

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF CLARK

JANET LANDESBERG,	)	NO.
	)	
PLAINTIFF,	)	COMPLAINT FOR
	)	DECLARATORY RELIEF, MANDAMUS
	)	AND/OR INJUNCTION:
v.	)	Violation of RCW 42.30
	)	Violation of Clark County Charter 6.6
CLARK COUNTY,	)	Violation of Washington’s Open Public
	)	Meetings Act
DEFENDANT.	)	

**I. PARTIES**

Plaintiff Janet Landesberg is a registered voter living in Precinct 668 in Clark County Council District Three. Plaintiff Landesberg was appointed by Clark County Council to be one of two Democrats to serve on the Clark County Redistricting Committee. Plaintiff is the elected Democratic Precinct Committee Officer for Precinct 668.

Defendant Clark County is a governmental agency consisting of five elected councilors.

**II. JURISDICTION AND VENUE**

- 2.1 Washington state courts have jurisdiction over this action pursuant to RCW 42.30, *et. seq.*, and RCW 7.24, *et. seq.*
- 2.2 Venue is proper pursuant to RCW 36.01.050.

**III. FACTS**

3.1 On August 19, 2021, pursuant to Clark County Charter Section 6.5, Clark County Council appointed Janet Landesberg as one of two Democrats to the Clark County Redistricting Committee. The Defendant appointed Morgan Holmgren as the second Democrat and Republicans Cemal Richards and Juan Gamboa as the remaining members of the committee. *See* Appendix A.

3.2 On August 22, 2021, Plaintiff sent an e-mail to Tina Redline, Defendant’s employee, and requested guidance on the redistricting lines the Committee was tasked with drawing. Ms.

Redline replied by e-mail on August 23, 2021 with two governmental sites. *See* Appendix B.

3.3 On August 23, 2021, Ms. Redline sent an e-mail to Elections Supervisor Cathie Garber and requested guidance regarding the Redistricting Committee. Clark County Auditor Greg Kimsey responded to Ms. Redline’s e-mail by writing, “This is the first time there has been a county redistricting committee. There is very little guidance in the county charter how it accomplishes its task and the relevant state law requires the committee’s work to be done by 12/31/21.” *See* Appendix C.

3.4 On August 25, 2021, Auditor Kimsey e-mailed plaintiff and provided Sections 6.5 and 6.6 of the County Charter. *See* Appendix D.

3.5 According to Article 6.6 of the Clark County Charter: “Within two (2) months after appointment, the redistricting master shall draw a redistricting plan for the county and submit the plan to the committee for adoption. The committee shall conduct a public hearing at least one week before proposed adoption. The redistricting committee shall adopt the redistricting plan within thirty (30) days of submission to the committee. The redistricting plan shall be adopted as submitted or as amended by two-thirds majority vote of the redistricting committee.” (emphasis supplied)

3.6 Prior to the institution of public recordings, the Redistricting Committee met on two occasions to interview candidates Auditor Kimsey and Kris Greene for the position of Redistricting Chair.

3.7 On October 6, 2021, the Redistricting Committee appointed Auditor Kimsey to serve as the Chair of the Redistricting Committee pursuant to Section 6.5 of the Clark County Charter.

*See* Minutes of October 6, 2021 meeting at Appendix E.

3.8 On October 11, 2021, pursuant to Clark County Charter Section 6.5, the Redistricting Committee unanimously approved the appointment of Paul Newman, an employee of Clark County GIS, as the Redistricting Master. *See* Minutes of October 11, 2021 meeting at Appendix F.

3.9 On October 25, 2021, the Redistricting Master presented three different maps to the Committee: population for the existing four districts, population for the proposed five districts, and population of election precincts. Chair Kimsey asked Clark County Deputy Attorney Amanda Migchelbrink to review the law and clarify for the committee that when it comes to district boundaries being redrawn, the committee should not consider the boundaries based on the residences of current elected officials. *See* Minutes of October 25, 2021 meeting at Appendix G.

