

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

ORAL CLARKE, ROMANCE REED, GRACE
PEREZ, PETER RAMON, ERNEST TIRADO,
and DOROTHY FLOURNOY,

Plaintiffs,

Index No.: EF002460-2024

v.

TOWN OF NEWBURGH and TOWN BOARD
OF THE TOWN OF NEWBURGH,

Defendants.

**VERIFIED ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANTS TOWN OF
NEWBURGH AND TOWN BOARD OF THE TOWN OF NEWBURGH**

Defendants Town of Newburgh (“Town”) and Town Board of the Town of Newburgh (“Town Board,” and together with Town, “Defendants”), through their undersigned counsel, hereby respond to Plaintiffs Oral Clarke, Romance Reed, Grace Perez, Peter Ramon, Ernest Tirado, and Dorothy Flournoy’s (collectively, “Plaintiffs”) Verified Complaint dated March 26, 2024 (NYSCEF No. 1) (“Complaint”) as follows:

NATURE OF THE ACTION

1. Defendants admit that Plaintiffs filed this action on March 26, 2024, seeking to enforce the John R. Lewis Voting Rights Act of New York (“NYVRA”) in the Town of Newburgh, County of Orange. Defendants deny that Plaintiffs are entitled to the relief that they seek, or any relief.

2. Paragraph 2 of the Complaint states legal conclusions, to which no response is required. Paragraph 2 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 2 that are inconsistent with

or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

3. Defendants deny the allegations in Paragraph 3 of the Complaint. Paragraph 3 also states legal conclusions, to which no response is required. Paragraph 3 further references an unrelated judicial proceeding involving the Town Board, which proceeding and the filings therein speak for themselves. Defendants deny the allegations in Paragraph 3 that are inconsistent with or contrary to those sources.

4. Paragraph 4 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 4 of the Complaint.

THE DEPRIVATION OF VOTING RIGHTS BY THE TOWN OF NEWBURGH

5. Defendants admit the allegations in Paragraph 5 of the Complaint.

6. Defendants admit the allegations in Paragraph 6 of the Complaint.

7. Defendants admit the allegations in Paragraph 7 of the Complaint.

8. Defendants admit the allegations in Paragraph 8 of the Complaint.

9. Defendants deny the allegations in Paragraph 9 of the Complaint, except admit that as of July 2023, approximately 15% of the Town's population was of Black or African American origin, and approximately 25% of the Town's population was of Hispanic or Latino origin. *See* United States Census Bureau, *QuickFacts, Newburgh town, Orange County, New York*.¹

10. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 10 of the Complaint, and therefore deny the same.

¹ Available at <https://www.census.gov/quickfacts/fact/table/newburghtownorangecountynewyork/PST045222>.

11. Defendants deny the allegations in Paragraph 11 of the Complaint.

12. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 12 of the Complaint, and therefore deny the same. Additionally, Paragraph 12 of the Complaint states legal conclusions, to which no response is required.

13. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 13 of the Complaint regarding the political cohesiveness of minority communities in the Town of Newburgh, and therefore deny the same. Additionally, Paragraph 13 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 13 of the Complaint.

14. Defendants deny the allegations in Paragraph 14 of the Complaint.

15. Defendants deny the allegations in Paragraph 15 of the Complaint.

16. Defendants deny the allegations in Paragraph 16 of the Complaint, except admit that the Town of Newburgh is party to an action titled *Town of Newburgh, New York v. Newburgh EOM LLC, et al.*, bearing Index No. EF003105-2023. To the extent that Paragraph 16 of the Complaint purports to refer to the contents of the Town of Newburgh's Complaint in *Town of Newburgh, New York v. Newburgh EOM LLC, et al.*, Index No. EF003105-2023, that document speaks for itself. Defendants deny any allegations in Paragraph 16 that are inconsistent with or contrary to the contents of the documents and refer thereto for the full text, terms, and meaning thereof.

17. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 17 of the Complaint, and therefore deny the same.

18. Defendants deny the allegations in the first sentence of Paragraph 18 of the Complaint. The remaining allegations in Paragraph 18 of the Complaint purport to refer to the

contents of various news articles. Those news articles are documents that speak for themselves, and Defendants deny any allegations in Paragraph 18 that are inconsistent with or contrary to the contents of the documents and refer thereto for the full text, terms, and meaning thereof.

19. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 19 of the Complaint related to the communities in which Plaintiffs are members, and therefore deny the same. Paragraph 19 of the Complaint further states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 19 of the Complaint.

20. Paragraph 20 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 20 of the Complaint. Paragraph 20 also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 20 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

21. Paragraph 21 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 21 of the Complaint.

22. Paragraph 22 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 22 of the Complaint.

23. Defendants admit that the Town Board has not implemented any remedy for the purported violations alleged in this lawsuit, but deny that any such remedy is necessary or appropriate. The Town Board further admits that it was investigating Plaintiffs' allegations in this lawsuit through counsel retained by the Town in accordance with the NYVRA at the time Plaintiffs

filed this case.

THE PLAINTIFFS

24. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 24 of the Complaint, and therefore deny the same.

25. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 25 of the Complaint, and therefore deny the same.

26. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 26 of the Complaint, and therefore deny the same.

27. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 27 of the Complaint, and therefore deny the same.

28. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 28 of the Complaint, and therefore deny the same.

29. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 29 of the Complaint, and therefore deny the same.

JURISDICTION AND VENUE

30. Defendants admit the allegations in Paragraph 30 of the Complaint.

31. Defendants admit the allegations in Paragraph 31 of the Complaint.

FACTS RELEVANT TO PLAINTIFFS' NYVRA CLAIMS

32. Paragraph 32 of the Complaint purports to refer to the results of the 2020 Census. The 2020 Census is a document that speak for itself, and Defendants deny any allegations in Paragraph 32 that are inconsistent with or contrary to the contents of the documents and refer thereto for the full text, terms, and meaning thereof.

33. Paragraph 33 of the Complaint purports to refer to the results of the 2020 Census. The 2020 Census is a document that speak for itself, and Defendants deny any allegations in Paragraph 33 that are inconsistent with or contrary to the contents of the documents and refer thereto for the full text, terms, and meaning thereof.

34. Paragraph 34 of the Complaint purports to refer to a website, which speaks for itself. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 34 of the Complaint, and therefore deny the same.

35. Defendants admit the allegations in Paragraph 35 of the Complaint.

36. Defendants admit the allegations in Paragraph 36 of the Complaint.

37. Defendants deny the allegations in Paragraph 37 of the Complaint, except admit that the Town Supervisor serves a two-year term and that Gilbert “Gil” Piaquadio is the current Town Supervisor and sits as chairman of the Town Board.

38. Defendants admit the allegations in Paragraph 38 of the Complaint, except deny that Elizabeth “Betty” Greene is a current member of the Town Board. Councilwoman Greene passed away on April 12, 2024, and the Town Board office formerly held by Councilwoman Greene has been vacant since her death.

39. Defendants deny the allegations in Paragraph 39 of the Complaint.

40. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 40 of the Complaint, and therefore deny the same.

41. Paragraph 41 of the Complaint states legal conclusions, to which no response is required. Paragraph 41 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 41 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning

thereof.

42. Paragraph 42 of the Complaint states legal conclusions, to which no response is required. Paragraph 42 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 42 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

43. Paragraph 43 of the Complaint purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 43 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

44. Paragraph 44 of the Complaint purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 44 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

45. Paragraph 45 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 45 of the Complaint. Paragraph 45 of the Complaint also references the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 45 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

46. Paragraph 46 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 46 of the Complaint. Paragraph 46 of the Complaint also references the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 46 that are inconsistent with or contrary to

the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

47. The beginning of Paragraph 47 of the Complaint states legal conclusions, to which no response is required. Defendants deny the remainder of the allegations in Paragraph 47 of the Complaint.

48. Paragraph 48 of the Complaint purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 48 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

49. Paragraph 49 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 49 of the Complaint. Paragraph 49 of the Complaint also references state law, which speaks for itself. Defendants deny any allegations in Paragraph 49 that are inconsistent with or contrary to that source.

50. Paragraph 50 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 50 of the Complaint. Paragraph 50 of the Complaint also references state law, which speaks for itself. Defendants deny any allegations in Paragraph 50 that are inconsistent with or contrary to that source.

51. Paragraph 51 of the Complaint states legal conclusions, to which no response is required. Paragraph 51 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 51 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

52. Paragraph 52 of the Complaint states legal conclusions, to which no response is required. Paragraph 52 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 52 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

53. Paragraph 53 of the Complaint states legal conclusions, to which no response is required. Paragraph 53 of the Complaint also purports to describe the contents of the NYVRA, and cites caselaw, which speak for themselves. Defendants deny any allegations in Paragraph 53 that are inconsistent with or contrary to those sources and refer thereto for the full text, terms, and meaning thereof.

