

PREPARED BY THE COURT

LEAGUE OF WOMEN VOTERS
OF NEW JERSEY, SCOTT
COLBY, ADA DRAESEL, and
HEATHER ROBERTSON,

Plaintiffs,

v.

THE OCEAN COUNTY BOARD
OF ELECTIONS and GEORGE
GILMORE, in his capacity as
Chairman of the Ocean County
Board of Elections,

Defendants.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MERCER COUNTY
DOCKET NO. L-2404-26

CIVIL ACTION

**ORDER DENYING PLAINTIFFS'
APPLICATION FOR
TEMPORARY RESTRAINTS**

THIS MATTER having come before the Court, the Hon. Robert Lougy, A.J.S.C., presiding, on the application of plaintiffs League of Women Voters of New Jersey, Scott Colby, Ada Draesel, and Heather Robertson, represented by Liza Weisberg, Esq., Jeanne LoCicero, Esq., Ezra D. Rosenberg, Esq., and Omeed Alerasool, Esq., for temporary restraints and other reliefs as stated in their complaint

and proposed order to show cause; defendants Ocean County Board of Elections and George Gilmore, in his official capacity as Chairman of the Ocean County Board of Elections, represented by Mark Gulbranson, Deputy Attorney General, having filed opposition; and plaintiffs having presented arguments in reply during oral argument; and for the reasons as stated herein; and for good cause shown;

IT IS on this 13th day of October 2026 **ORDERED** that:

1. Plaintiffs' application for an order preliminarily enjoining defendants from adjudicating the eligibility of the voters listed in the Shaning letter at the October 13, 2026 meeting, or any other time before the November 3, 2026 general election, on the basis of (a) political party affiliation status or unaffiliated status, (b) alleged tax bill mailing address, (c) information requested by, contained in, or missing from any Domicile Questionnaire returned by the voter, (d) failure to complete the Domicile Questionnaire, or (e) failure to confirm attendance at, actually attend, or participate in the October 13, 2026 meeting is **DENIED**.
2. Plaintiffs' application for an order preliminarily enjoining defendants from requiring the voters listed in the Shaning letter to complete a provisional ballot on the basis of (a) political party affiliation status or unaffiliated status, (b) alleged tax bill mailing address, (c) information

requested by, contained in, or missing from any Domicile Questionnaire returned by the voter, (d) failure to complete the Domicile Questionnaire, or (e) failure to confirm attendance at, actually attend, or participate in the October 13, 2026 meeting is **DENIED**.

3. This order shall be deemed filed and served upon uploading to eCourts.

/s/ Robert Lougy

ROBERT LOUGY, A.J.S.C.

STATEMENT OF REASONS AND CONCLUSIONS OF LAW

Plaintiffs seek to temporarily restrain defendants from pursuing their stated inquiry into these and similarly situated residents in Bay Head, New Jersey. Defendants oppose. For the reasons stated below, the Court denies plaintiffs' requested forms of injunctive relief. Notwithstanding any inaccurate or incorrect descriptions of the Board's functions, the Board has no adjudicatory responsibility and, by its own admission, lacks any authority to adjudicate the voters' eligibility or remove voters from the rolls unless the voters request to be removed. Relatedly, defendants lack any statutory authority to compel, in this posture, plaintiffs to vote on a provisional ballot.

I. PROCEDURAL AND FACTUAL HISTORIES

On October 8, 2026, plaintiffs filed their complaint and order to show cause. On October 9, 2026, the Court conferenced this matter with counsel to establish an accelerated schedule for briefing and oral argument. On October 13, 2026, the

Court heard oral argument, limited to plaintiffs' application for temporary restraints.

A. The Complaint and supporting certifications

Plaintiffs—the League of Women Voters of New Jersey and three Bay Head voters, Scott Colby, Ada Draesel, and Heather Robertson—bring this action against the Ocean County Board of Elections and its chair, George Gilmore, under the John R. Lewis Voter Empowerment Act of New Jersey and the New Jersey Constitution. They allege that defendants threatened certain Bay Head voters with disenfranchisement shortly before the November 2026 election. ¶¶ 1-7, 10-19.

