:6, 26:8, 26:16, 26:24, 26:25, 27:3, 27:15, 28:2, 28:11, 29:2, 29:7, 29:14, 29:25, 30:8, 30:14, 40:11, 40:20, 70:12, 122:21
subjective [3] - 43:8, 54:22, 167:16
submit [2] - 24:18, 25:20
submitted [6] - 48:14, 59:15, 83:23, 84:5, 84:12
submitting [1] - 135:20
subsection [1] - 37:23
subsections [1] - 91:12
substantive [1] - 50:22
substantial [2] - 70:18, 77:7
substantially [1] - 19:13
Substantially [1] - 67:19
Success [2] - 12:4, 23:18
sue [2] - 60:16, 172:14
sufficient [2] - 14:18, 15:9
sufficiently [1] - 60:22
Suffolk [1] - 108:21
suggested [1] - 56:3
suggesting [1] - 26:3
suggestion [1] - 137:15
suggestions [4] - 137:18, 139:17, 151:22, 152:8
suit [1] - 45:11
Sullivan [3] - 166:8, 166:25, 167:4
Summary [1] - 7:25
summation [1] - 49:13
support [5] - 8:6, 14:13, 15:2, 15:7
supported [2] - 14:12, 14:17
supposed [2] - 105:24, 110:2
surprise [3] - 99:9, 99:21, 109:3
survey [1] - 51:24
switching [1] - 117:7
Syosset [4] - 11:25, 29:11, 29:17, 163:16

system [1] - 125:13

T

table [1] - 20:15
TAKEN [1] - 1:22
Task [1] - 15:24
tax [1] - 175:15
tech [1] - 6:14
TEMPORARY [1] - 1:3
ten [17] - 45:15, 46:10, 56:15, 58:22, 58:24, 81:2, 83:20, 93:23, 101:6, 101:17, 101:18, 124:16, 125:12, 156:7, 164:6, 165:16, 167:2
Ten [1] - 166:6
tend [1] - 90:5
tenth [1] - 142:21
term [1] - 26:22
Terrace [1] - 28:7
territory [1] - 156:24
test [1] - 19:11
testified [2] - 42:9, 154:4
testimony [29] - 16:22, 21:15, 22:4, 26:3, 29:12, 29:21, 41:24, 43:9, 54:22, 55:4, 55:10, 56:4, 57:9, 104:8, 125:10, 126:4, 126:14, 126:15, 126:25, 129:8, 129:10, 129:14, 129:15, 130:4, 156:5, 156:17, 156:18, 173:3, 178:7
tests [2] - 19:3, 19:4
text [1] - 41:10
themselves [1] - 155:6
theory [1] - 147:19
there'd [1] - 60:15
there'll [1] - 133:18
therefore [4] - 38:22, 93:8, 104:18, 113:14
Thomaston [1] - 23:21
Thornburg [1] - 13:7
thousand [1] - 42:13
three [31] - 9:24, 10:7, 18:22, 28:2, 34:12, 48:11, 48:25, 49:19, 51:20, 74:9, 93:7, 99:16, 109:15, 111:13, 111:18, 111:20, 120:13, 120:18, 121:6, 121:11, 121:20, 122:8, 126:17, 141:2, 158:2, 158:8, 159:6, 159:10, 162:10, 162:12, 163:12
thrown [1] - 175:8
timeline [4] - 129:13, 129:16, 129:17, 129:20