54. Paragraph 54 of the Complaint states legal conclusions, to which no response is required. Paragraph 54 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 54 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

55. Paragraph 55 of the Complaint states legal conclusions, to which no response is required. Paragraph 55 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 55 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

56. Paragraph 56 of the Complaint states legal conclusions, to which no response is required. Paragraph 56 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 56 that are inconsistent with

or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

57. Paragraph 57 of the Complaint states legal conclusions, to which no response is required. Paragraph 57 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 57 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

58. Paragraph 58 of the Complaint states legal conclusions, to which no response is required. Paragraph 58 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 58 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

59. Defendants admit the allegations of Paragraph 59 of the Complaint.

60. Paragraph 60 of the Complaint refers to a resolution of the Town Board, which speaks for itself. Defendants deny any allegations in Paragraph 60 that are inconsistent with or contrary to the contents of that resolution and refer thereto for the full text, terms, and meaning thereof.

61. Paragraph 61 of the Complaint refers to a resolution of the Town Board, which speaks for itself. Defendants deny any allegations in Paragraph 61 that are inconsistent with or contrary to the contents of that resolution and refer thereto for the full text, terms, and meaning thereof.

62. Defendants deny the allegations in Paragraph 62 of the Complaint.

63. Paragraph 63 of the Complaint states legal conclusions, to which no response is

required. To the extent a response is required, Defendants deny the allegations in Paragraph 63 of the Complaint. Defendants specifically deny that the “March 15, 2024 resolution is void and of no effect.”

64. Paragraph 64 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 64 of the Complaint.

65. Paragraph 65 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 65 of the Complaint. Defendants specifically deny that the “March 15, 2024 resolution was insufficient to require plaintiffs to wait an additional 90 days before commencing this action.”

66. Paragraph 66 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 66 of the Complaint. Paragraph 66 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 66 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

67. Paragraph 67 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 67 of the Complaint.

68. Paragraph 68 of the Complaint states legal conclusions, to which no response is required. Paragraph 68 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 68 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning

thereof.

69. Paragraph 69 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 69 of the Complaint.

70. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 70 of the Complaint, and therefore deny the same.

71. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 71 of the Complaint, and therefore deny the same.

72. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 72 of the Complaint, and therefore deny the same.

73. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 73 of the Complaint, and therefore deny the same.

74. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 74 of the Complaint, and therefore deny the same.

75. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 75 of the Complaint, and therefore deny the same.

76. Paragraph 76 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 76 of the Complaint. Paragraph 76 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 76 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

77. Paragraph 77 of the Complaint states legal conclusions, to which no response is

required. Paragraph 77 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 77 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

78. Paragraph 78 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 78 of the Complaint.

79. Paragraph 79 of the Complaint states legal conclusions, to which no response is required. Paragraph 79 of the Complaint also purports to describe the contents of the NYVRA, and cites caselaw, which sources speak for themselves. Defendants deny any allegations in Paragraph 79 that are inconsistent with or contrary to those sources and refer thereto for the full text, terms, and meaning thereof.

80. Paragraph 80 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 80 of the Complaint. Paragraph 80 of the Complaint also references caselaw, which speaks for itself. Defendants deny any allegations in Paragraph 80 that are inconsistent with or contrary to those sources and refer thereto for the full text, terms, and meaning thereof.

81. Paragraph 81 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 81 of the Complaint. Paragraph 81 of the Complaint also references the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 81 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

82. Defendants deny the allegations in Paragraph 82 of the Complaint.

83. Defendants deny the allegations in Paragraph 83 of the Complaint, except admit that the Town of Newburgh is party to an action titled *Town of Newburgh, New York v. Newburgh EOM LLC, et al.*, bearing Index No. EF003105-2023. To the extent that Paragraph 83 of the Complaint purports to refer to the contents of Town of Newburgh's Complaint in *Town of Newburgh, New York v. Newburgh EOM LLC, et al.*, Index No. EF003105-2023, that document speaks for itself. Defendants deny any allegations in Paragraph 83 that are inconsistent with or contrary to the contents of the documents and refer thereto for the full text, terms, and meaning thereof.

