

**BEFORE THE SUPREME COURT OF PENNSYLVANIA**  
**MIDDLE DISTRICT**

**Richard Lattanzi, Mayor of the City of Clairton  
and Richard Ford, Councilman in the City of Clairton**

**Petitioners,**

**v.**

**2011 LEGISLATIVE REAPPORTIONMENT  
COMMISSION,**

**Respondent.**

**PETITION FOR REVIEW**

**In The Nature Of An Appeal From The Final Plan Of  
The 2011 Legislative Reapportionment Commission**

Pursuant to Section 17(d) of Article 2 of the Pennsylvania Constitution and Pennsylvania Rule of Appellate Procedure 3321, the Petitioners, Richard Lattanzi and Richard Ford (“Petitioners”), as elected officials and as individual voters in the Commonwealth of Pennsylvania, file this Petition for Review, seeking this Court’s review of the June 8, 2012 final reapportionment plan (“2012 Final Plan”) approved by the 2011 Legislative Reapportionment Commission (“Commission”). In support of the Petition, the Petitioners state as follows:

**Statement Of Jurisdiction**

1. The basis for the jurisdiction of this Court is Section 17(d) of Article 2 of the Pennsylvania Constitution and 42 Pa. C.S. 725(1), which provides that the Supreme Court shall have exclusive jurisdiction of appeals from final orders of

certain constitutional and judicial agencies, including the Legislative Reapportionment Commission.

2. This appeal is addressed to the Court's appellate jurisdiction and is in the nature of a petition for review, pursuant to Rule of Appellate Procedure 3321.

#### **Identity Of Parties Seeking Review**

3. Richard Lattanzi is Mayor of the City of Clairton and a registered voter in Allegheny County, Pennsylvania and brings this Petition as Mayor and as an individual registered voter who is aggrieved by the Final Plan.

4. Richard Ford is a Councilman and a registered voter in Allegheny County, Pennsylvania and brings this Petition as a Councilman and as an individual registered voter who is aggrieved by the Final Plan.

#### **Identity Of Respondent**

5. The Respondent is the 2011 Legislative Reapportionment Commission.

6. Pursuant to Section 17(b) of Article 2 of the Pennsylvania Constitution, the Commission is composed of Senator Dominic Pileggi, the majority leader of the Senate; Senator Costa, the minority leader of the Senate; Representative Michael Turzai, the majority leader of the House of Representatives; Representative Frank Dermody, the minority leader of the House of Representatives; and the Honorable Stephen McEwen, the fifth member selected by this Court after the other four Commission members were unable to agree on a fifth member. Judge McEwen served as Chair of the Commission.

### Determination To Be Reviewed

7. The determination for which the Petitioners seek review is the 2012 Final Plan of the Commission that was approved on June 8, 2012. A copy of the map reflecting the Final Plan for the Pennsylvania **House** is attached as Appendice A.

### Controlling Constitutional Provision

8. Section 16 of Article 2 of the Constitution states:

The Commonwealth shall be divided into fifty senatorial and two hundred three representative districts, which shall be composed of compact and contiguous territory as nearly equal in population as practicable. Each senatorial district shall elect one Senator, and each representative district one Representative. **Unless absolutely necessary no county, city, incorporated town, borough, township or ward shall be divided in forming either a senatorial or representative district.**

Pa. Constit. Art. II, sect. 16 (emphasis supplied).

### Relevant Procedural Background

9. Pursuant to Section 17(a) of Article 2 of the Pennsylvania Constitution, in 2011, the year following the Federal decennial census, the 2011 Legislative Reapportionment Commission was constituted for the purpose of reapportioning the Commonwealth.

10. Pursuant to Article 17(c) of Article 2 of the Pennsylvania Constitution, the Commission approved a preliminary reapportionment plan on October 31, 2011, by a 3 to 2 vote, with Commission Members Costa and Dermody dissenting. (“2011 Preliminary Plan”).

11. The Commission conducted public hearings on the Preliminary Plan on November 18 and November 23, 2011, and allowed for the submission of written comments and concerns.

12. During the course of the hearings, witnesses from across the Commonwealth testified as to the importance of not dividing political subdivisions unnecessarily.

13. On December 12, 2011, the Commission approved a Final Plan with a 4 to 1 vote (“2011 Final Plan”). The 2011 Final Plan split a significant number of political subdivisions throughout the state and generally did not correct the issues raised by those who testified at the public hearings.

14. **Several parties filed appeals against the 2011 Final Plan. On January 25, 2012, this Court ruled the 2011 Final Plan was contrary to law.**

15. On February 4, 2012, this Court issued an 87 page majority opinion that emphasized the importance of each of the co-existing mandates of Article II, Section 16 of the Pennsylvania Constitution. This Court explained that the 2011 Final Plan was contrary to law because plans had been presented to the Commission that divided significantly fewer political subdivisions.

