

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GUY MOLINARI, WILLIAM C. THOMPSON, :
JR., Individually and in his Official Capacity as the :
New York City Comptroller, BETSY GOTBAUM, :
Individually and in her Official Capacity as Public :
Advocate for the City of New York, BILL DE :
BLASIO, Individually and in his Official Capacity :
as a Member of the New York City Council, :
LETITIA JAMES, Individually and in her Official :
Capacity as a Member of the New York City :
Council, CHARLES BARRON, Individually and in :
his Official Capacity as a Member of the New York :
City Council, ROSALIE CALIENDO, PHILLIP :
DEPAOLO, PHILIP FOGLIA, KENT LEBSOCK, :
ANDREA RICH, MIKE LONG, TOM LONG, IDA :
SANOFF, GLORIA SMITH, ERIC SNYDER, :
KENNETH J. BAER, KENNETH A. :
DIAMONDSTONE, PETER GLEASON, MARK :
WINSTON GRIFFITH, ARI HOFFNUNG, :
ALFONSO QUIROZ, YDANIS RODRIGUEZ, JO :
ANNE SIMON, NEW YORK PUBLIC INTEREST :
RESEARCH GROUP, INC., and U.S. TERM :
LIMITS, :
:

Plaintiffs,

v.

MICHAEL R. BLOOMBERG, in his Official :
Capacity as Mayor of the City of New York, :
CHRISTINE C. QUINN, in her Official Capacity as :
Speaker of the New York City Council, the NEW :
YORK CITY COUNCIL, THE CITY OF NEW :
YORK, JAMES J. SAMPEL, in his Official :
Capacity as President of Commissioners of :
Elections for the Board of Elections in the City of :
New York, and BOARD OF ELECTIONS IN THE :
CITY OF NEW YORK, :
:

Defendants. :
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**AFFIDAVIT OF COREY
BEARAK**

Civ. No. 08-4539 (CPS) (JO)

STATE OF NEW YORK)
) ss.:
COUNTY OF QUEENS)

COREY BEARAK duly swears, deposes and says, under penalty of perjury, that the following is true and correct:

1. I serve as President of the Queens Civic Congress, the borough-wide coalition of civic, condo, cooperative, homeowner, merchant and tenant organizations formed in 1997 as the successor to the Federation of Civic Councils of the Borough of Queens. As one of its founders, I devised the name and drafted its bylaws. I served as a vice president and nearly eight years as executive vice president. Our mission outlined in our bylaws is to (1) “provide a forum for the civic associations and neighborhood organizations of Queens County to inform and address themselves to the full spectrum of issues, developments, and conditions which may affect the quality of life of our neighborhoods”; (2) “develop and present common policies and positions on all matters which may affect our neighborhoods, the Borough and County of Queens, and New York City”; and (3) “effective leadership and advocacy for the advancement of the welfare and interests of Queens' neighborhoods.” I am also an attorney with 23 years of experience in government working of major issues of public policy, including government reform, budget and fiscal, justice and environment. I drafted the original legislation that became New York City's ban on racial profiling and was involved in the passage of major environmental legislation in the Koch, Dinkins and Giuliani administrations. I served as the chief advisor to the Bronx Borough President on City Charter reform.

2. Through the Spring and Summer of 2008 as discussions of a possible extension of terms received more attention in the media, fellow civic leaders and members of member civics expressed concern about the process. On February 6, 2008 I had written the Mayor specifically

to include members of the Queens Civic Congress, including my predecessor, Sean M. Walsh, Esq., and our executive vice president, Patricia Dolan who also was active during the major government changes in 1988 and 1989. Unlike the closed-door deliberations that resulted in the law to unilaterally extend the terms of all Council members, the five borough presidents, the public advocate, the controller and the mayor, Queens Civic Congress adopted a resolution on the process to address term limits on September 15, 2008 that followed a summer's worth of discussion in the Queens civic movement. Our member civics, in open discussion with media present, unanimously adopted a resolution that, "calls on ALL public officials and those who aspire to public office to commit to the use of referendum to attempt any change in the City Charter enacted in that matter, and state that position publicly." This civic deliberation followed outreach to our members though not only postings on our www.queensciviccongress.org website but emails and mailings of a proposed position. In August, the Queens Civic Congress executive committee - its members either current or former presidents of neighborhood civics - proposed a position that Queens Civic Congress circulated by regular mail and e-mail and posted on its www.queensciviccongress.org web site the resolution for consideration on September 15, 2008. The document was drafted by officers of the Congress in an exchange of email and telephone calls over a several week midsummer period.

