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County Executive

Office of the County Attorney

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June 2, 2023

Westchester County Board of Legislators  
County of Westchester  
800 Michaelian Office Building  
148 Martine Avenue  
White Plains, New York 10601

Re: Request for Authorization to Settle the Lawsuit of *Guzman et al. v. County of Westchester, et al.*, pending in the Supreme Court of the State of New York, Putnam County Index No. 500558/2023

Dear Honorable Members of the Board:

Attached for your consideration is an Act which, if enacted by your Board, would authorize the settlement of the lawsuit entitled *Guzman et al. v. County of Westchester et al.*, as set forth below.

As you are aware, this action challenges Local Law 18-2022, which enacted the Existing Redistricting Plan adopted by your Board in December 2022. This action alleges that certain legislative districts enacted in the Existing Redistricting Plan violate certain rules set forth in sections 10 and 34 of the New York State Municipal Home Rule Law ("MHRL"). This action names your Board, the County, the Board of Elections and its commissioners, the County Executive, and several individual legislators as respondents.

On behalf of the County, your Board, the County Executive, and several individual legislators, this Office, with the assistance of the firm of Cuti Hecker Wang LLP, has taken the position that the Existing Redistricting Plan is in full compliance with the MHRL and that the petition is without merit.

Legislators Cunzio and Nolan, represented by separate counsel, have taken the position that the petitioners are correct and that the Existing Redistricting Plan violates the MHRL. They have also filed a cross-petition seeking payment of their attorneys' fees for supporting the petition in this action. The Board of Elections and its commissioners have taken no position in this action.

Prior to trial commencing in this matter, the parties engaged in extensive settlement negotiations to see if a resolution could be reached that, first and foremost, complied with and advanced the goals of the MHRL, and that would satisfy all the litigants in this action. We believe the proposed settlement being submitted for your approval does so.

The proposed settlement would result in modifying the Existing Redistricting Plan. Specifically, the Proposed Modified Redistricting Plan makes changes to five districts—3, 5, 14, 15, and 17. The proposed changes improve the overall compliance with the MHRL and are therefore legally appropriate modifications.

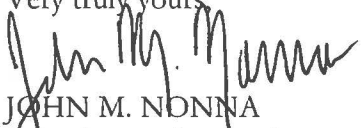
In brief,<sup>1</sup> the proposed modifications are as follows: most of a single election district currently in District 5 will be moved to District 3. This change will reduce the population deviations of these districts from the ideal district, furthering the goals of the MHRL. No other changes are being made to these two districts. Districts 14 and 15 will be swapping certain election districts in Yonkers and Mount Vernon. This will advance the MHRL by increasing core retention, removing a split of a municipal boundary, and ensuring compact districts. Further, a small portion of District 17 will be moved to District 14, in order to equalize population and increase compactness.

The proposed settlement also contains provisions that, if a future challenge is brought against the redistricting plan, no legislator will take a position against the adopted maps, which would alleviate any future cross-petitions regarding payment of counsel fees.

The proposed settlement does not, however resolve the pending application by Legislators Cunzio and Nolan for attorneys' fees in this action. That matter is fully briefed before the Supreme Court, and the settlement agreement allows the Court to make an ultimate determination on that question. We are confident in the County's position on that matter, and do not believe that it should be an impediment to settlement.

The proposed modifications to the Existing Redistricting Plan appear to be fair, balanced, and in compliance with the requirements of the MHRL. Entering into this settlement would remove the risks and uncertainty inherent in going to trial, and we believe that it would be in the best interests of the County to enter into this settlement.

Therefore, we are requesting that this Board approve the accompanying Act authorizing the settlement of all remaining claims in the action *Guzman et al. v. County of Westchester et al.* We note that there is also a companion Local Law being submitted herewith amending the Existing Redistricting Plan adopted in 2022 that would need to be enacted as part of the settlement process.

Very truly yours,  
  
JOHN M. NONNA  
Westchester County Attorney

JMN/jra

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<sup>1</sup> A proposed local law, adopting these changes, is being submitted herewith for consideration. That local law provides greater detail on the modifications.

