

Hello again,

My name is Lars and I am a resident of the city of Albany. Today I would like to focus my testimony on the map proposed by the commission and to add input on the conversation with Dr. Lisa Handley, who is the Commission's expert about effective Majority Minority Districts (MMDs).

Before I get started though, I do want to remind the commission to update the submissions page on the website. At the very least, I know that I've submitted a map that is not on the website and I suspect other people have submitted comments too.

In regards to the map proposed by the commission, overall I think it is a good first draft that respects communities of interests. However, while the population deviation is within the legal limit of + or - 2.5%, there are several districts that come close to the limit (like -2.49%) in which I recommend be modified to be closer to the average district size of 8,105 people. This is especially important in parts of Colonie that are rapidly gaining population. If those districts like districts 20, 21, 22, 26 and 14 aren't brought down in population, new growth during the coming decade creates the potential for districts to be way over the deviation limits.

As far as communities of interest go, there are a couple of small changes that I would like to see made. The first is that I believe there is no reason to split Watervliet into 3 districts. All of Watervliet can easily fit into 2 districts by pushing district 14 further north into Watervliet so that district 15 can cover all of the northern part of the city. Alternatively, you could push district 14 south of Watervliet and have district 16 take on the northern portion of Watervliet. I also believe that New Scotland is unduly split between four districts when all of the town can fit into 2 or 3 districts. Both of these cases violate the state law criteria that the maps should minimize splitting municipal boundaries and split communities of interests. The maps I have previously submitted address both of those concerns.

Now, I would like to address the comments made about MMDs. As part of the conversation about MMDs at the Commission meeting on Monday, May 23rd, my comments at the May 18th Sub Committee Hearing were brought up and I wanted to provide some clarification. In those remarks, I commented that I was concerned about the Commission's use of a problematic bellwether test to determine if a district is an effective MMD - a district where the preferred candidate of the minority community can consistently be elected to that district. That test is supposed to use bellwether election results to determine if a given district is an effective MMD. My concern with the test is that when we use it on the existing 5 MMDs, those districts would fail the test and be shown to not be effective MMDs. For example, in the contest for lieutenant governor in 2018, the preferred candidate of Black voters lost a majority of the current MMD's. Out of the 2 bellwether races studied by the Commission, almost half of the cases showed the existing districts failing to be effective MMDs. Yet, those 5 districts are considered effective MMDs because of local election results showing that those districts do elect the preferred candidates of the minority community. Based on the test showing failure in the existing districts, I suspect that in any maps proposed by the Commission the bellwether test will show that the

proposed MMDs are also ineffective. If we know that the test isn't working correctly already, then why should we treat the test like it's a perfect tool at determining whether or not districts are effective MMD's? I strongly object to the bellwether test being the only way to see if a MMD is effective.

Also in my testimony last week, I also made a comment suggesting that Hispanic voters vote similarly to Black voters and should be given consideration when thinking about what constitutes an effective MMD. This premise was rejected by the commission during the meeting on Monday which is very concerning given that the premise comes from the Pope v. County of Albany decision. In that decision Judge Kahn said "Black voters in an MMD have an increased opportunity to elect candidates of their choice when the rest of the district's population is composed of white and Hispanic voters, rather than only white voters." This suggests that the courts believe that while Hispanic voters on their own can't make an MMD, they can play a major role helping a district with a sizable Black community become an effective MMD. The idea that Hispanic voters should be included with Black voters isn't new to that ruling either. The Pope v. County of Albany decision also references the 2003 Albany County ruling from Judge Homer. That 2003 ruling says that the court's definition of minority included those who identified as: "(1) non-Hispanic black; (2) non Hispanic, two or more races; and (3) Hispanic or Latino." In short, there is at least 19 years of legal precedent in Albany County suggesting that Hispanic voters vote similarly to Black voters. Yet the commission seems to be in direct opposition to those rulings. The legal precedence is also backed up by anecdotal evidence that Black and Hispanic Voters vote similarly. If the commission goes out into the community and asks Latinos and Blacks if they share common interests and vote similarly - you will hear how intertwined those communities are from people like Vicente, Pedro and Carlos. To recap, as a commission you are throwing out legal precedents and anecdotal evidence just because it is impossible to run a test to see how Hispanic voters vote, a test that I will remind the commission is flawed and only works in Albany county around half of the time.

Another concern that I have is that judgements on which districts are effective MMDs are being made solely based on the voting age population (VAP). While the Commission has been very clear that districts can't be considered effective MMDs based on the VAP alone, the Sub committee has seemed to reject the idea of having 7 MMDs based on VAP data alone. We suggest that the subcommittee create 3 maps - one with 7 MMDs, one with 6 MMDs and one with 5 MMDs and run whatever criteria the commission uses to determine whether or not a district is effective, on all 3 maps. Only after a test is run, should the commission reject a map for not having enough effective MMDs.

To that end, I ask the Subcommittee to fully put out Plan B into the public by publishing it on the website so that the public can examine the map outside of the subcommittee meetings and hearings. While I understand the Subcommittee is skeptical of the map, the public should be able to have an easier time making up their own minds as to if the map contains effective MMDs.

Not rejecting maps based on VAP alone is extra important because the Commission and Subcommittee hasn't considered that the percentages of the VAP for all of the races/ ethnicities aren't adding up to 100%. For example, in Plan A district 7, the VAP of White, Black, Hispanic, Asian and other races add up to 95.75% according to a PDF on the commission's website. That missing 4.25% can make a big difference in determining if a district is an effective MMD depending on what race/ ethnicity those 4% are. When I recreated the Plan A district 7 in Dave's Redistricting App, the VAP percentages added up to be much closer to 100% and almost all of the 4% were Black and Hispanic voters. This suggests to me that the MMDs are all more nonwhite than the commission's software shows.

In conclusion, I have several concerns that I would like to see addressed.

- 1)I would like to see the population deviations lowered, especially in Colonie.
- 2)I would like to see only 2 town/ city splits in New Scotland and Watervliet.
- 3)I strongly encourage the commission to look at other factors than the bellwether test alone to determine if districts are MMDs given that the effectiveness test only works half of the time.
- 4)I would like to see the commission take into account anecdotal evidence from Vincete, Carlos and Pedro and prior court rulings that have included the Hispanic population with the Black population when considering what is an effective MMD.
- 5)I would like to see multiple drafts with different numbers of MMDs be subject to effectiveness tests.
- 6)I would like to see Plan B published on the website
- 7)Lastly, I would like clarification as to the missing VAP percentages on maps on the website and in Maptitude.

Thanks again for your time and I'm happy to take questions.