



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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SOLICITOR GENERAL
DIVISION OF APPEALS & OPINIONS

November 14, 2024

Honorable Darrell M. Joseph
Clerk of the Court
Supreme Court of New York
Appellate Division, Second Department
45 Monroe Place
Brooklyn, NY 11201

Re: *Oral Clarke, et al. v. Town of Newburgh, et al.*,
No. 2024-11753

Dear Mr. Joseph:


I write on behalf of the New York State Office of the Attorney General (OAG) to notify the parties and the Court that OAG elects to invoke its statutory entitlement to intervene as of right in this appeal and file an appellant's brief.

On May 30, 2024, defendants-respondents the Town of Newburgh and Town Board of the Town of Newburgh served notice on OAG in the proceedings below that their Answer and Affirmative Defenses bring into question the constitutionality of N.Y. Election Law § 17-206, a particular provision of the New York Voting Rights Act (NYVRA). *See* Notice of Constitutional Question, *Clark v. Town of Newburgh*, Index No. EF002460-2024 (Sup. Ct., Orange Cnty May 29, 2024), Sup. Ct. NYSCEF No. 35. On November 7, 2024, Supreme Court entered summary judgment for the defendants-respondents, reasoning that § 17-206(2)(b)(1) violates the Equal Protection Clause of the Fourteenth Amendment to the federal Constitution. *See* Decision & Order at 8-11, 14-25 (Nov. 7, 2024), Sup. Ct. NYSCEF No. 147. The court purported to order, inter alia, "that the NYVRA is hereby STRICKEN in its entirety from further enforcement and application to these

Defendants and to any other political subdivision in the State of New York.” On November 11, 2024, plaintiffs-appellants filed a notice of appeal from that judgment to this Court.

Executive Law § 71 provides that OAG “*shall* be permitted to appear” in an action or proceeding “[w]henever the constitutionality of a statute . . . is brought into question.” Executive Law § 71(1) (emphasis added); *see* C.P.L.R. 1012(b)(1); Practice Rules of the Appellate Division (22 N.Y.C.R.R.) § 1250.9(i). Accordingly, OAG respectfully requests that the Clerk add OAG to the docket in this appeal as an intervenor-appellant.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrea W. Trento', with a long horizontal stroke extending to the right.

Andrea W. Trento
Assistant Solicitor General
212-416-8656

AFFIRMATION OF SERVICE

Emily S. Paule, affirms upon penalty of perjury in New York, which may include a fine or imprisonment, that the following is true:

I am over eighteen years of age and an employee in the office of the Attorney General of the State of New York, attorney for the Proposed Intervenor-Appellant herein.

On November 14, 2024, I served by U.S. Postal Service first-class/priority mail one copy of the accompanying Letter upon the following named person(s):

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Emily S. Paule