tiny [1] - 151:8
today [11] - 41:6, 50:10, 67:6, 84:23, 85:11, 86:7, 98:20, 129:22, 129:23, 145:16, 176:9
together [16] - 21:16, 52:8, 101:20, 124:25, 125:14, 128:21, 130:4, 130:8, 130:13, 135:3, 135:5, 145:13, 163:17, 163:21, 178:13
tone [1] - 172:10
tonight [3] - 6:9, 136:23, 137:2
took [9] - 24:3, 32:18, 40:6, 52:20, 102:3, 104:7, 104:8, 126:4, 159:24
total [7] - 15:21, 18:15, 20:15, 32:14, 44:2, 44:21, 51:5
touch [1] - 159:9
touches [1] - 104:19
Town [9] - 152:13, 157:17, 157:18, 164:24, 165:2, 165:6, 165:14, 165:15, 165:18
town [13] - 123:16, 124:3, 124:5, 125:3, 125:6, 127:6, 127:10, 127:19, 127:25, 128:16, 158:14, 158:20, 158:22
town's [1] - 159:15
Towns [8] - 29:19, 160:12, 160:15, 160:21, 160:24, 161:5, 161:9, 161:13
towns [21] - 19:20, 27:10, 33:13, 35:4, 35:7, 42:8, 42:13, 44:14, 108:5, 120:14, 120:18, 121:6, 121:12, 121:21, 122:8, 126:17, 158:2, 158:8, 159:5, 159:6, 159:9
tracks [2] - 73:15, 73:17
traditional [2] - 16:8, 16:12
traditionally [1] - 86:12
transcription [1] - 180:10
tremendous [1] - 176:8
trial [2] - 122:25, 137:3
triangle [2] - 124:10, 126:23
tried [4] - 10:17, 76:10, 114:21, 119:10
trillion [1] - 81:13
trillions [1] - 104:3
trip [1] - 80:17
Troiano [5] - 124:13, 125:22, 148:21, 148:24, 149:2

true [2] - 57:20, 97:21
truly [1] - 172:3
trust [2] - 87:25, 97:12
try [9] - 41:10, 110:5, 111:10, 112:20, 113:9, 114:20, 152:6, 160:8, 162:19
trying [10] - 79:24, 80:4, 80:17, 94:5, 97:2, 122:25, 134:4, 139:15, 156:14, 170:11
turn [3] - 122:25, 152:9, 157:15
turns [1] - 80:11
twenty [1] - 173:19
two [32] - 11:22, 13:21, 14:8, 46:16, 48:2, 48:12, 51:15, 56:11, 58:21, 73:21, 80:22, 84:12, 85:13, 86:14, 86:16, 87:19, 92:10, 95:11, 98:7, 98:23, 99:4, 100:12, 106:7, 136:20, 140:2, 150:8, 150:12, 154:5, 154:22, 159:6, 161:7, 175:16
typically [1] - 8:8

U

U.S [2] - 7:3, 15:16
Ulster [1] - 166:12
ultimately [2] - 59:10, 91:6
unable [1] - 8:19
unanimously [1] - 138:8
unclear [1] - 46:6
unconsciously [1] - 47:18
under [33] - 13:18, 14:4, 27:2, 32:7, 42:14, 45:12, 45:25, 48:22, 49:2, 49:11, 60:12, 60:16, 61:7, 61:8, 61:19, 62:17, 63:12, 63:14, 65:8, 70:2, 70:3, 76:20, 76:21, 78:10, 85:8, 91:12, 93:8, 95:25, 97:22, 97:24, 130:24, 173:12
underneath [1] - 20:9
understood [2] - 32:16, 35:16
undo [1] - 48:13
undone [1] - 48:15
unfortunate [3] - 115:14, 145:9, 145:17
unfortunately [1] - 134:14
unidentified [1] - 148:9
unifies [2] - 23:6, 29:19
unify [2] - 22:4, 161:13
Uniondale [12] - 10:23,

11:15, 21:13, 111:13,
111:18, 111:19, 111:25,
112:9, 112:20, 113:2,
113:20, 113:23
United [1] - 22:6
universally [1] - 12:22
University [2] - 6:18,
23:19
unkind [1] - 172:23
unlawful [3] - 76:20,
76:25, 80:20
unlike [1] - 56:15
unpack [1] - 82:4
up [35] - 9:24, 11:2, 33:6,
41:19, 41:21, 80:17,
87:25, 96:14, 104:14,
112:11, 119:14, 119:20,
119:22, 125:6, 128:20,
128:23, 129:3, 129:11,
129:25, 130:3, 130:5,
132:2, 132:16, 140:7,
145:14, 146:25, 147:23,
147:24, 149:8, 150:24,
151:8, 152:13, 152:15,
157:17, 178:14
update [1] - 55:9
uphold [1] - 133:13
uploaded [2] - 50:24,
53:15
Upstate [1] - 118:14
usual [1] - 101:24