BOARD OF LEGISLATORS  
COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed Act which, if enacted by your Board, would authorize the settlement of the lawsuit entitled *Guzman et al. v. County of Westchester et al.*, as set forth below.

This action challenges Local Law 18-2022, which enacted the Existing Redistricting Plan adopted by in December 2022. This action alleges that certain legislative districts enacted in the Existing Redistricting Plan violate certain rules set forth in sections 10 and 34 of the New York State Municipal Home Rule Law (“MHRL”).

Your Committee is informed that, prior to trial commencing in this matter, the parties engaged in extensive settlement negotiations to see if a resolution could be reached that, first and foremost, complied with and advanced the goals of the MHRL, and that would satisfy all the litigants in this action.

Your Committee is further informed that the proposed settlement would result in modifying the Existing Redistricting Plan. Specifically, the Proposed Modified Redistricting Plan makes changes to five districts—3, 5, 14, 15, and 17. The proposed changes improve the overall compliance with the MHRL and are therefore legally appropriate modifications.

Your Committee is aware that the proposed modifications are as follows: most of a single election district currently in District 5 will be moved to District 3. This change will reduce the population deviations of these districts from the ideal district, furthering the goals of the MHRL. No

other changes are being made to these two districts. Districts 14 and 15 will be swapping certain election districts in Yonkers and Mount Vernon. This will advance the MHRL by increasing core retention, removing a split of a municipal boundary, and ensuring compact districts. Further, a small portion of District 17 will be moved to District 14, in order to equalize population and increase compactness. Your Committee notes that greater detail and information can be found in the accompanying Local Law that would actually modify the districts.

Your Committee further notes that the proposed settlement also contains provisions that, if a future challenge is brought against the redistricting plan, no legislator will take a position against the adopted maps, which would alleviate any future cross-petitions regarding payment of counsel fees.

Your Committee is aware that the proposed settlement does not resolve the pending application by Legislators Cunzio and Nolan for attorneys' fees in this action. The County Attorney has informed your Committee that the question is fully briefed before the Supreme Court, and the settlement agreement allows the Court to make an ultimate determination on that question. The County Attorney has also stated that he is confident in the County's position on that matter, and does not believe that it should be an impediment to settlement.

Upon your Committee's review, the proposed modifications to the Existing Redistricting Plan appear to be fair, balanced, and in compliance with the requirements of the MHRL. Entering into this settlement would remove the risks and uncertainty inherent in going to trial, and we believe that it would be in the best interests of the County to enter into this settlement.

Your Committee further notes that the proposed settlement only requires this Board to consider the modifications to the Existing Redistricting Plan. If the Board ultimately does not decide to adopt those modifications, then the settlement would be rendered void and the matter would proceed. The Local Law submitted by the County Attorney contemporaneously with this Act would be required to finalize and fully effectuate the settlement.

The County Attorney has recommended that the County accept this settlement as a fair and equitable resolution of this action. Your Committee concurs with this recommendation and recommends that this Honorable Board adopt the proposed Act.

Dated: White Plains, New York  
, 2023

COMMITTEE ON

ACT NO.

2023

AN ACT authorizing the County Attorney to settle the lawsuit of *Guzman et al. v. County of Westchester, et al.*, pending in the Supreme Court of the State of New York, Putnam County Index No. 500558/2023

BE IT ENACTED by the County Board of Legislators of the County of Westchester as follows:

Section 1. The County Attorney is hereby authorized to settle the lawsuit of *Guzman et al. v. County of Westchester, et al.*, pending in the Supreme Court of the State of New York, Putnam County Index No. 500558/2023, for terms that result in the dismissal of this action, other than an application for attorneys' fees by Respondents Cunzio and Nolan, if this Board adopts Local Law Intro. No. 2023-246.

Section 2. The County Attorney or his designee is hereby authorized to execute and deliver all documents and take such actions as the County Attorney deems necessary or desirable to accomplish the purposes hereof.

Section 3. This Act shall take effect immediately.