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Attorney

April 28, 2011

Adam Perry, Chairman
Erie County Reapportionment Commission
c/o Erie County Legislature
92 Franklin Street
Buffalo, NY 14202

Dear Mr. Perry:

I submit the two enclosed redistricting maps on behalf of Jonathan Rivera and myself. Also, I have enclosed the relevant demographic numbers broken down for each map by legislative district. This cover letter will serve as my attempt to discuss some of the choices Jonathan and I made in constructing these two maps. Please note, we are not saying these maps are the only maps that can accomplish the myriad of goals we share. Nor are we saying that the decisions we made are the only ones possible. Finally, given the short amount of time we were given for submission of these maps, there may be some minor errors. All that said, these maps are fair and these maps are legal.

First and foremost, I was not able to draw two majority African American districts. Please note that by "majority" I mean 60% of the voting age population. This definition was used in **African American Voting Rights Legal Defense Fund, Inc. v. Villa, 54 F.3d 1345; (8th Cir 1995)** and seems to be generally accepted in voting rights cases since. So while I could draw two African American districts that hovered around 50% of the voting age population, I could not draw two that a federal court would determine as a majority-minority districts. Even if I split off some sections of the Town of Cheektowaga, where there are concentrations of African Americans, I could not draw two African American districts. I will admit that I did not have as much time as I would like to and I will continue to try to draw two African American maps, but so far that goal has eluded me.

Therefore, we had to make decision. If 60% of voting age population is the lowest you can go for an African American district, and it is impossible to draw two districts that reach 60%, there are two approaches that are equally permissible. One could draw a district that is 60% African American, leaving a solid population of African Americans to greatly influence the election in another district, and perhaps even control the election. Or, on the other hand, one could draw a district that is 70% African American, or even higher, thereby assuring that it will always be represented by someone who appeals to the African American community but leaving a smaller percentage of African Americans to influence another district. Jonathan and I chose the former approach. It strikes us as a way to all but guarantee at least one African American on the County legislature and, in the right circumstances, hold out hope for a second representative from that community. So in both of these maps, one district has 60% of its voting age population as African American, and a second district has about 40%.

Another constant in both of these maps is that we attempted to maximize Latino voting strength by combining as many Latinos into one district as possible. It is not a majority, but given the attempts ten

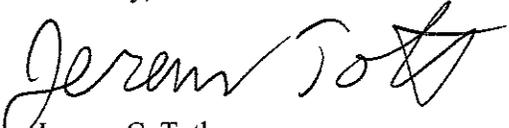


years ago to divide the Latino community and the resulting law suits, we thought it a fair and prudent approach.

Finally, and obviously, no town other than Amherst is divided. In fact, we have not divided either the City of Tonawanda or the City of Lackawanna. We realize the prohibition to dividing municipalities only applies to towns, but we think fairness dictates that we leave the small cities in tact as well.

Thank you for your consideration.

Sincerely,



Jeremy C. Toth