

**MEMO FROM
NEW YORK STATE SENATE**

May 10,

1977

litigation

Feiler

From SENATOR JOHN D. CALANDRA

To Members, Emergency Financial Control Board

COPY

Subject New York City Councilmanic Reapportionment
Senator John D. Calandra's letter of May 9, 1977

On May 9, 1977 I wrote you concerning the action of the City Council to hire private counsel to defend the action to set aside the new councilmanic districts.

My letter stated that the City Corporation Counsel has already advised the City Council the new lines are invalid.

Enclosed is the affidavit submitted by the City Council showing that the Corporation Counsel still believes the act to be invalid.

RECEIVED FOR ACTION	
MAY 1977	
MUNICIPAL ASSISTANCE CORPORATION	
BBA	_____
LSD	_____
MFF	_____
PGG	_____
EJK	_____
WJL	_____
PCR	_____
SJW	_____

	A.M.
	P.M.
	MAIL
	HAND

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
JOHN D. CALANDRA, individually and as
Senator for the 34th Senatorial District
in the City of New York, et al

Plaintiffs,

-against-

THE CITY OF NEW YORK, a Municipal
Corporation, et al

Defendants

AFFIRMATION

Index No. 8509/77

-----X
STANLEY KALMON SCHLEIN, an attorney duly admitted
to practice in the Courts of the State of New York, and Assistant
Counsel to the defendant, THE CITY COUNCIL OF THE CITY OF NEW
YORK, hereby affirms the following statements under penalties of
perjury:

1. This affirmation is submitted in support of the
application of defendants' THE CITY COUNCIL OF THE CITY OF NEW
YORK; PAUL O'DWYER, PRESIDENT of the CITY COUNCIL OF THE CITY OF
NEW YORK and DAVID N. DINKINS as CITY CLERK OF THE CITY OF NEW
YORK for an adjournment of the proceedings of this Court as
regard plaintiff's application for an Order to Show Cause for an
injunction pendente lite against the enforcement of Local Law
No. 23 of 1977 and directing that councilmembers, at both the
primary and general election, be nominated and elected from
senatorial districts pursuant to Sec. 22b of the Charter of the



THE SENATE
STATE OF NEW YORK
ALBANY 12224

Keelin

JOHN D. CALANDRA
34TH DISTRICT
CHAIRMAN
COMMITTEE ON ELECTIONS

DISTRICT OFFICE
25 WESTCHESTER SQUARE
BRONX, N. Y. 10461
SY 2-6331

May 9, 1977

Hon. Stephen Berger
New York State Emergency
Financial Control Board
270 Broadway
New York, New York 10007

COPY

Re: New York City Councilmanic
Reapportionment
Senator John D. Calandra, et al
vs. City of New York

Dear Mr. Berger:

I am presently a Party Plaintiff along with Assemblyman Guy J. Velella and Jerome F. Megna in an action brought against the City of New York, the City Council of New York, the Board of Elections of New York City, et al, relative to the newly passed councilmanic reapportionment in New York City. Enclosed please find copy of this Show Cause Order and accompanying documents.

The Order was originally signed on May 4th by the Hon. Justice Harold Baer, New York County Supreme Court, and made returnable today (May 9th). All of the party defendants were served pursuant to such Order.

Today the Matter appeared in Special Term, Part I, of the Supreme Court in New York County before Justice Cassal. Counsel on behalf of the defendants requested an adjournment, via affidavit, for the sole purpose of obtaining "outside counsel." The attorney handling the case on my behalf argued against the extension on the grounds that there is no need for the City of New York to squander the taxpayers' money on obtaining "outside counsel." He alluded to the fact that the City has adequate counsel being paid by the taxpayers of New York City to supposedly handle the legal matters pertaining to the City and its agencies.

The New York City Corporation Counsel is certainly qualified and has ample staff to handle this matter. In addition, the New York City Council has ample and adequate counsel on its payroll to handle their interests. Finally, the Reapportionment Commission, which was set up to draw these lines, has probably one of the finest experts in the Election Law and reapportionment, namely, Robert Brady, who also could handle the matter.

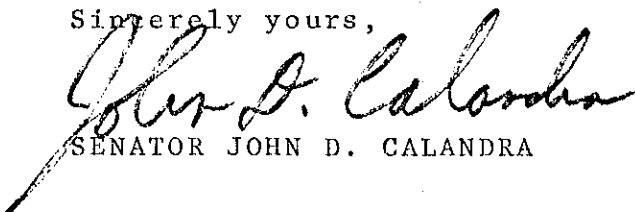
May 9, 1977

If you would read the enclosed papers you would find a letter from the Corporation Counsel written in response to a letter directed to the attention of the Corporation Counsel by the Chairman of the Reapportionment Committee asking for advice on the effectiveness of the City Council passing a new reapportionment plan as it pertains to the State Home Rule Law. The opinion of the Corporation Counsel clearly indicates that any such reapportionment plan is invalid without legislative approval, which was not given in this particular matter. The opinion of the Executive Director of the Commission itself, Bob Brady, also substantiates this position. In other words, counsel for the three parties involved in this matter clearly agree with the position taken by me in bringing this matter to the Supreme Court. Therefore, the City obviously is attempting to hire, at the taxpayers expense, "outside counsel" who would agree with their position and I feel that this is not only unconsionable but improper and illegal.

The reason the Emergency Financial Control Board was set up was exactly for this particular reason, namely, to ride herd on the squandering of funds by the City of New York. The City cannot justify hiring "outside counsel" at God knows what price when they have adequate, competent and paid attorneys on their staff. I am calling upon your Board to specifically prohibit the employment and/or payment of any funds to any so-called "outside counsel" in this matter. To do anything less would be condoning the extravagance of the City in spending our money and the duplication of the City as has been their practice, which procedure has brought us almost to the brink of financial ruin.

Trusting you will give this matter your prompt attention in light of the fact that this matter is returnable next Monday, May 16th, which has been marked pre-emptorily against the defendants.

Sincerely yours,



SENATOR JOHN D. CALANDRA

Enclosure

cc: All Members of the Board
Mr. Owen Fitzgerald - New York Daily News
Mr. George Arzt - New York Post
All Party Defendants