**DUTCHESS COUNTY ATTORNEY'S OFFICE**
**County Office Building**
**22 Market Street**
**Poughkeepsie, New York 12601**
**Tel. (845) 486-2110**
**Fax (845) 486-2002**

**MEMORANDUM:**

TO: Donna Bolner, Majority Leader, Dutchess County Legislature
Rebecca Edwards, Minority Leader, Dutchess County Legislature

FROM: Christian R. Cullen, CRC Chief Assistant County Attorney

DATE: June 23, 2021

FILE NO: G-1813

RE: Dutchess County Independent Reapportionment Commission eligibility issue

Dutchess County Local Number 5 of 2020 established an Independent Reapportionment Commission for the purpose of delineating boundaries for twenty-five legislative districts, and to adopt a plan to be implemented in the election of each year ending in "3." The Commission as currently constituted "...shall have no power or authority to increase or decrease the number of legislative districts." [Dutchess County Local Law Number 5 of 2020, Section 2.012(f)(1)]

Section 2.012 (a) provides that "The Commission shall consist of seven members who are County residents, are registered to vote in Dutchess County, and represent the geographic and demographic diversity of the County."

Section 2.012(a) goes on to require that "A member shall not currently be ***nor have been for the three years preceding*** formation of the Commission ***an elected official....A member shall maintain eligibility while serving on the Commission.***" All applicants for the Commission

appointment were required to affirm on the application website that they were not elected officials and were otherwise eligible.

Initial ***eligible*** appointments were required to have been made no later than February 1, 2021 "with two members appointed by the Legislature's majority leader and two members by the Legislature's minority member." [Dutchess County Local Law Number 5 of 2020, Section 2.012(d)(1)]

These four presumably ***eligible*** members were then required to select an additional three members no later than February 15, 2021.

In the event that all seven ***eligible*** members were not appointed by the prescribed February 15, 2021 deadline, "***the appointment of the initial four members and additional members appointed by the four members will no longer have force and effect***, and these members will no longer be eligible to serve on the Commission." [Dutchess County Local Law Number 5 of 2020, Section 2.012(d)(2)]

The selection process must then start all over again.

It has been reported that at least one of the four original Commission appointees was indeed not, and is not, eligible to serve by virtue of being "an elected official."

The Draconian remedy for non-compliance clearly articulated in Dutchess County Local Law Number 5 of 2020 is that the Commission as currently constituted must be disbanded or dissolved, and a new selection process commenced.

The process for appointing new Commission members is under review.

cc:

Greg Pulver, Chair, Dutchess County Legislature

Marcus J. Molinaro, Dutchess County Executive