

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

X

UNITED STATES OF AMERICA,  
Plaintiff,  
- against-

**AMICUS CURIAE  
DECLARATION OF  
THE COMMISSIONERS  
OF THE ROCKLAND  
COUNTY BOARD  
OF ELECTIONS**

NEW YORK STATE BOARD OF ELECTIONS;  
PETER S. KOSINSKI and STANLEY L. ZALEN, Co-  
Executive Directors of the New York State Board of  
Elections, in their official capacities; and, STATE OF  
NEW YORK,  
Defendants.

06 CV-0263 (GLS)

X

ANN MARIE KELLY and JOAN SILVESTRI, declare pursuant to 28 U.S.C. §1746, and subject to the penalties of perjury, that the foregoing is true and correct:

1. We are the Commissioners of Elections for Rockland County Board of Elections, hereinafter referred to as the "Board". We respectfully submit this *AmicusCuriae* declaration to advise the Court and the parties of the significant implementation concerns resulting from this Court's June 2, 2006 Order.

2. This Board is fully committed to complete compliance with HAVA, however there are impeding difficulties and impracticality of current compliance mandates, which we recognize.

3. This Board is extremely concerned with the compliance implications resulting from the fact that the federal government has not certified any voting machine to the 2005 HAVA standards, nor has the State of New York certified any voting machine that meet any of the Federal or State standards. We also recognize that there is a poor likelihood of any such certification in the near future. Consequently, the failure to timely certify the voting machines

for use by local County Boards, coupled with the consequential delivery problems of vendors, creates the improbability of this Board being operationally able to meet full HAVA compliance mandates.

4. According to the U.S. Census 2006 America Community Survey, the County of Rockland has a voting age population of 214,730. As of this date, Rockland County has 160,501 active voters. Further, Rockland County has 121 polling sites.

5. Understanding our responsibility to serve the disabled community, and in order to be in compliance with HAVA, regarding access for persons with disabilities, Rockland County purchased six *Avante* ballot marking devices in 2006. Five of such devices were deployed throughout the County and one was kept at this Board's offices as a spare. Each device was strategically placed in a location that was both accessible by handicapped public transportation and at a minimal distance from the poll sites to residences. Rockland County has 98,804 residential dwelling units. A total of 98,774 residences are located within six (6) miles from any of the said ballot marking devices. Therefore, this availability of such ballot marking device represents 99.7% of the residences with Rockland County. Thus, only 30 residences are outside of the six-mile zone. However, it is the intent of this Board to deploy the sixth ballot marking device, for use in the next election, to a location that shall accommodate these residences. We will carry out such additional deployment despite the fact that we are unaware of the need for such devices of these residents. Therefore, it is this Board's earnest intent to have a ballot marking device within six miles of any one residence in Rockland County for the February 5, 2008 Presidential Primary.

6. We have annexed hereto, as Exhibit "1", a map that depicts the current ballot marking device deployment, as well as the public transportation routes. Further, this map

highlights the thirty (30) residences currently outside of the said six-mile radius that shall be served in 2008.

7. There has been minimal usage of these ballot marking devices since our deployment in 2006. The actual usage is as follows:

<u>Election</u>	<u>Number of Users</u>
Primary 2006	3
General 2006	15
Primary 2007	2
Special 2007	0
General 2007	8

8. This reflected actual usage rate is minimal despite working with the media, Center for Independent Living, the Rockland County Office of the Aging, and the Rockland County Office of People with Disabilities to publicize the availability of these devices.

9. In Rockland County, this Board ensured that every permanently disabled absentee voter was notified of the availability of these devices and all such voters chose to continually vote by absentee ballot, rather than utilize these ballot marking devices. Rockland County currently has 847 disabled voters that continually choose to vote by absentee ballot rather than these devices.

10. It is our opinion, as Commissioners of the Rockland County Board of Elections, that deployment of additional ballot marking devices will not significantly effect or increase their usage.


11. Furthermore, we believe that the voters of this County risk being disenfranchised if we are forced to consider or implement a plan that would require placement of a ballot marking device in all of our 121 polling locations. We keenly adopt the reasoning outlined in the *Amicus Curiae* Declaration of Norman P. Green, President of the Election Commissioners Association of the State of New York, and underscore the grave concerns we share with the

concept of being required to manage dual systems during 2008. Specifically, this Board strongly agrees with the analysis of issues addressed in Paragraphs 8 through 14 of said Declaration.

12. It is the opinion of this Board that the current Rockland County plans for deployment and usage of ballot marking devices is sufficient and best serves our voters. Any expanded deployment will only lead to disenfranchise other voters.

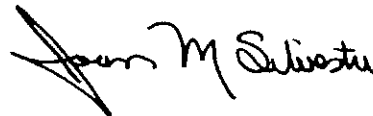
13. For the above reasons, we respectfully request that this Court accept this *Amicus Curiae* declaration, and consider our concerns regarding implementation of this Court's June 2, 2006 Order.