16. This Court remanded the 2011 Final Plan to the Commission and ordered the Commission to draft a new plan consistent with its opinion. **This Court also noted that the Commission should pay attention to historically unified subdivisions, such as county seats.**

17. The Commission scheduled a meeting on February 22, 2012, the Commission to consider a new preliminary plan. The Commission conducted no business at the meeting and apparently no Commission member was prepared to submit a preliminary plan.

18. After the February 22, 2012 meeting was adjourned, the Commission did not hold any meetings to solicit input regarding the issues to be addressed in its new preliminary plan.

19. The Commission scheduled a meeting for April 12, 2012 for the purpose of adopting a preliminary plan.

20. At the April 12, 2012 meeting, Senators Costa and Pileggi each introduced a proposed preliminary plan. The Commission adopted the Chairman's plan for both the Senate and the House as the Preliminary Plan by a 4 to 1 vote ("2012 Preliminary Plan").

21. The Commission conducted public hearings on the 2012 Preliminary Plan on May 2 and May 7, 2012, and allowed for the submission of written comments and concerns.

22. During the course of the hearings, witnesses from across the Commonwealth testified as to the importance of not disenfranchising Cities and minorities and not dividing political subdivisions unnecessarily. The Commission was also presented with several alternative plans that contained significantly fewer divisions of counties and municipalities.

**23. Mayor Lattanzi and Councilman Ford testified in Harrisburg that the City of Clairton should remain part of the 39th legislative district, so that the City and its voters, including a significant minority population, would not be disenfranchised.**

23. In complete disregard of the Petitioners' testimony, the Commission unfairly approved the House Republican Caucus Proposed Final Plan as the 2012 Final Plan and the proposed plan offered by the House Republican Caucus.

**24. The Final House Plan purports to remove the City of Clairton from the 39th legislative district, and it would appear that the City of Clairton is the only municipality unfairly and unjustly removed from the 39<sup>th</sup> legislative district.**

#### **Factual Issues Relevant To Appeal**

24. The Pennsylvania Constitution provides that, unless “absolutely necessary,” no county or municipality is to be divided when forming either a senatorial or representative district.

25. To achieve the goal of “one person, one vote,” the average senatorial district should contain approximately 254,000 residents and the average House district should contain approximately 65,000 residents.

26. **The City of Clairton has a population of roughly 7,000 persons.**

**27. The Final House Plan contains a significant number of divisions and contains unnecessary divisions of political subdivisions, and has been drafted in a purely political manner without regard to the best interests of Cities such as Clairton with a significant minority population. The City and its significant minority population should be allowed to retain its strong voice in the 39th legislative district, where many legal and practical reasons exist for the City of Clairton to remain part of the 39<sup>th</sup> legislative district.**

#### **Objections To The Final Reapportionment Plan**

28. The Final House Plan is contrary to law because it fails to conform to the requirement of the Pennsylvania Constitution that, unless absolutely necessary, no county or municipality shall be divided in the creation of a senatorial or representative district.

29. The Constitutional requirement that political subdivisions not be subject to division unless “absolutely necessary” is mandatory.

30. At no time did the Commission develop versions of a redistricting plan that attempted to justify the splits of political subdivisions in the Final Plan or to demonstrate that no splits could be eliminated, nor did the Commission ever attempt to justify removing the City of Clairton from the 39th legislative district.

31. The 2012 Final Plan contains multiple divisions among counties and municipalities statewide that are not “absolutely necessary”, including in Allegheny County, and has unlawfully tainted reapportionment in both the House and Senate.

32. At no time did the Commission demonstrate that the divisions contained in the 2012 Final Plan are absolutely necessary.

33. The Commission failed to address, consider or adjust the Final Plan in accordance with requests of the public and generally failed to undergo the types of considerations mandated by the Pennsylvania Constitution concerning splits of political subdivisions. Such considerations were readily achievable. Thus, numerous divisions among counties and municipalities contained in the 2012 Final Plan are not absolutely necessary and could have been eliminated. Were it not for purely political reasons, the City of Clairton could have easily remained part of the 39th legislative district which protects the rights of the City of Clairton and its significant minority population to have a

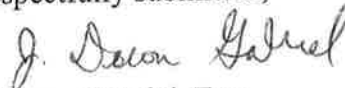
true voice as a constituency and to maintain its valuable working relationships with the other communities in the 39<sup>th</sup> legislative district.

**Relief Requested**

34. For the foregoing reasons, the Petitioners ask this Court to determine that the Final Plan is contrary to law under Section 17(d) of Article II of the Pennsylvania Constitution and to remand this matter to the Commission for relief, to wit:

- a) Modifications to incorporate the adjustments set forth in the Costa Amendment or to eliminate at least as many unnecessary splits of political subdivisions as set forth in the Costa Amendment, while meeting the other mandated constitutional requirements;
- b) Retain the use of a special master to develop a plan that conforms to the constitutional requirements;
- c) Remand to the Commission to develop a plan that conforms to the constitutional requirements;
- d) Prepare any other revisions of 2012 the Final Plan that are required to conform to the Constitution; and
- e) Provide whatever other relief is necessary and proper to allow for the development of a final plan that meets the requirements of the Constitution and conforms with principles of fairness.

