

Fairbanks North Star Borough
Department of Law
P.O. Box 71267
Fairbanks, Alaska 99707
Phone: (907) 459-1318

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FOURTH JUDICIAL DISTRICT AT FAIRBANKS

FAIRBANKS NORTH STAR BOROUGH, a political subdivision of the State of Alaska, and TIMOTHY BECK, a qualified voter and resident of the Fairbanks North Star Borough,

Plaintiffs,

v.

ALASKA REDISTRICTING BOARD,

Defendant.

FILED in the Trial Courts
State of Alaska Fourth District

JUL 13 2011

By _____ Deputy

Case No. 4FA-11- 2213 CI

COMPLAINT IN THE NATURE OF AN APPLICATION TO COMPEL REDISTRICTING BOARD TO CORRECT REDISTRICTING ERRORS

Come now the Plaintiffs, Fairbanks North Star Borough and Timothy Beck, and for their Complaint against the Defendant allege as follows:

PARTIES

1. The Plaintiff, Fairbanks North Star Borough ("FNSB"), is a second class borough incorporated under the laws of the State of Alaska, with its principal place of business located at 809 Pioneer Road, Fairbanks, Alaska, 99701, in the Fourth Judicial District.

2. The Plaintiff, Timothy Beck, is a qualified voter residing in the Fairbanks North Star Borough.

3. The Defendant, Alaska Redistricting Board, was created pursuant to Article VI of the Alaska Constitution and is responsible for promulgating a new state legislative redistricting plan in accordance with the standards and procedures set forth therein.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this action pursuant to Article VI, Section 11 of the Alaska Constitution, which provides that any qualified voter may apply to the superior court to compel the Redistricting Board to perform its duties under the constitution or to correct any error in redistricting.

5. Venue is proper in this judicial district pursuant to Alaska Civil Rule 3.

ALLEGATIONS

6. In accordance with the Alaska Constitution, the Defendant Alaska Redistricting Board (hereinafter "the Board") was established after the official reporting of the decennial census of the United States, in order to set the boundaries of the state house and senate districts.

7. On June 13, 2011, the Board adopted its Proclamation of Redistricting and issued its "Report to Accompany Redistricting Proclamation of June 13, 2011."

8. Each house district created by the Board must contain a population as near as practicable to the quotient obtained by dividing the population of the state by forty; this "ideal" district, based upon the 2010 census, consists of 17,755 residents.

9. The Board erroneously worked to make the percentage deviations of the house districts as small as possible, instead of containing a population "as near as

practicable” to the ideal size, thereby sacrificing the constitutional requirements that each house district be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area.

10. The Fairbanks North Star Borough has a population of 97,581 according to the decennial U.S. Census, thereby entitling these residents to 5.5 house districts.

11. The Board’s plan creates five house districts wholly within Borough boundaries, designated as Districts 1 through 5.

12. The Board’s plan divides FNSB’s excess population between two other house districts, designated as District 38 and District 6.

13. Where possible, all of a municipality’s excess population should go to one other district in order to maximize effective representation of the excess group.

14. Proposed District 38 encompasses a huge geographic area, extending from the western portion of the Fairbanks North Star Borough, through the Denali Borough and Athabascan villages on the upper Kuskokwim, to over 600 miles west to communities such as Hooper Bay, located on the Bering Sea.

15. District 38 combines organized and unorganized boroughs, rural and urban communities with different social concerns and political needs, geographically divided and culturally and historically distinct areas, areas with no transportation links, and areas with no shared economic activities. This district ignores logical and natural boundaries.

16. House District 38 does not consist of a relatively integrated socio-economic area.

17. The Board acknowledged that District 38 did not comply with state constitutional standards, however, claimed that it was necessary because of the Voting Rights Act.

18. The Board has the burden of proving that deviations from state constitutional standards in Article VI, Section 6 are the only means available to satisfy Voting Rights Act requirements.

19. The report containing the analysis which allegedly justifies the Board's deviations from constitutional standards was not completed at the time the Board issued its Redistricting Proclamation.

20. The Board conducted portions of its discussions and deliberations in meetings that were not open to the public; therefore, Plaintiffs are without full access to the reasons the Board compromised the constitutional standards which are designed to prevent gerrymandering in its decisions.

21. District 6 extends from the Fairbanks North Star Borough, through Delta Junction and all the way to Valdez, and additionally includes portions of the Matanuska-Susitna Borough.

22. Within the boundary of the Fairbanks North Star Borough are the city of Fairbanks and the city of North Pole, both home rule municipalities.

23. The population of the city of Fairbanks justifies approximately two full house districts and one senate district. While the city of Fairbanks is mostly contained within two house districts, designated as Districts 1 and 4, the districts fail to follow city boundaries.

24. The Board's initial discussion on Senate pairings for the Fairbanks' districts followed traditional pairings, which included combining the two house districts outside the city of Fairbanks and within the Borough into one Senate district. After meeting in executive session and with no justification for doing so, the Board voted to divide the portion of the Borough falling outside the city of Fairbanks into two separate senate districts.

25. House District 3, a district in the Fairbanks North Star Borough and outside the cities, and House District 4, a district primarily within the city of Fairbanks, are paired to create Senate District B. This combines half of the city of Fairbanks with the northeast portion of the Borough. House Districts 3 and 4 are contiguous by just under a half mile, and one must travel along District 1 to get between the two districts.

26. The Senate district pairings for proposed Districts A and B ignore municipal boundaries, dividing the city of Fairbanks into two separate Senate districts. This division results in the pairing of the area's two incumbent senators.

27. Proposed Senate District C pairs House Districts 5 and 6. In order to get from District 5 to District 6, it is necessary to travel through three districts.