3.10 Prior to the November election, the Clark County Charter Review Commission, a non-partisan Commission comprised of 15 elected Commissioners from across Clark County, created a redistricting map (Charter Amendment #3) using the criteria in RCW 26A.76 and, eventually, sent the map to the voters for approval through the proper protocols. *See* Clark County Voters pamphlet at pp 97 (summary) and 116-124 (full text with population allocations and map). [https://www.sos.wa.gov/\\_assets/elections/-ed09-low-res-9.10.pdf](https://www.sos.wa.gov/_assets/elections/-ed09-low-res-9.10.pdf) . No one submitted any statement to the Voters Pamphlet opposing Charter Amendment #3. The history of the how the map, and Charter Amendment #3, were developed is found in a Memorandum Submitted to the County by Chuck Green on behalf of Charter Review Commission.

[https://clark.wa.gov/sites/default/files/media/document/2021-12/Memo\\_Documentation%20of%20Five-](https://clark.wa.gov/sites/default/files/media/document/2021-12/Memo_Documentation%20of%20Five-District%20Council%20Proposal_Amendment%203.pdf)

[District%20Council%20Proposal\\_Amendment%203.pdf](https://clark.wa.gov/sites/default/files/media/document/2021-12/Memo_Documentation%20of%20Five-District%20Council%20Proposal_Amendment%203.pdf). Mr. Green submitted the memorandum in his positions as the Co-Chair of the Charter Review Commission and Chair of the Five District Subcommittee District's Subcommittee members.

3.11 On November 2, 2021, 70.9% of the voters in Clark County voted to approve Charter Amendment Three which divided Clark County into five county council districts. The map, included in the Voter's Pamphlet, had specific lines for those districts.

3.12 At the November 8, 2021 meeting of the Redistricting Committee, Clark County Deputy Prosecuting Attorney Migchelbrink spoke about RCW 29A.76.010(4) to explain the criteria used by counties for redistricting. The committee requested that the redistricting web map be updated to reflect the five districts from Charter Amendment Three and to update the precinct spreadsheet. *See Minutes of November 8, 2021 meeting at Appendix H.*

3.13 At the November 18, 2021 meeting of the Redistricting Committee, the Redistricting Master presented a map with updated population by precincts using the five-council district map approved by the voters. Ms. Landesberg asked the Redistricting Master to make a map. Mr. Richards asked if he could give the Redistricting Master suggestions on what precincts to move. The committee agreed that the Redistricting Master would create two maps using existing precinct boundaries and one other with the suggestions from Mr. Richards. *See Minutes of November 18, 2021 meeting at Appendix I.* Chair Kimsey stated that the process to select a plan would require a vote by two-thirds of the committee to adopt a draft plan as the plan to take to the public for comment. YouTube recording of the November 18, 2021 meeting at 50 minutes.

3.14 At the November 23, 2021 meeting of the Redistricting Committee, the Redistricting Master presented three maps using the five-district map approved by the voters in the November 2021 election. Mr. Richards and Mr. Gamboa presented a map in which they had made some changes to bring the population in each district closer to the target. *See Minutes of November 23, 2021 meeting at Appendix J.*

3.15 At the November 29, 2021 meeting of the Redistricting Committee, the Redistricting Master gave a presentation on compactness using two different testing methods. Chair Kimsey stated that it was the redistricting master's responsibility to submit a plan to the committee for final decision. Mr. Holmgren made a motion to present Plan B at a public meeting for public comment. Ms. Landesberg, Mr. Holmgren and Chair Kimsey voted aye, Mr. Richards and Mr. Gamboa voted nay. The minutes reflect that the motion failed. To further reduce the variance in population, the Committee requested that the Redistricting Master make changes by moving a few precincts. *See Minutes of November 29, 2021 meeting at Appendix K.*

