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January 31, 2022

SENT VIA EMAIL: jtooker@westportct.gov

The Honorable Jennifer Tooker
First Selectwoman's Office
Westport Town Hall
110 Myrtle Avenue, Room 310
Westport CT 06880

Re: *Together Effectively Achieving Multiculturalism ("TEAM") Westport Committee (the "Committee")*

Dear First Selectwoman Tooker:

My firm has been retained by Zack Alcyone and Camilo Riano to address existing violations of the Westport Town Charter (the "Charter") and state law relating to the membership of the Committee.

On August 2, 2005, the Westport Representative Town Meeting (the "RTM") established the Committee and authorized the First Selectman to appoint members to it. *Code of Ordinances, Town of Westport, Connecticut at §2-87*. Since its establishment, the Committee's membership has failed to satisfy the minority representation requirement and has included ineligible members. As a result, the Committee has conducted business in violation of the law, and in recent years, in absence of a quorum.

With only one exception (which does not apply here), Chapter 3 of the Charter:

1. requires all appointees on boards and commissions be electors of the Town; *Charter at §C3-1. A; see also §C1-3 .B (1)*;



2. limits service on the same board or commission to the greater of two full consecutive terms or eight (8) consecutive years; *Id.* at §C3.1.C;
3. automatically terminates the appointment when the member ceases to be an elector of the Town. *Id.* §C3.1.D; and,
4. requires minority representation on all boards and commissions. *Id.* §C3.2¹

The composition of the Committee fails to comply with the Charter and also violates state law.

The Charter and state statute limit the maximum number of members appointed to the Committee from one political party. The maximum number of members from one political party on a body politic of a municipality consisting of more than nine (9) members cannot exceed two-thirds of the size of the body. *Charter*, §C3.2 and Conn. Gen. Stat. §9-167a.

The Committee consists of fourteen (14) members.² By Charter and state statute, no more than nine (9) members can be from one political party. The current membership includes:

1. Bernicestine McLeod Bailey (D)³
2. Harold Bailey, Jr. (D)
3. Elaine Daignault – ex-officio, Dir. Of Human Services
4. Stephen E. Daniels (D)
5. Susan S. Ellis, Ed.D (D)
6. Ramin Ganeshram (D)

¹ State law also requires minority representation on all boards and commissions. Conn. Gen. Stat. §9-167a.

² Neither the Charter nor the Town Code state the number of members that may be appointed to TEAM Westport. According to the *TEAM Westport, 2003-2005 Report, June 2005*, First Selectwoman Farrell appointed all 14 members of the original taskforce to serve as committee members on TEAM Westport. The report also states that TEAM Westport membership was expanded to 21 members. *See Id.* at pg. 3. For purposes of this letter, it is assumed that the current number of members of TEAM Westport is limited to fourteen (14) members, plus ex officio members.

³ Party affiliation and elector status confirmed against *October 27, 2021 Westport Voter Registration List*; Membership roster obtained from <https://www.westportct.gov/government/appointed-boards-a-z/team-westport/about-team/membership>.



7. Judith A. Hamer, Ph.D. (Redding)
8. Stephane J. Kirven (Weston)
9. Catherine Dunbar Lewis (D)
10. Margaret F. Mudd (D)
11. Catherine Onyemelukwe (D)
12. Maria D. Paoli (D)
13. Rev. Alison F. Buttrick Patton (D)
14. Althea E. Seaborn (U)
15. Zoe Tarrant (D)

Almost all of the members are registered Democrats. Accordingly, the Committee has been operating in violation of the law. All action taken by it is illegal and void.

The Committee's illegal action is compounded by the improper appointment of non-electors to serve as members on it. **Only electors**⁴ of the Town may be appointed to serve on elected or appointed boards and commissions of the Town. *Charter at §C3-1.A; see also §C1-3.B(1).*

Your predecessors lacked the legal authority to appoint non-electors to the Committee. Those appointments exceeded the scope of their authority and were illegal. Therefore, the appointments of Judith A. Hamer, Ph.D. of Redding, and Stephane J. Kirven, of Weston, are void *ab initio*. These improper appointees should be removed from the Committee immediately.

Additionally, individuals who have ceased to be electors of the Town continue to participate in Committee business. A member's appointment **automatically terminates** when he or she ceases to be an elector of the Town, and thereupon the office becomes vacant. *Charter at §C3.1. D.*

Neither Maria D. Paoli, nor Stephen E. Daniels are reported as registered electors of the Town⁵. My research reveals that both individuals registered as Democrats in the 27th Senate District (Stamford / Darien) in September of 2020. These individuals should be advised that their membership automatically terminated in September 2020, and that they are no longer entitled to be members of the Committee.

Finally, the Charter limits service on the same board or commission to the greater of two full consecutive terms or eight (8) consecutive years. *Charter at §C3.1.C.*

⁴ An elector is defined as an individual who is a resident of Westport and is registered to vote in Westport. See <https://www.westportct.gov/government>.

⁵ See *Registered Voter List* dated October 27, 2021.



The Charter and the Town Code fail to state the length of the term of the Committee's members. The terms of the various elected and appointed boards and commissions vary between lengths of two (2), four (4), and five (5) years. There are at least five Committee members who have served longer than allowed under the Charter, even if the longest term of five (5) years is assumed.

As best as I can determine, Bernicestine McLeod Bailey and Harold Bailey, Jr. have served continuously as members on the Committee since 2005. Margaret F. Mudd and Catherine Onyemelukwe have served continuously as members on the Committee since at least 2011. Susan S. Ellis, Ed.D has served continuously a member of the Committee since at least 2012. These members should be removed from the Committee since their service exceeds the length of time permitted under the Charter. Accordingly, their service to the Committee is concluded.

Demand is hereby made that you:

1. immediately advise the nine (9) members identified above that they are no longer eligible to serve on the Committee;
2. immediately advise all town officials that all prior action of the Committee is to be considered void, since the Committee composition violated §C3.2 of the Town Charter and Conn. Gen. Stat. §9-167a; and,
3. immediately advise the remaining five (5) members of the Committee that, at this time, the Committee lacks a quorum to meet and cannot conduct business until you have brought the membership of the Committee into compliance with the Charter and state law.

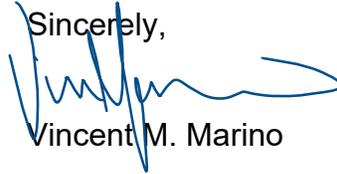
The Committee has developed a unique and key role in the Town. Its advice reaches all levels of Town government, including the Board of Education. The failure to comply with state law and mandatory Charter provisions risks the public's confidence in the Town government and undermines the credibility, integrity and stated mission of the Committee.

Thank you in advance for your anticipated cooperation and prompt action in resolving the violations identified herein. The authority to correct these statutory and Charter violations rests solely with you. The violations are incontrovertible and easily resolved. If my clients and I can assist you bring TEAM Westport into compliance with the Charter and state law, please let me know.



If these concerns are not addressed by Friday, February 4, 2022, my clients are prepared to seek a writ of mandamus to compel the necessary action.

Please advise.

Sincerely,

Vincent M. Marino

cc: Client
Board of Selectmen
RTM Members
Board of Education