V

Valley [20] - 11:3, 11:4,
11:18, 20:25, 21:2,
140:8, 140:13, 140:20,
141:3, 141:14, 141:20,
142:5, 143:3, 143:13,
143:22, 144:20, 146:6
VAP [2] - 51:9, 51:11
various [1] - 167:23
verbal [2] - 169:2, 169:24
version [6] - 55:13, 57:3,
98:5, 98:20, 115:15,
121:22
versus [3] - 56:13, 56:21,
86:15
via [2] - 31:16, 120:25
VICE [2] - 2:11, 3:7
Vice [1] - 42:3
view [1] - 139:9
viewed [1] - 104:6
viewing [1] - 24:25
village [18] - 40:16, 40:18,
56:21, 108:17, 108:20,
108:22, 109:4, 109:6,
109:12, 109:22, 113:16,
123:20, 123:21, 141:8,

152:25, 156:25, 162:22
Village [7] - 22:4, 22:5,
110:10, 110:15, 110:17,
111:6, 113:13
villages [36] - 19:19, 27:9,
33:13, 35:4, 35:6, 42:22,
44:14, 48:21, 48:24,
49:11, 55:25, 56:10,
56:11, 56:14, 56:19,
76:16, 109:15, 110:22,
110:23, 121:16, 123:20,
127:25, 131:4, 131:16,
132:11, 140:23, 140:24,
147:21, 147:22, 155:13,
156:23, 157:2, 157:3,
157:5, 157:10
VINCENT [1] - 2:22
violated [1] - 27:16
violation [4] - 32:14,
36:22, 37:8, 72:15
violations [1] - 13:6
voices [3] - 33:18, 89:24,
148:18
voluntarily [1] - 176:5
vote [9] - 8:5, 8:7, 42:17,
49:9, 72:6, 89:3, 90:6,
91:11, 148:21
vote' [2] - 15:17, 44:19
voted [5] - 64:25, 138:8,
148:24, 149:2, 155:19
voter [1] - 86:25
voters [18] - 8:5, 8:7, 8:19,
14:12, 14:14, 14:16,
14:25, 15:3, 15:6, 17:10,
61:11, 62:16, 64:24,
70:21, 73:12, 75:22,
76:4
voters' [1] - 13:13
Voting [22] - 16:23, 36:22,
44:25, 45:3, 45:25,
49:16, 60:16, 61:20,
62:17, 70:13, 70:25,
71:5, 71:7, 72:17, 74:21,
76:20, 91:9, 91:16,
91:18, 92:9, 93:9, 97:24
voting [72] - 6:19, 7:14,
8:4, 8:15, 8:16, 10:13,
10:18, 11:5, 11:12,
11:21, 12:9, 12:10,
12:11, 12:16, 12:20,
12:24, 13:2, 13:5, 13:9,
13:11, 14:9, 14:14,
14:18, 14:23, 15:3, 15:8,
17:6, 20:16, 20:17, 21:5,
21:6, 21:19, 21:21,
22:10, 22:11, 22:21,
22:22, 23:10, 23:11,
24:6, 24:8, 45:17, 45:20,
46:8, 46:12, 51:11,
51:13, 51:16, 59:20,

60:14, 61:4, 63:12,
63:15, 68:9, 68:12, 70:9,
74:13, 74:14, 86:13,
86:14, 87:15, 89:6,
90:17, 90:18, 94:10,
95:21, 97:4, 97:7, 97:19,
135:8, 136:16, 136:17
VRA [1] - 73:15
VRA's [1] - 84:21