The complaint alleges that Dennis J. Shaning, identified in his letter as both Bay Head Council President and Bay Head GOP President, sent the Board a list of thirty-nine Bay Head voters and asked the Board to investigate them and remove any voter not eligible to vote there. The complaint alleges that the list included only Democratic and unaffiliated voters, and no Republicans. It further alleges that Shaning based the challenge on the fact that those voters received tax bills at mailing addresses outside Bay Head. ¶¶ 20-25.

The complaint alleges that defendant Gilmore then sent letters dated September 15, 2026 to the listed voters on defendant Board's letterhead. According to the complaint, those letters stated that a question had arisen about each voter's domicile or residence, directed each voter to complete a domicile questionnaire by

September 30, 2026, asked each voter to confirm by October 9 whether the voter would attend or participate in a Board meeting on October 13, 2026, and invited the voter to attend that meeting and provide additional information. The letters warned that, if the Board did not hear from the voter, the voter's right to vote might be challenged for the November 3, 2026 general election and future elections. The letters also included an option to sign a letter of removal and be removed as a registered voter in Ocean County. ¶¶ 26-36.

The complaint further alleges that New Jersey law treats voting domicile broadly and flexibly, that a tax mailing address does not by itself establish voting residence, and that defendants nevertheless intended to use that basis to require the listed voters to justify their eligibility or cast provisional ballots. ¶¶ 3-4, 18, 39-46.

Count I of the complaint alleges that defendants' conduct violates the Voter Empowerment Act of New Jersey (NJVEA), P.L. 2026, c. 31. Plaintiffs allege that defendants violated NJVEA § 15 by threatening recipients with the loss of voting rights in the November 2026 election and future elections unless they completed the questionnaire, confirmed attendance, and appeared at the October 13 meeting. ¶¶ 53-56.

This count adds that Gilmore chaired the Ocean County Republican Party, Shaning led the Bay Head Republican Party, and only unaffiliated and Democratic voters received the letters. Plaintiffs allege that the letters sought to deter those

voters from voting for non-Republican candidates and would reasonably cause voters to refrain from voting. ¶¶ 57-60.

Count II alleges that defendants' actions violate their equal protection rights under the New Jersey Constitution. Plaintiffs allege that defendants treated similarly situated voters differently based on party affiliation or unaffiliated status. They allege that only Democratic and unaffiliated voters received the Gilmore letters, only those voters were told that a question had arisen about their right to vote in Ocean County, and only those voters were warned that their right to vote might be challenged. ¶¶ 61-70.

This count further alleges that defendants created a separate class of registered non-Republican voters whose tax bills were mailed to addresses outside Ocean County and imposed burdens on that group that they did not impose on similarly situated Republicans, without a sufficient public need or compelling governmental interest. ¶¶ 71-73.

Count III of the complaint alleges defendants' actions impose an undue burden on their fundamental right to vote. They allege that defendants severely burdened the listed voters' right to vote by threatening to prevent them from voting based solely on tax bill mailing addresses, requiring them to answer extensive questions and appear at a public Board meeting, and imposing those requirements only weeks before the election. ¶¶ 74-79.

This count adds that the Board scheduled the October 13 meeting on the same day as the voter registration deadline for the November 3, 2026 election, so removal after that meeting would likely prevent affected voters from registering elsewhere in time for that election. Plaintiffs also allege that forcing those voters to cast provisional ballots would impose an additional unjustified burden. ¶¶ 80-84.

Plaintiff Jessica Burns certifies that she is a Monmouth County voter and the Executive Director of the League of Women Voters of New Jersey, a statewide nonpartisan nonprofit with approximately 1,597 members and 30 local chapters, including in Ocean County. She states that the League conducts voter registration, voter education, hotline assistance, outreach to young voters, outreach to incarcerated and formerly incarcerated individuals, and maintains the VOTE411 voter information resource. She explains that these efforts depend on voter trust and are impaired when voters fear improper challenges, disenfranchisement, or misleading information about eligibility. She further states that the League's work is burdened when voters must navigate complex procedures, re-register, or face obstacles to voting. Burns asserts that if the Ocean County public challenge process proceeds, it may encourage similar actions elsewhere and chill League members, particularly those whose mailing addresses differ from their registration addresses or whose political affiliations diverge from local officials' views.