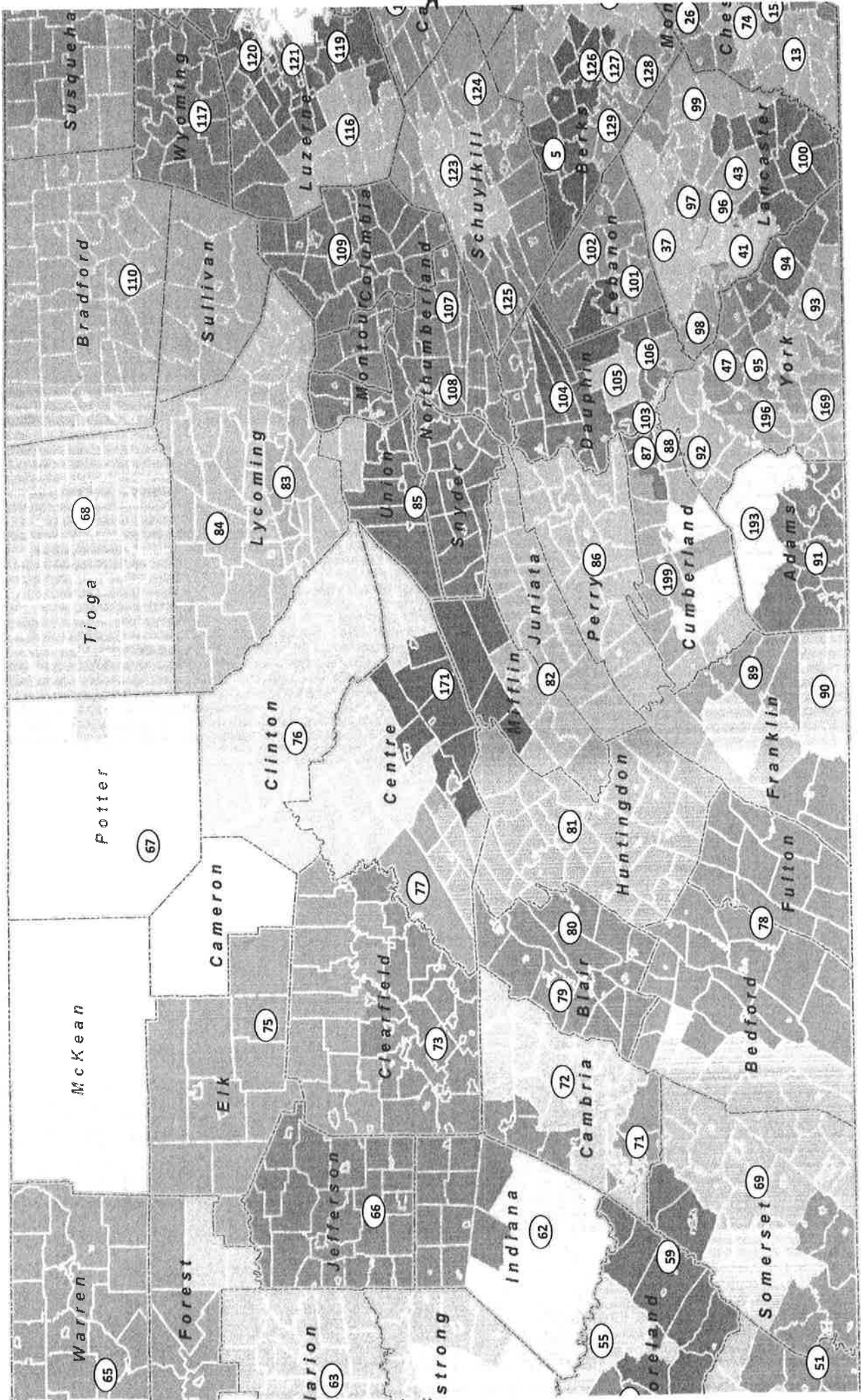
Respectfully submitted,



J. Deron Gabriel, Esq.

Attorney for Mayor Richard Lattanzi  
and Councilman Richard Ford





**CERTIFICATE OF SERVICE**

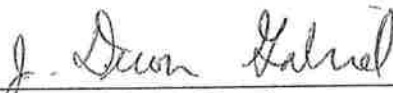
I, J. Deron Gabriel, Esquire, hereby certify that I served a true and correct copy of the foregoing Petition For Review to the following by United States Mail, postage pre-paid, this date:

Charles E. O'Connor, Executive Director  
2011 Legislative Reapportionment Commission  
North Office Building, Room 104  
Harrisburg, PA 17120

Joseph A. Del Sole  
Del Sole Cavanaugh Stroyd LLC  
The Waterfront Building  
Suite 300  
200 First Avenue  
Pittsburgh, PA 15222

Date: \_\_\_\_\_

7-9-12

  
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J. Deron Gabriel, Esquire