

CITY OF FLAGSTAFF
STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Stacy Saltzburg, City Clerk
Date: 03/18/2019
Meeting Date: 03/19/2019



TITLE:

Consideration and Action: Joining an amicus brief in the case of New York v. United States Department of Commerce.

RECOMMENDED ACTION:

Council action

Executive Summary:

The City was approached by Felix Ortiz, Assistant Speaker to the New York Assembly asking if the City would be interested in joining an amicus brief in the case of in the case of New York v. United States Department of Commerce. The following is background on the case.

New York v. United States Department of Commerce

The State of New York, twenty other states,* nine cities,** and the U.S. Conference of Mayors are suing the Department of Commerce, Commerce Secretary Wilbur Ross, and the Census Bureau, arguing that the Department's addition of a citizenship question to the 2020 Census is unconstitutional and otherwise illegal. Plaintiffs allege that adding a citizenship question will deter participation in the census and cause an undercount, undermining the accuracy of the 2020 Census and jeopardizing the funding that they receive.

The suit contends that adding a citizenship question will undermine the federal government's constitutional obligation to conduct an "actual enumeration" of the national population. The suit further argues that the Commerce Department's decision was "not in accordance with law," "contrary to constitutional right," "beyond [the Department and the Census Bureau's] statutory authority," and "arbitrary and capricious," all in violation of the Administrative Procedure Act.

New York is asking the court to, among other things, enjoin the Commerce Department from including the citizenship question on the 2020 Census.

The district court ruled on January 15, 2019 for the State of New York and its co-plaintiffs on their Administrative Procedure Act claims, and ordered the Commerce Department to remove a citizenship question from the 2020 Census.

On January 25, the federal government filed an appeal, asking the Supreme Court to review the district court's decisions to remove the citizenship question from the 2020 Census and allow discovery outside of

the administrative record. The appeal asks the Supreme Court to hear the appeal directly from the district court before the court of appeals weighs in on the issue.

On February 15, the Supreme Court granted the federal government's appeal and set the argument for April 23, 2019 at 10:00 AM.

Assistant Speaker Felix Ortiz of the New York Assembly asked at least one member of Council for support by joining an amicus brief. An amicus brief is a court filing in a case stating support for one of the parties positions and arguments. This amicus brief would be to support the State of New York and its co-plaintiffs seeking to have the citizenship questions removed from the 2020 census.

This item is presented to Council to consider and determine if a majority of Council wishes to support joining the amicus brief.

* CONNECTICUT, DELAWARE, ILLINOIS, IOWA, MARYLAND, MINNESOTA, NEW JERSEY, NEW MEXICO, NORTH CAROLINA, OREGON, RHODE ISLAND, VERMONT, and WASHINGTON; COMMONWEALTHS OF MASSACHUSETTS, PENNSYLVANIA, and VIRGINIA; DISTRICT OF COLUMBIA

** CENTRAL FALLS, CHICAGO, COLUMBUS, NEW YORK, PHILADELPHIA, PITTSBURGH, PROVIDENCE, and SEATTLE; SAN FRANCISCO

Financial Impact:

N/A

Connection to Council Goal and/or Regional Plan:

SOCIAL JUSTICE

Previous Council Decision on This:

N/A

Options and Alternatives:

1. Join the amicus brief in the case of New York v. United States Department of Commerce.
2. Do not join the amicus brief

Community Involvement:

Inform

Attachments: