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Election and Term of City and County Officers

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ELECTION AND TERM OF CITY AND COUNTY OFFICERS

N.Y. CONST. art. XIII, § 8:

All elections of city officers, including supervisors, elected in any city or part of a city, and of county officers elected in any county wholly included in a city, except to fill vacancies, shall be held on the Tuesday succeeding the first Monday in November in an odd-numbered year, and the term of every such officer shall expire at the end of an odd-numbered year. This section shall not apply to elections of any judicial officer.

SUPREME COURT, APPELLATE DIVISION

SECOND DEPARTMENT

Charter League and Citizens Council
of New Rochelle, Inc. v. Sunderland³¹⁷
(decided September 4, 1991)

In a special proceeding pursuant to Election Law section 16-104(a),³¹⁸ Charter League and Citizens Council of New Rochelle, Inc. (Charter League) challenged the wording of abstracts and forms of submission of two propositions proposed by the Charter Revision Commission of the City of New Rochelle.³¹⁹ Plaintiffs contended that the propositions violated the New York State Constitution, article XIII, section 8³²⁰ by requiring that the terms of office of certain elected officials expire in the middle of an even numbered year and that elections

317. 574 N.Y.S.2d 55 (2d Dep't 1991).

318. N.Y. ELEC. LAW § 16-104(2) (McKinney 1978). ("The wording of the abstract or form of submission of any proposed amendment, proposition or question may be contested in a proceeding instituted by any person eligible to vote on such amendment, proposition or question.").

319. *Charter League*, 574 N.Y.S.2d at 55.

320. N.Y. CONST. art. XIII, § 8.

be held in April of an even-numbered year.³²¹ The court held that the local law proposed by one of the propositions was unconstitutional on its face, and the other proposition was null and void.³²²

The Charter Revision Committee of the City of New Rochelle submitted two propositions for submission to the electorate in a city wide referendum. Proposition No. 1 provided for a charter revision that abolished the current city manager form of government³²³ and replaced it with an independent mayor, and a seven member city council. The proposed law further provided for an election for the mayor and council in April 1992. Proposition No. 2 would create a commission, appointed by the mayor, that would establish the seven districts from which the city council members would be elected. However, Proposition No. 2 would only become effective if Proposition No. 1 was approved by the voters.³²⁴

The court stated that the New York State Constitution “requires that all elections of city officers, except to fill vacancies, be held in November of odd-numbered years”³²⁵ The court held that Proposition No. 1, on its face, violated article XIII, section 8 of the state constitution because it terminated the offices of the incumbent mayor and council members in April of an even numbered year, and mandated elections be held in April of an even-numbered year. The court further added that Proposition No. 2 was also null and void because it could not stand independent of Proposition No. 1.³²⁶

321. *Charter League*, 574 N.Y.S.2d at 55.

322. *Id.* at 56.

323. *Id.*

324. *Id.*

325. *Id.*; see N.Y. CONST. art. XIII, § 8.

326. *Charter League*, 574 N.Y.S.2d at 56.