Scott Colby is a full-time Bay Head resident and registered voter who retired there with his wife after previously living in Madison. He states that they sold their Madison home and updated their licenses, bank accounts, insurance policies, and voter registration to their Bay Head address. He reports that he and his wife received a letter from George Gilmore and the Ocean County Board of Elections and that he felt dismayed, annoyed, and upset, especially because he believed a neighbor had supplied their names. He states that he completed the domicile questionnaire because he feared disenfranchisement and that doing so took hours over several days, required him to gather and copy documents, and forced him to redact sensitive financial information from tax returns. He was uncomfortable producing private records, including documents containing financial information and his Social Security number. He states that he feels compelled to attend the October 13, 2026 meeting because he does not trust that he will otherwise be able to vote in the general election. He further expresses concern that the Board may impose additional hurdles at the polls, require him to vote provisionally, or prevent him from voting. He also reports that others who received similar letters feel unable to satisfy the Board's demands and may forfeit voting, and that some elderly residents feel too fearful or embarrassed to attempt to vote.

Ada Draesel is an 84-year-old full-time Bay Head resident and registered voter who has lived there full time for about twenty-five years and has

longstanding ties to the community. She states that her tax bills go to her daughter and son-in-law's home in Massachusetts, where they manage her bills. She reports that voting is very important to her and that she has always been a registered Democrat. She states that when she received the Board's letter questioning her registration, she felt dumbfounded, confused, nervous, and overwhelmed by the documents and forms. She explains that she gave the materials to her son-in-law for help but does not know what he plans to do. She also states that she cannot attend the October 13 meeting because she already planned to visit family in Massachusetts and worries that, because of her uncertainty about the questionnaire and her absence from the meeting, her right to vote may be at risk. She further reports that she received multiple copies of the same letter, found each mailing upsetting, and felt harassed. She states that she also received a call from someone she believed was from the Board seeking personal information about where she lives, which made her uneasy and led her to avoid answering future calls. She describes herself as stunned and deeply unsettled that her eligibility is now being questioned after decades of voting at the same polling place.

Plaintiff Heather Robertson is a 57-year-old full-time Bay Head resident and registered voter who has lived and voted there full time for twenty-four years and whose license, voter registration card, and insurance records list her Bay Head address. She states that she has served on the town planning board and

environmental commission and is active in the local business community. She reports that she is well known in Bay Head and personally knows Dennis Shaning, whom she identifies as the Bay Head GOP President and the person who apparently prepared the initial voter list that included her. She states that he knows she lives in Bay Head and included her anyway. She explains that her property tax bill had previously gone to an address tied to her parents' former home in North Arlington, but that she changed the tax mailing address to Bay Head before receiving the letter.

She states that the Board's letter took her aback because it did not explain the reason for the challenge and instead asserted that the Board had "significant reason" to question her right to vote, which she found aggressive. She reports that she completed and mailed the domicile questionnaire because she is determined to vote, assembled and copied numerous documents to support her residency, and even included unusual supporting records such as her dog's medical prescriptions. She states that she chose not to send tax returns because she did not want to disclose private information. She is annoyed that her voting rights are being interfered with but states that she still intends to vote. She also expresses concern that she may be required to cast a provisional ballot, which she views as more burdensome and uncertain, and notes that attending the October 13 meeting would

require her to miss work. Finally, she states that she knows Republicans whose tax bills are mailed outside Ocean County but who did not receive similar letters.

B. Defendants' opposition

In support of defendants' opposition, Jason Varano certifies to the following. He has been a Democratic Supervisor for the Board of Elections since 2012. Certif. of Jason Varano, ¶¶ 3, 6. He explains that Board has four Commissioners, with the Democratic and Republican parties equally represented. He certifies that he is responsible for investigating all complaints that raise residency challenges to registered voters. Id. at ¶ 7. He testifies that the Board has treated such complaints such as the Shaning letter consistently since 2012: the Board sends the voter a letter informing the voter of questions raised about their registration status, requesting the voter to complete a domicile questionnaire, and advising the voter that "if the Board does not hear back from them their 'right to vote may be challenged.'" Id. at ¶ 10.

He certifies that the Board "reviews all available information with respect to each such voter without regard to the voter's political affiliation." Id. at ¶ 12. If the Board concludes that the voter's domicile is not within the district, the voter's name is included on a challenge list. Id. at ¶ 14.