W

wait [2] - 71:11, 95:16
waiting [2] - 137:7, 137:25
walk [2] - 20:22, 115:24
walked [1] - 125:16
wall [1] - 56:19
Wantagh [2] - 29:6, 30:12
wants [2] - 135:4, 138:13
warranted [1] - 65:5
Washington [1] - 26:11
watching [1] - 110:8
water [11] - 16:6, 16:7,
108:15, 125:13, 144:16,
146:11, 149:8, 149:22,
150:22, 150:23, 151:8
ways [1] - 49:24
weeks [1] - 84:17
weight [1] - 19:9
welcome [2] - 170:21,
171:10
well-defined [1] - 94:23
west [3] - 10:25, 11:17,
11:23
West [2] - 22:3, 22:18
Westbury [9] - 10:21,
11:13, 21:13, 21:16,
21:24, 28:17, 128:20,
129:3, 157:18
western [1] - 12:2
whack [1] - 41:18
WHEREOF [1] - 180:16
whispering [1] - 134:8
white [3] - 8:7, 14:16,
92:17
White [10] - 9:3, 9:5,
14:16, 14:18, 15:6, 15:8,
67:23, 89:25, 92:6
WHITMORE [1] - 2:19
Whitton [1] - 153:24
whole [38] - 8:23, 21:25,
23:4, 26:18, 28:5, 28:13,
28:22, 30:3, 30:9, 32:6,
42:22, 46:24, 48:22,
49:11, 56:10, 76:16,
85:12, 85:14, 89:19,
93:8, 95:3, 110:22,
111:5, 113:23, 121:16,
130:19, 130:22, 131:22,

132:5, 132:11, 140:24,
141:20, 142:5, 147:22,
153:2, 157:5, 162:23
widely [1] - 88:10
wife [1] - 95:14
Williston [2] - 28:16
win [1] - 48:5
wins [1] - 21:23
wish [1] - 5:24
WITNESS [1] - 180:16
witness [6] - 100:25,
103:22, 133:2, 145:3,
170:12, 178:7
witnesses [1] - 133:19
won [4] - 21:8, 22:14,
22:25, 23:13
wonder [1] - 26:21
wondered [1] - 36:14
wonderful [1] - 6:2
wondering [3] - 73:20,
92:2, 138:17
Woocher [1] - 6:23
Woodbury [3] - 29:11,
29:17, 163:16
Woodmere [1] - 29:23
Woodsburgh [1] - 29:23
word [5] - 111:15, 114:6,
128:24, 130:2, 149:14
words [2] - 34:11, 80:4
WORK [1] - 1:7
works [1] - 102:21
worse [2] - 162:13, 162:14
written [1] - 7:23
Wyatt [1] - 5:10
WYATT [2] - 2:13, 5:11

Y

year [5] - 42:18, 51:19,
58:7, 155:10, 159:22
years [23] - 9:14, 45:15,
46:11, 54:14, 56:15,
58:18, 58:22, 58:24,
81:2, 83:20, 93:11,
93:23, 101:6, 101:17,
101:18, 124:16, 125:12,
142:14, 156:7, 164:6,
165:16, 166:6, 167:2
yelling [1] - 133:22
yesterday [3] - 63:23,
102:4, 103:3
YORK [1] - 180:4
York [22] - 1:15, 15:23,
18:5, 18:23, 42:6, 46:5,
60:25, 70:25, 71:6, 71:7,
72:17, 81:8, 91:18, 92:3,
97:24, 102:17, 103:20,
105:3, 118:14, 155:8,
165:10, 180:8

yourself [3] - 98:22, 126:3,
170:5

Z

zero [4] - 19:5, 115:3,
115:4, 153:3
zigzag [1] - 118:3
zigzagging [1] - 118:22
Zoom [1] - 106:9
zoom [10] - 10:17, 105:15,
105:22, 105:25, 106:3,
106:4, 110:4, 115:14,
115:18, 145:14
zoomed [3] - 108:3,
115:15, 143:11
zoomed-in [1] - 115:15

“

“aye.” [1] - 179:6

○

° [4] - 179:12