3. The members of the Congress some who supported and some who oppose term limits agreed on one constant: that the public already voted consistently - two separate times - on this issue: (1) First, voters opted to enact term limits. (2) Second, voters rejected its repeal. As a matter of good public policy and basic democracy, any change in term limits, from its revocation to its extension or its reduction must only be enacted by the same process that led to its 1993 enactment – voter referendum. In the resolution unanimously adopted at a regular membership

meeting held September 15, 2008, Queens Civic Congress – representing the civic movement in the borough of Queens – called on “ALL public officials and those who aspire to public office to commit to the use of referendum to attempt any change in the City Charter enacted in that matter, and state that position publicly.” The resolution noted that “The public voted two separate times, first to enact term limits and second to reject its repeal.” Thus, “Consistent with this position, any change in term limits, from revocation to extending or reducing the number of terms must only be enacted by the same process of voter referendum that enacted the two-term limits on municipal office holder.” The resolution also clarified that “Queens Civic Congress takes no position on the substance of term limits; some in the civic movement support term limits; some oppose it; others support it for some offices but not all.” Queens Civic Congress says “let the voters decide.” Simply put, Queens Civic Congress opposes any plan to change the term limit law as currently exists except through a public referendum.” In its media, outreach to elected officials, and testimony to the City Council, the Queens Civic Congress made clear that “If City Hall and the City Council seek to repeal or modify terms limits, anything other than a voter referendum smacks of illegitimacy.

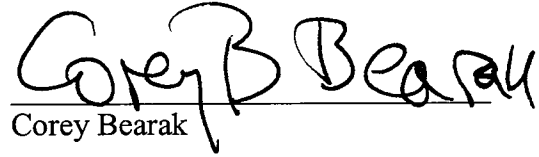
4. Legitimacy and confidence in government depends on politicians recognizing the public will. Any failure to recognize two public referendums would reduce the city government to, in my predecessor's words, junta. Interestingly, this time around, the term limits discussion at City Hall were structured to keep the issue away from the voters. The mayor asserts a claim of not enough time to put this issue before the voters. He argues against voter involvement as a "luxury" we cannot afford. Simply not true. Good government remains a necessity, never a luxury.

5. The voters of Queens already invested in the term limits change. Many civic movement activists became council members. The current Council Transportation chair was a Queens Civic Congress Vice President and chair of its Transportation Committee. The Zoning Chair was a spokesperson on Charter Reform for the Congress. The Finance Chair was a delegate from Holliswood Civic and participated in drafting budget testimony for the Congress and other community groups. The Consumer Affairs chair as a Community School Board member. The Environmental Protection chair was chair and president of his civic which remains among the more active in the Congress. The Civil Service and Labor chair was a civic president. Many current members of civics have raised campaign funds and organized races because of term limits. Many of the former civic leaders, current council members aspire and raised significant funds for citywide and borough-wide office and two ran for state legislative office in the November 2008 election. Term limits in essence greatly empowered the civic agenda by allowing and empowering community based representatives to achieve public office and respond to our agenda in ways never before seen. Progress on zoning reform and improvements at the Department of Buildings and the rejection of the congestion tax reflect a few of these issues. As a result the self-serving decision of the City Council "chills" future political speech. It would be less likely that Queens Civic Congress would sponsor a referendum, expend money and energy, if it knew that the City Council could simply rescind the results. Its members be less likely to do the same.

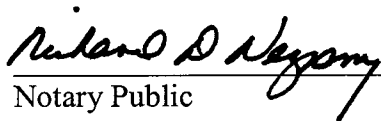
6. More and more new New Yorkers come to our boroughs, our communities, from lands where they left countries ruled by juntas and other regimes that govern with little if any legitimacy. These newer New Yorkers interact with longer time residents and other new New

Yorkers from other parts of our great nation who would never seek to live under such dastardly rulers. The law extending term limits approach that distasteful governance form.

Dated: New York, New York
December 10, 2008


Corey Bearak

Sworn to before me this
10th day of December, 2008


Notary Public

RICHARD D. NEZNAMY
Notary Public, State of New York
No. 31-5009512
Qualified in New York County
Commission Expires March 15, 200~~X~~