Dated: New City, New York  
December 13, 2007



---

ANN MARIE KELLY



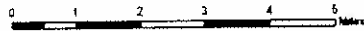
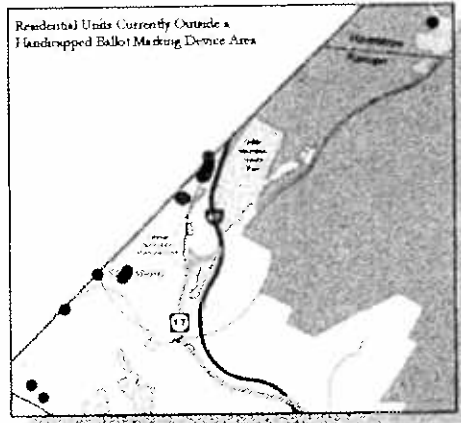
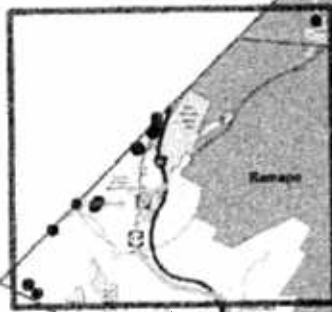
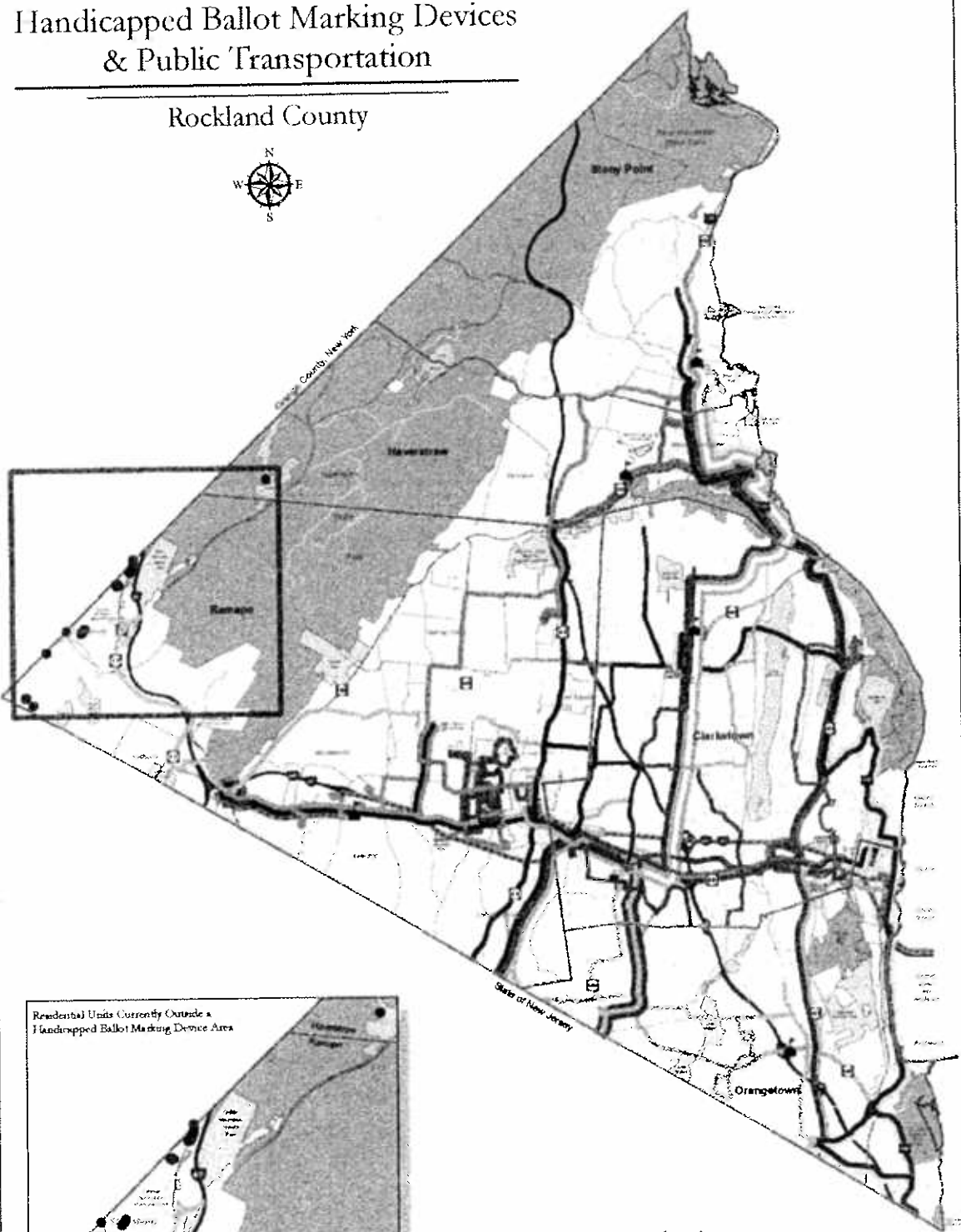
---

JOAN SILVESTRI

**EXHIBIT “1”**

# Handicapped Ballot Marking Devices & Public Transportation

## Rockland County



Prepared by: The Rockland County Planning Department, 1995. December 2007  
 Created for the Rockland County Board of Elections, in its role for research  
 on Handicapped Ballot Marking Devices. This map is not for  
 resale. The map is prepared by the Rockland County Department of Planning  
 in March 2007. County USA provided Map and The bus routes are from 2006.  
 This map is in draft form and may not reflect actual current data on the field.

### Legend

- Residential Units Currently Outside a Handicapped Ballot Marking Device Area
- Handicapped Ballot Marking Device
- Town Boundary
- Village Boundary
- State Park
- County Park
- Lake
- Interstate Highway
- State Highway
- County Highway
- Local Road
- Grey USA Bus Routes
- 65A
- 70-9AT
- 11AT
- 11C
- 207
- 45-45A-45B
- 46
- 47
- 48
- 49
- TDR Routes
- 30
- 91
- 92
- 93
- 94
- 95
- 97
- 98
- 99
- Monsey Loops
- W1
- W2
- W3
- Chikako-Michiana
- A
- B
- C
- D
- E
- Express Routes
- Ferry Express
- Tappan ZSR Express
- Rail Station