



Mr. Philip Zegarelli
Village Manager
Village of Briarcliff Manor
1111 Pleasantville Road
Briarcliff Manor, NY 10510

April 26, 2014

Re: New Voting Machines

Dear Mr. Zegarelli:

As an advocate for persons with disabilities and as a voter with a disability, I am deeply troubled by your aggressive opposition to the recent implementation of the HAVA Ballot Marking Device (BMD) voting machines throughout polling places in Westchester County. Your aggrieved letter to County Executive Robert Astorino hold the BMDs accountable for “infringing on the constitutional right to vote and to privacy.” In addition, you provided a list of fourteen complaints and observations in your letter to justify your position, which I have addressed in this correspondence.

I would like to vigorously correct you in your assertion that the new BMD machines proved to be a “failure” during the past state-wide election. The BMDs were not responsible for intimidating and frustrating voters and compromising their privacy; the lack of adequate poll worker training disenfranchised these voters. As its name implies, the Ballot Marking Device does just that: it marks the ballot for voters who are unable to manually do so. It can enlarge ballot print (see complaint #8), it can alter ballot contrast (see complaint #s 4,5) and it provides first time voters with instruction for its use (see complaint #11). It seems that poll workers were remiss in informing voters with visual and neurological conditions about these features. If poll workers were trained properly and exercised the required oversight of poll site operations, more than enough privacy stands would have been available to voters as well as privacy sleeves (see complaint #s 1,3,9); election inspectors would have known how to properly insert ballots into the scanners or instruct voters how to do so, ensuring their privacy (see complaint #s 10, 12); and the proper pens – not Magic Markers - would have been placed inside the privacy booths for voters to mark their ballots (see complaint #6). The BMD is also engineered to display the marked ballot to voters for final review. If there was a mistake, the ballot will be marked spoiled and a new one (up to three) would be issued to the voter (see complaint #13).

You closed your letter by stating that the “old” system worked well and “if it isn’t broken, don’t fix it.” The “old” lever machines do not work well for voters with varying types of visual, mobility and cognitive disabilities. Voters with visual disabilities are not able to read the ballot; voters with limited mobility capacity are not able to reach and/or operate the levers; voters with certain cognitive limitations are not able to visually focus on the current ballot style associated with the old system.

New York voters with disabilities rallied for their right to gain access to Ostego County's inaccessible polling sites in 1999, which resulted in a lawsuit filed by the state Attorney General's office against the county. In 2004, disability rights advocates and several plaintiffs filed a lawsuit in federal court against the Westchester County Board of Elections for polling site access violations under the Americans with Disabilities Act. Hundreds of disability rights advocates, as well as advocacy organizations across the state, have worked consistently and conscientiously since HAVA was introduced in 2002 to partner with the New York State Board of Elections in mapping out voting machine accessibility standards for voters with disabilities. Section 301(a)(3)(A) of HAVA requires that voting systems "be accessible for individuals with disabilities . . . in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters."]

The BMD machines provide this *same* opportunity for voters with disabilities and uphold our right to a fully inclusive voting system.

Sincerely,

Lisa Tarricone

Director, Systems Advocacy

Cc: Timothy C. Idoni

John Nonna

William Burton

Westchester Board of Elections