84. Paragraph 84 of the Complaint purports to describe the contents of a State of Emergency Order, which speaks for itself. Defendants deny any allegations in Paragraph 84 that are inconsistent with or contrary to the contents of the State of Emergency Order and refer thereto for the full text, terms, and meaning thereof.

85. Defendants deny the allegations in Paragraph 85 of the Complaint, except admit that the Town of Newburgh is party to an action titled *Town of Newburgh, New York v. Newburgh EOM LLC, et al.*, bearing Index No. EF003105-2023, and has paid legal fees in connection with this action. To the extent that Paragraph 85 of the Complaint purports to refer to the contents of Town of Newburgh's Complaint in *Town of Newburgh, New York v. Newburgh EOM LLC, et al.*, Index No. EF003105-2023, that document speaks for itself. Defendants deny any allegations in Paragraph 85 that are inconsistent with or contrary to the contents of the documents and refer thereto for the full text, terms, and meaning thereof.

86. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 86 of the Complaint, and therefore deny the same, except admit that the Town of Newburgh is party to an action titled *Town of Newburgh, New York v. Newburgh*

EOM LLC, et al., bearing Index No. EF003105-2023. Paragraph 86 also cites news articles, which speak for themselves. Defendants deny any allegations in Paragraph 86 that are inconsistent with or contrary to the contents of those sources and refer thereto for the full text, terms, and meaning thereof.

87. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 87 of the Complaint, and therefore deny the same.

88. Defendants deny the allegations in Paragraph 88 of the Complaint, except admit that the Town of Newburgh is party to an action titled *Town of Newburgh, New York v. Newburgh EOM LLC, et al.*, bearing Index No. EF003105-2023. Defendants specifically deny any allegation that Town officials had any involvement in forming, promoting, or otherwise propagating the “fabricated story” referenced in Paragraph 88 of the Complaint.

89. Paragraph 89 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 89 of the Complaint.

90. Paragraph 90 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 90 of the Complaint. Paragraph 90 also references news articles, which speak for themselves. Defendants deny any allegations in Paragraph 90 that are inconsistent with or contrary to the contents of those articles and refer thereto for the full text, terms, and meaning thereof. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 90 of the Complaint, and therefore deny the same.

91. Paragraph 91 references news articles, which speak for themselves. Defendants deny any allegations in Paragraph 91 that are inconsistent with or contrary to the contents of those

articles and refer thereto for the full text, terms, and meaning thereof. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 91 of the Complaint, and therefore deny the same.

92. Defendants deny the allegations in Paragraph 92 of the Complaint, except admit that in June 2019, Gil Piaquadio authored an opinion piece in the Times Herald-Record. To the extent that Paragraph 92 of the Complaint purports to refer to the contents of this piece authored by Gil Piaquadio, that document speaks for itself. Defendants deny any allegations in Paragraph 92 that are inconsistent with or contrary to the contents of the documents and refer thereto for the full text, terms, and meaning thereof.

93. Paragraph 93 references news articles, which speak for themselves. Defendants deny any allegations in Paragraph 93 that are inconsistent with or contrary to the contents of those articles and refer thereto for the full text, terms, and meaning thereof. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 93 of the Complaint, and therefore deny the same.

94. Paragraph 94 references news articles, which speak for themselves. Defendants deny any allegations in Paragraph 94 that are inconsistent with or contrary to the contents of those articles and refer thereto for the full text, terms, and meaning thereof. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 94 of the Complaint, and therefore deny the same.

95. Defendants deny the allegations in Paragraph 95 of the Complaint.

96. Defendants deny the allegations in Paragraph 96 of the Complaint.

97. Paragraph 97 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 97 of

the Complaint. Paragraph 97 also cites caselaw, which speaks for itself. Defendants deny any allegations in Paragraph 97 that are inconsistent with or contrary to the contents of those sources and refer thereto for the full text, terms, and meaning thereof.

98. Paragraph 98 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 98 of the Complaint.

99. Paragraph 99 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 99 of the Complaint.

100. Defendants deny the allegations in Paragraph 100 of the Complaint with respect to the nomination of Republican candidates for the Town Board. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 100 of the Complaint, and therefore deny the same.

101. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 101 of the Complaint, and therefore deny the same.

102. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 102 of the Complaint, and therefore deny the same.

103. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 103 of the Complaint, and therefore deny the same.

104. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 104 of the Complaint, and therefore deny the same.

105. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 105 of the Complaint, and therefore deny the same.

106. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 106 of the Complaint, and therefore deny the same.

107. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 107 of the Complaint, and therefore deny the same.

108. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 108 of the Complaint, and therefore deny the same.

109. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 109 of the Complaint, and therefore deny the same.

110. Paragraph 110 cites data from the U.S. Census Bureau, which speak for itself. Defendants deny any allegations in Paragraph 110 of the Complaint that are inconsistent with or contrary to the contents of that source and refer thereto for the full text, terms, and meaning thereof. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 110 of the Complaint, and therefore deny the same.

111. Paragraph 111 cites data from the U.S. Census Bureau, which speak for itself. Defendants deny any allegations in Paragraph 111 that are inconsistent with or contrary to the contents of that source and refer thereto for the full text, terms, and meaning thereof. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 111 of the Complaint, and therefore deny the same.

112. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 112 of the Complaint, and therefore deny the same.

113. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 113 of the Complaint, and therefore deny the same.

114. Defendants lack knowledge or information sufficient to form a belief about the truth

of the allegations in Paragraph 114 of the Complaint, and therefore deny the same.

115. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 115 of the Complaint, and therefore deny the same.

116. Defendants admit the allegations in Paragraph 116 of the Complaint, except note that public hearings for the Town's community development program are published in both Spanish and English, and that instructions and forms for the Town's plea-by-mail traffic ticket program on the Town's website are in both Spanish and English.

117. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 117 of the Complaint, and therefore deny the same.

118. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 118 of the Complaint, and therefore deny the same.

119. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 119 of the Complaint, and therefore deny the same.

120. Paragraph 120 cites news articles, which speak for themselves. Defendants deny any allegations in Paragraph 120 that are inconsistent with or contrary to the contents of those sources and refer thereto for the full text, terms, and meaning thereof. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 120 of the Complaint, and therefore deny the same.

121. Paragraph 121 cites news articles, which speak for themselves. Defendants deny any allegations in Paragraph 121 that are inconsistent with or contrary to the contents of those sources and refer thereto for the full text, terms, and meaning thereof. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 121 of the Complaint, and therefore deny the same.

122. Defendants deny the allegations in Paragraph 122 of the Complaint.

123. Defendants deny the allegations in Paragraph 123 of the Complaint.

124. Defendants deny the allegations in Paragraph 124 of the Complaint.

125. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 125 of the Complaint, and therefore deny the same.

126. Defendants deny the allegations in Paragraph 126 of the Complaint.

127. Defendants deny the allegations in Paragraph 127 of the Complaint, except admit that the Town of Newburgh is party to an action titled *Town of Newburgh, New York v. Newburgh EOM LLC, et al.*, bearing Index No. EF003105-2023, and has paid legal fees in connection with that action. To the extent that Paragraph 127 of the Complaint purports to refer to the contents of Town of Newburgh's Complaint in *Town of Newburgh, New York v. Newburgh EOM LLC, et al.*, Index No. EF003105-2023, that document speaks for itself. Defendants deny any allegations in Paragraph 127 that are inconsistent with or contrary to the contents of the documents and refer thereto for the full text, terms, and meaning thereof.

128. Paragraph 128 of the Complaint states legal conclusions, to which no response is required. Paragraph 128 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 128 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

129. Paragraph 129 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 129 of the Complaint.

130. Defendants deny the allegations in Paragraph 130 of the Complaint.

131. Paragraph 131 of the Complaint states legal conclusions, to which no response is required. Paragraph 131 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 131 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

132. Paragraph 132 of the Complaint states legal conclusions, to which no response is required. Paragraph 132 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 132 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

133. Paragraph 133 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 133 of the Complaint.

134. Paragraph 134 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 134 of the Complaint.

135. Paragraph 135 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 135 of the Complaint.

136. Paragraph 136 of the Complaint states legal conclusions, to which no response is required. Paragraph 136 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 136 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and

meaning thereof.

137. Paragraph 137 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 137 of the Complaint.

138. Paragraph 138 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 138 of the Complaint.

139. Defendants admit the allegations in Paragraph 139 of the Complaint.

140. Defendants admit the allegations in Paragraph 140 of the Complaint.

141. Paragraph 141 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 141 of the Complaint.

142. Paragraph 142 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 142 of the Complaint.

143. Paragraph 143 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 143 of the Complaint.

144. Paragraph 144 of the Complaint states legal conclusions, to which no response is required. Subject to that caveat, Defendants deny the allegations in Paragraph 144 of the Complaint.

