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LOCAL

Court orders Red Hook polling site moved to Bard campus

Journal staff

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Election Day is a little more than a week away.

But that's enough time to change a polling site in the interest of safety, according to a Dutchess County Supreme Court ruling.

Judge Maria Rosa on Friday ordered the Town of Red Hook's District 5 polling site moved from the Episcopal Church of St. John the Evangelist to Bard College's Bertelsmann Campus Center, in response to concerns voters would not be able to adequately social distance at the church.

Republican Elections Commissioner Erik Haight said he intends to appeal the order.

The decision is a reversal of her Oct. 13 ruling that the site could not be changed — she cited an affidavit from Haight advising that altering the plans could confuse the district's voters — after the Board of Elections the following day opted to move the site for Red Hook's Districts 7 and 8.

“The basis for this court's decision and order has now been eliminated since the primary factor identified by Commissioner Haight and relied upon by this court was simply untrue,” she wrote. “Apparently there was, and is, time to move the polling place for District 5 in Red Hook.”

Bard closes campus, continues battle to relocate District 5 polling site on campus

Early voting: Where to vote in person in Dutchess, Ulster, Orange

The polling place on Bard's campus was ordered open from 6 a.m. to 9 p.m. Nov. 3. Executive Vice President Jonathan Becker said the multipurpose room at the Bertelsmann Campus Center will be used.

The polling site has been at the center of years of dispute, with college leaders arguing it was not adequately accessible for students.

"Generations of our students have demonstrated tremendous determination over more than two decades in fighting for the right to vote and to do so in a fair and equitable manner," Becker said, noting the possibility of an appeal. "We hope this is the last chapter in attempts by the Board of Elections to suppress student voters at Bard, but we recognize, given the track record, that we will need to remain vigilant."

Haight, however, said it "defies common sense to put a poll site onto a closed campus." Bard on Oct. 19 announced its decision to close to visitors, even though it had yet to report a confirmed case of the virus on campus, in the wake of spikes in the surrounding region.

"Just because there isn't a case today doesn't mean there won't be a case by Nov. 3," Haight said, "which is precisely why Bard closed their campus in the first place. Even they understand the risk. "

Bard's president, along with campus officials and a student; and the Andrew Goodman Foundation, a social justice organization; sued Haight and Democratic Elections Commissioner Elizabeth Soto on Sept. 4, citing safety issues and that the church was not regarded as being handicapped accessible. It noted the site is not convenient for the high percentage of registered voters in the district who live on or around the campus.

Church leaders on Sept. 15 sent a letter to the Board of Elections stating the space cannot support "an adequately safe environment for the poll workers as well as the voters" amid the COVID-19 pandemic.

The group's efforts were also backed by Town of Red Hook Supervisor Robert McKeon and a town resolution. Soto has also said she was in support of the move.

Motion followed site change

After initially being denied, the group filed a motion to reargue and renew its push to change the site late on Oct. 15, hours after the town announced on its website the polling site for Districts 7 and 8 had been changed from Town Hall to Linden Avenue Middle School, citing a need to ensure social distancing measures could be followed.

"Having misled this Court into entering the order, Commissioner Haight immediately proceeded to do precisely what he said could not be done," attorney Michael Volpe wrote in the filing.

Volpe cited state Election Law dictating a board of elections must give each voter at least five days written notice before an election of a change in polling places.

In her Oct. 13 ruling, Rosa questioned why the petitioners had waited so long to initiate legal action to move the site, and said her decision was based on whether or not the Board of Elections reasonably did its duty by law, which was to decide on a location by its March deadline.

"While petitioners have stated good cause for fair consideration to be given to moving the polling place petitioners offer no explanation for not commencing this action at an earlier date," Rosa wrote.

However, in her second decision, she wrote, "Although the Board of Elections must designate polling places by March 15th of each year it has the discretion to later select an alternate polling location if the initially designated polling place is subsequently found to be unsuitable or unsafe.

"In considering the Petitioners' arguments, the court recognized their claims, as supported by the Church, that the current polling site is too small to safely

accommodate voters and poll workers in light of the COVID-19 pandemic," she wrote, noting Haight did not submit an affidavit in opposition to the motion to reargue and renew.

The polling place will move to Bard despite the college closing to visitors.

"Although the college has applied strict measures to contain COVID, it will take equally extraordinary measures to make sure that access to voting on Election Day is easy, fair and safe," Bard College President Leon Botstein wrote on the college's website.

Rosa noted "Bard's apparent ability to create a safe environment for voters particularly given its state record of zero cases of COVID" as of Oct. 16.

Becker said the voters will use "a designated entrance" to the campus to remain separate from student activities.

"We are developing plans to welcome voters to our campus center and to do what we can to spread the word in the community of the polling site change," he said. "We normally have many volunteers to drive students to the polls. We will ask the volunteers to instead help make Bard as welcoming a site as possible."