28. According to the Board's plan, the FNSB and a portion of the Aleutians region share a senate district.

29. The Aleutians East Borough is the municipal government encompassing the southwestern portion of the Alaska Peninsula and a number of the easternmost Aleutian Islands. It extends 300 miles along the eastern side of the Alaska Peninsula and includes the communities of Sand Point, Cold Bay, King Cove, False Pass, Akutan and Nelson Lagoon.

30. The Aleutians region is tied together with similar economies based on commercial and subsistence fishing, and is comprised of Aleuts who share a rich cultural heritage.

31. The Board's Plan divides the Aleutians East Borough and the Aleutians region into House District 36 and House District 37, and Senate Districts R and S. According to the final redistricting plan, Akutan is part of District 37-S along with Unalaska, Adak, the Pribilofs and Bethel. The remainder of the borough is part of District 36-R along with the Lake and Peninsula Borough, including communities extending east past Yakutat, north of Anchorage and as distant as Crooked Creek, Stony River, Tyonek and Beluga.

32. The separation of the Aleutian Islands "is so plainly erroneous" and in violation of the contiguous territory requirement of article VI, section 6 of the Alaska Constitution that the Alaska Supreme Court has raised it *sua sponte*. *Hickel v. Southeast Conference*, 846 P.2d 38, 54 (Alaska 1992).

33. As a matter of law, House District 37 is not compact or contiguous.

34. The Board should not unnecessarily divide a borough between two senate districts. *In Re 2001 Redistricting*, 44 P.3d 141, 145 (Alaska 2002).

35. Every map published by the board up until June 6th when it adopted its final version kept the Alaska Peninsula and the Aleutians Islands together in one house district.

36. Senate District S, which combines House Districts 37 and 38, is composed entirely of rural communities except for the portion of the FNSB which is included in District 38.

37. The Board frequently met in executive session during its formulation of the Redistricting Plan.

38. The Board did not state clearly and with specificity the subject(s) of each executive session, nor its reasons for addressing the subject(s) in executive session.

39. The Board has withheld documents from the public that were used in formulating its redistricting plan.

40. The Plaintiffs are public interest litigants pursuant to AS 09.60.010 in bringing this action.

COUNT I (EQUAL PROTECTION CLAUSE)

41. The Alaska Constitution in Article 1, Section 1, guarantees to each citizen the equal protection of the law.

42. The Board's plan unnecessarily divides the excess population of the FNSB in a way that dilutes the effective strength of municipal voters, including by placing them in districts centered elsewhere and that have different social and political concerns; ignoring traditional senate configurations; and, failing to respect political subdivision boundaries and communities of interest, thereby depriving its citizens the right to be an equally powerful and geographically effective vote, all of which is in violation of the equal protection clause.

COUNT II (ALASKA CONSTITUTION ARTICLE VI, §6)

43. Article VI of the Alaska Constitution requires that each house district be compact, contiguous, and contain as nearly as practicable a relatively integrated socioeconomic area, and consideration may be given to local government boundaries.

Fairbanks North Star Borough
Department of Law
P.O. Box 71267
Fairbanks, Alaska 99707
Phone: (907) 459-1318

Article VI additionally provides that "drainage and other geographic features shall be used in describing boundaries wherever possible."

44. Districts 37 and 38 violate these requirements with no valid nondiscriminatory justification for doing so.

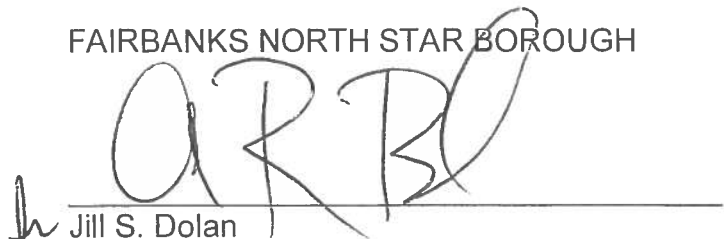
PRAYER FOR RELIEF

WHEREFORE, Plaintiffs hereby pray that this Court:

1. Enter a judgment declaring the Board's Plan promulgated pursuant to the Proclamation dated June 13, 2011, to be in violation of the Alaska Constitution and therefore null and void;
2. Enter an order returning the Plan to the Board for correction and development of a new Plan;
3. Enter an order awarding Plaintiffs their attorney's fees and costs as public interest litigants;
4. For such other and further relief as the court deems proper and just in the circumstances.

DATED at Fairbanks, Alaska this 12th day of July, 2011.

FAIRBANKS NORTH STAR BOROUGH



Jill S. Dolan
Assistant Borough Attorney
ABA No. 0405035

Fairbanks North Star Borough
Department of Law
P.O. Box 71267
Fairbanks, Alaska 99707
Phone: (907) 459-1318

CERTIFICATE OF SERVICE

This is to certify that on this date,
a copy of the foregoing is being:
 mailed via first class mail (Certified/
Return Receipt Requested), faxed
or hand delivered to the following
attorney or parties of record:

Mary Ann Lundquist
Office of the Attorney General
100 Cushman Street, Suite 400
Fairbanks, Alaska 99701

Office of the Lieutenant Governor
Alaska State Capitol Building
Third Floor
Juneau, Alaska 99801

Office of the Attorney General
John J. Burns, Attorney General
~~1031 W. 4th Ave., Suite 200~~ P.O. BOX 110300
~~Anchorage, Alaska 99501~~ JUNEAU, AK 99811-

Alaska Redistricting Board
c/o Michael D. White
Patton Boggs LLP
601 West Fifth Avenue, Suite 700
Anchorage, Alaska 99501

Andrea Fields 7/13/11
FNSB Department of Law Date