FIRST CAUSE OF ACTION

145. With respect to the allegations contained in Paragraph 145 of the Complaint,

Defendants repeat and reallege the responses to Paragraphs 1 through 144 above.

146. Paragraph 146 of the Complaint states legal conclusions, to which no response is required. Paragraph 146 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 146 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

147. Paragraph 147 of the Complaint states legal conclusions, to which no response is required. Paragraph 147 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 147 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

148. Defendants admit the allegations in Paragraph 148 of the Complaint.

149. Paragraph 149 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 149 of the Complaint.

150. Paragraph 150 of the Complaint states legal conclusions, to which no response is required. Paragraph 150 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 150 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

151. Paragraph 151 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 151 of the Complaint.

152. Paragraph 152 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 152 of the Complaint.

153. Paragraph 153 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 153 of the Complaint.

154. Defendants deny that Plaintiffs are entitled to the relief that they seek, or any relief, and deny any remaining allegations in Paragraph 154 of the Complaint.

155. Paragraph 155 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 155 of the Complaint.

SECOND CAUSE OF ACTION

156. With respect to the allegations contained in Paragraph 156 of the Complaint, Defendants repeat and reallege the responses to Paragraphs 1 through 155 above.

157. Paragraph 157 of the Complaint states legal conclusions, to which no response is required. Paragraph 157 of the Complaint also purports to describe the contents of the NYVRA, which speaks for itself. Defendants deny any allegations in Paragraph 157 that are inconsistent with or contrary to the contents of the NYVRA and refer thereto for the full text, terms, and meaning thereof.

158. Defendants admit the allegations in Paragraph 158 of the Complaint.

159. Paragraph 159 of the Complaint states legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 159 of the Complaint.

160. Defendants deny that Plaintiffs are entitled to the relief that they seek, or any relief, and deny any remaining allegations in Paragraph 160 of the Complaint.

RELIEF

The “WHEREFORE” paragraphs after Paragraph 160 of the Complaint state Plaintiffs’ prayer for relief, to which no response is required. To the extent a response is required, Defendants deny that Plaintiffs are entitled to the relief stated, or to any other relief.

Defendants deny any and all allegations in the Complaint not expressly admitted herein.

DEFENDANTS’ AFFIRMATIVE DEFENSES

Defendants assert the following affirmative defenses. By pleading these defenses, Defendants do not assume the burden of proving any fact, issue, or element of a cause of action where such burden belongs to Plaintiffs. Moreover, nothing stated herein is intended to or shall be construed as a concession that any particular issue or subject matter is relevant to Plaintiffs’ allegations.

1. Plaintiffs’ Complaint fails, in whole or in part, to state a claim against Defendants upon which relief can be granted.

2. Plaintiffs’ lawsuit is not ripe because Plaintiffs filed their Complaint before the expiration of the NYVRA’s mandatory 90-day safe harbor period following the Town Board’s adoption of an NYVRA Resolution on March 15, 2024.

3. Plaintiffs’ claims against Defendants are barred by the doctrines of waiver, estoppel, and laches.

4. Plaintiffs’ claims are barred in whole or in part because the NYVRA – if read in the manner that Plaintiffs allege – would violate the Fourteenth Amendment of the United States Constitution and Article I, Section 11 of the New York Constitution.

5. Plaintiffs' claims are barred in whole or in part because Plaintiffs' requested remedies violate the Fourteenth Amendment of the United States Constitution and Article I, Section 11 of the New York Constitution by the impermissible use of race.


6. Plaintiffs' claims are barred and the Complaint should be dismissed for failure to join a necessary party.

Defendants have not knowingly or intentionally waived any applicable affirmative defenses and reserve the right to assert and rely upon such affirmative defenses as may become available or apparent during discovery. Defendants further reserve the right to amend their Answer and Affirmative Defenses accordingly and to correct any errors or omissions.

WHEREFORE, the Town and Town Board respectfully demand judgment as follows: (a) a judgment in favor of the Town and Town Board and against Plaintiffs dismissing the Complaint in its entirety; and (b) such other and further relief as this Court deems just and proper.

Dated: New York, New York
May 28, 2024

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