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THE COUNCIL OF  
THE CITY OF NEW YORK

**DANIEL R. GARODNICK**

COUNCIL MEMBER, 4<sup>TH</sup> DISTRICT

CHAIR  
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LAND USE  
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**Via U.S. Mail**

July 9, 2010

Douglas Kellner and James A. Walsh  
Co-Chairs  
New York State Board of Elections  
40 Steuben Street  
Albany, NY 12207-2108

Dear Commissioners Kellner and Walsh:

I write to you regarding flaws in the new voting machines that New York will use this fall, which have the potential to discard the votes of thousands of people in New York City alone.

Unlike the now-defunct lever machines, which did not allow a ballot to be cast in the event of "overvoting," the current settings on the new machines do not automatically reject overvotes. Instead, the machines simply alert the user to an overvote without informing them what an overvote is, or that casting an overvoted ballot will result in their ballot being voided in the overvoted race. Because of this lack of information and the fact that overvotes were never previously possible under the old machines, many people are likely to be confused, and will be encouraged to cast their ballots without correcting the problem — causing them to lose their votes.

In 2008, thirteen counties in Florida that set their machines in this manner had an overvote rate fourteen times higher than counties that automatically return overvoted ballots to the voter, a practice common in the rest of the country and consistent with federal law.

It is my understanding that appropriate overvoting protection — namely, automatically returning the ballot — could easily be implemented for New York's voting machines without changes to the system's source code, and that such a correction could be made in less than a day. This small improvement will cost the State Board of Elections nothing and would preserve thousands of votes. Accordingly, I ask that you implement this change without delay in time for the September primaries. It is not

acceptable to wait until after the primary at such a time when other, unforeseen flaws with the machines arise.

Thank you for your attention to this matter. I look forward to your response.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dan R. Garodnick", with a stylized flourish at the end.

Daniel R. Garodnick