3.16 At the December 1, 2021 meeting of the Redistricting Committee, the Redistricting Master presented Alternative Maps A2 and B2 which move precincts in an effort to equalize the populations in each district as requested by the committee. In addition, there was discussion on a B4 Alternative Map. *See Minutes of December 1, 2021 meeting at Appendix L.*

3.17 At the December 3, 2021 meeting of the Redistricting Committee, the Redistricting Master presented Map A2 and B2 to show the population breakdown within the City of Vancouver and to show the neighborhoods. Charter Commission Co-chair Chuck Green explained that the Commission used the five-district map that the Freeholders had developed as a starting point in developing the final map that went before the voters. *See Minutes of December 3, 2021 meeting at Appendix M.*

3.18 At the December 6, 2021 meeting of the Redistricting Committee, Ms. Landesberg referred to Section 6.6 of the Charter and stated it was inappropriate at the public hearing to present two plans. Chair Kimsey stated he had a discussion with legal counsel and was advised there would be no prohibition for the Redistricting Master to submit more plans to the committee than is required by the charter. Ms. Landesberg asked if they could request a written opinion on the issue of two plans complying with the Charter prior to the Public Hearing. Attorney Michghelbrink stated there is nothing prohibiting the committee to have a public hearing on two maps. Attorney Michghelbrink advised that if there is a decision on a map, she would advise to have another public hearing. *See Minutes of December 6, 2021 meeting at Appendix N.* Attorney Michghelbrink further stated that the written opinion would come from her and say the same thing. YouTube recording of the December 6, 2021 meeting at 17.25.

3.19 A public hearing was held on December 9, 2021 at which Maps A2 and B2 were presented. Both oral and written comments were received. *See Minutes of December 9, 2021 meeting at Appendix O.*

3.20 At the December 13, 2021 meeting of the Redistricting Committee Mr. Holmgren requested clarification on the process if the committee is deadlocked. Attorney Michghelbrink stated that the charter does not state anything if the committee comes to an impasse. If that were the case, they would look to RCW 29A.76.010 that governs redistricting. In addition, it would be up to the Council to decide what happens. Using the two-thirds majority rule that Clark County Legal Counsel stated was necessary to either approve or amend the Map, the Committee could not reach a consensus of four members on whether to send either the A2 or B2 Maps forward to Council. Ms. Landesberg moved to terminate the Redistricting Committee since the committee had reached an impasse. The most any map received was three votes and Attorney

Migchelbrink had made it clear that a 2/3 majority vote was required to adopt a map. The vote to terminate was unanimous. *See* Minutes of December 13, 2021 meeting at Appendix P.

3.21 On December 14, 2021, *The Columbian* reported the following comments from Auditor Kimsey, “Legal counsel stated there’s nothing in the charter that deals with this so state law would govern. But state law doesn’t really reference county charter redistricting committees.”

3.22 On January 4, 2022, after the Redistricting Committee had been disbanded, Chief Civil Deputy Leslie Lopez acknowledged that this procedure violated the Charter:

I agree that the plain language of Charter Section 6.6 states that the Master should have provided one plan to the Redistricting Committee. I do not dispute that contention. The question that was brought to me was whether the Master failed to meet his statutory obligation by submitting two final plans to the Redistricting Committee. As mentioned in my response, the Committee asked for more than one map from the Master. I agree that the Committee either should not have asked for more than one map from the Master, or if the Master gave the Committee two maps for final consideration, the Committee should have told the Master they would only accept one map for final consideration.

*See* email from Leslie Lopez to Janet Landesberg dated January 4, 2022 at

Appendix Q.

3.23 On January 12, 2021 County Council held a working session which included discussions on how to proceed with redistricting into five that county districts. *See* Appendix R.

3.24 At this work session, Clark County Council Chair Eileen Quiring O’Brien stated the following: “What was known at the time that the Charter Commission made this map was that they gerrymandered three sitting Councilors into one district. Thereby eliminating two of the majority of the Council. They did not tell the voters that is what they were doing and the subcommittee member stated in the newspaper that they actually knew this but shut up and would not speak about it anymore...If they had put red dots on every Councilor’s residence, I

seriously doubt that this would have passed.” Work Session audio starting at 17:20. The Chair made these statements despite the Memorandum presented to the County by the Charter Review Commission. See [https://clark.wa.gov/sites/default/files/media/document/2021-12/Memo\\_Documentation%20of%20Five-District%20Council%20Proposal\\_Amendment%203.pdf](https://clark.wa.gov/sites/default/files/media/document/2021-12/Memo_Documentation%20of%20Five-District%20Council%20Proposal_Amendment%203.pdf).

3.25 During the January 12, 2021 work session, the Staff, and Councilor Olson, both made clear that the Redistricting Committee did not comply with the Charter in that the Master did not submit one map to the committee as required by Article 6.6.

3.26 During the January 12, 2022 work session, Redistricting Master Paul Newman, a County GIS employee, presented a map designated A2, a map designated B2, the map approved by the voters on November 2, 2021, and a map designated as C.

3.27 During the January 12, 2022 work session, the Councilors were aware that the B2 map received the majority of votes on the committee (three), that the B2 map was closest in size and shape to the map approved by the voters on November 2, 2021 and that it had been adjusted slightly when the Census numbers that were released in October 2021 *after* the Charter Amendment #3 and map were submitted to the voters on the ballot.

3.28 During the January 12, 2022 work session, the Councilors were aware that the B2 plan required moving 12 precincts compared to 30 precincts in the A2 plan. In addition, the B2 plan moved 14,700 voters while the A2 plan moved 47,000 voters. Both had comparable compactness scores. See Comparison of Proposed Clark County Council District Plans at Appendix S.

3.29 During the January 12, 2022, at least two councilors appeared to want to concentrate on the A-2 map. Both Redistricting Committee Republicans Richards and Jamboa submitted the A2



plan to “correct” the mistake of the voters and of the Charter Review Commission when they did not put Karen Bowerman in the district where she was sitting. Youtube recording of the December 13, 2021 meeting at 34:30.

#### **IV. CAUSES OF ACTION**

The above factual allegations are incorporated into the following causes of action:

##### **Uniform Declaratory Judgments Act**

4.1 This Court has the power to declare the rights, status and other legal relations among the parties to this matter pursuant to the authority of the Uniform Declaratory Judgments Act, RCW 7.24 et seq.

4.2 Plaintiff is an interested person under Washington’s constitution and the Clark County Charter who seeks to obtain a declaration of construction of the redistricting procedure set forth in Section 6.6 of the Clark County Charter.

4.3 A declaratory order in this matter would terminate the uncertainty in the Clark County Council and the Redistricting Committee regarding the duties and responsibilities in executing the requirements set forth in Section 6.6 of the Clark County Charter.

4.4 The matters set forth are justiciable, the record evidencing multiple instances of misapplication and misinterpretation of the provisions of Section 6.6 of the Clark County Charter leading to the failure to redistrict Clark County into five council districts required upon the passage by the voters of Charter Amendment Three and RCW 29A.76.010.

##### **Violation of Open Public Meetings Act**

4.5 Washington's Open Public Meetings Act requires that "All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter."

RCW 42.30.030. An unknown member of the County’s legal team provided an ex parte legal opinion to Redistricting Committee Chair Kimsey counsel advising there would be no prohibition for the Redistricting Master to submit more plans to the committee than is required by the charter.

### **Request for Legal Construction of Clark County Charter 6.6**

4.6 Section 6.6 provides: Within two (2) months after appointment, the redistricting master **shall** draw a redistricting plan for the county and submit **the plan** to the committee for adoption. The Redistricting Master drew multiple maps, but failed to designate one map as the plan to submit to the Redistricting Committee for adoption or amendment. Therefore, Plaintiff seeks a ruling from the Court declaring that the Redistrict Committee Master failed to present one plan to the Redistrict Committee as required by Article 6.6 of the Charter.

4.7 Section 6.6 further provides: “The redistricting plan shall be adopted as submitted or as amended by two-thirds majority vote of the redistricting committee.” Therefore, Plaintiff seeks a ruling from the Court declaring that once the Master presents one plan to the Redistricting Committee, the Committee can either approve the map as is or amend it by a 2/3 majority vote.

4.8 Section 6.6 further provides: “Upon adoption, the plan shall be filed with the council by the redistricting committee. After submission of the plan, the council shall have thirty (30) calendar days to amend the committee's plan. If the council amends the committee's plan, the amendment must be approved by an affirmative vote of two-thirds of council members, and the area amended may not include more than two (2) percent of the population of any council district”

### **Request for Mandamus**

4.9 If the Court mandates that the Redistricting Master submit a plan to the Redistricting Committee as required by Charter Section 6.6, then the committee shall either adopt that plan as is or amend that map with a 2/3 majority vote. Following this procedure, as set forth in the County Charter Section 6.6, Defendant will have a lawfully created map for a five-district county council. Only then could the County Council review that map and its changes would be limited to a two-percent change approved by two-thirds of the sitting councilors.

### **V. Prayer for Relief**

Wherefore, Plaintiff prays for relief as follows:

1. An order defining the duties and responsibilities of the Redistricting Master.
2. An order of mandamus directing the Redistricting Master to comply with his statutory duties.
3. An order defining when and how to apply the 2/3 majority vote as set forth in Article 6.6 of the Charter.
4. An order reconvening the Redistricting Committee and have them complete their work.
5. An order enjoining the Clark County Council from acting on a Redistricting Plan until one is forwarded to them by the Clark County Redistricting Committee as required by Article 6.6 of the Charter.
6. An order limiting the Clark County Council to changes to any Redistricting Plan forwarded to them to a maximum of a two percent change and, only then, if approved by a two-thirds majority.
7. An award of Plaintiff's costs and attorneys' fees as authorized by statute or in equity;
8. For such other and further relief as the Court deems just and equitable in the premises.

This is the first time the County has utilized a Redistricting Commission, so all parties would benefit from the Court's guidance and advice.

Dated this 18<sup>th</sup> day of January 2022.

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JANET R. LANDESBERG, PRO SE  
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(360) 984-5692

I, Janet R. Landesberg, Pro Se Plaintiff, have read the above Complaint and verify that the factual allegations are true and correct to the best of my abilities dated this 18th day of January 2021.

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Janet R. Landesberg

#### TABLE OF APPENDICES

- A. Appointment letter dated August 19, 2021
- B. E-mail between Plaintiff and Tina Redline dated August 22, and 23, 2021
- C. August 23, 2021 e-mails between Tina Redline, Cathie Garber and Auditor Greg Kimsey
- D. August 25, 2021 e-mail from Auditor Kimsey to Janet Landesberg with Charter Sections 6.5 and 6.6
- E. Clark County Redistricting Committee Minutes of October 6, 2021
- F. Clark County Redistricting Committee Minutes of October 11, 2021
- G. Clark County Redistricting Committee Minutes of October 25, 2021
- H. Clark County Redistricting Committee Minutes of November 8, 2021
- I. Clark County Redistricting Committee Minutes of November 18, 2021

- J. Clark County Redistricting Committee Minutes of November 23, 2021
- K. Clark County Redistricting Committee Minutes of November 29, 2021
- L. Clark County Redistricting Committee Minutes of December 1, 2021
- M. Clark County Redistricting Committee Minutes of December 3, 2021
- N. Clark County Redistricting Committee Minutes of December 6, 2021
- O. Clark County Redistricting Committee Minutes of December 9, 2021
- P. Clark County Redistricting Committee Minutes of December 13, 2021
- Q. Leslie Lopez E-mail, dated January 4, 2022 Re: Reconsider Your Redistricting Committee Opinion
- R. Clark County Council Council Time Minutes of January 5, 2022
- S. Comparison of Proposed Clark County Council District Plans