In response to the Shaning letter, the Board sent the domicile questionnaire to thirty-seven voters. Id. at ¶ 16. Three recipients have advised the Board that

they no longer reside within Ocean County. Id. at ¶ 17. Today’s meeting is a regularly scheduled open meeting of the Board that “simply provides these voters an additional opportunity to provide the Board with information to support their entitlement to vote in Bay Head. Id. at ¶ 18. In short, Varano describes the Board’s actions in response to the Shaning letter to be consistent with its standard practices. Id. at ¶ 21.

The Court will address defendant’s legal arguments in addressing each individual count of the complaint.

C. Plaintiff’s further certification in support of their claim for relief.

In reply, plaintiffs submit a certification from Scott Salmon, Esq. Mr. Salmon is an experienced election law lawyer who has represented candidates, campaigns, political organizations, and voters. Certif. of Scott Salmon, at ¶¶ 1-2. He is not representing any party and speaks only for himself. Id. at ¶ 3. He opines that the Board’s challenge process is “unusual” in several ways. Id. at ¶ 5. He certifies that New Jersey law provides specific, limited mechanisms to question whether a registered voter may vote from a given address. On Election Day, district board members and credentialed challengers may challenge a voter they “know, suspect or believe” is not qualified and may ask questions “suitable and necessary” to determine that voter’s right to vote. N.J.S.A. 19:15-18. Separately, the Superintendent of Elections may place names on a challenge list provided to

the district boards, and a listed voter who executes an affidavit stating his or her residence may vote. Id. at ¶ 6.

He explains that removal based on a change of residence is even narrower. The Commissioner of Registration may remove a registrant on that ground only if the voter either confirms in writing a move out of State or fails to respond to a statutory confirmation notice and then neither votes nor appears to vote through the second following federal general election. See N.J.S.A. 19:31-15(c). The statute further provides that, absent the voter's own request, a registrant "shall not be removed" from the Statewide Voter Registration System ("SVRS") on the ground of a change in residence "except as provided by this subsection." Id. at ¶ 7.

He certifies that the Ocean County procedure is unfamiliar to him. "I have never heard of a pre-election hearing to adjudicate the domicile of individuals registered voters. Title 19 does not authorize it and the statutory confirmation notice in N.J.S.A. 19:31-15(d) bears no resemblance to the Domicile Questionnaire." Id. at ¶ 9.

Salmon asserts that Ocean County's procedure wrongly places the evidentiary burden on the voter. He explains:

Election officials who receive a complaint about a voter's registration should investigate. In counties with a Superintendent of Elections, Title 19 makes that a duty and gives the Superintendent broad investigative powers. See N.J.S.A. 19:32-5. But investigating a complaint is not the same as ordering the voter to disprove it. The

challenge duty in N.J.S.A. 19:15-18 runs to district board members and credentialed challengers at the election, and the removal procedure in N.J.S.A. 19:31-15 is initiated through the statutory confirmation notice, not by a third party's request. Nothing in Title 19 authorizes a county board to shift that burden to the voter.

[Id. at ¶ 10.]

He explains that the Board had other readily available “less aggressive means” of evaluating the individuals on the list, including access to the SVRS. Id. at ¶ 11.

The Board's conduct here did not use any neutral criteria and did not evaluate its own systems for confirmation. Id. at ¶¶ 11, 12. “Had the Board been concerned about voters whose tax bills are mailed elsewhere, the same records search it have run on the Shaning list would have identified every such voter in Bay Head. It did not do so.” Id. at ¶ 12.

II. LEGAL ANALYSIS

Plaintiffs seek to enjoin defendants from adjudicating the eligibility of the voters listed in the Shaning letter at the October 13, 2026 meeting or any time before the November 3, 2026 general election on the bases identified in the order to show cause and from requiring those voters to complete a provisional ballot on those same bases. To secure such extraordinary relief, Plaintiffs must demonstrate that “(1) relief is needed to prevent irreparable harm; (2) the applicant's claim rests on settled law and has a reasonable probability of succeeding on the merits; and (3) balancing the ‘relative hardships to the parties reveals that greater harm would

occur if a stay is not granted than if it were.” Garden State Equality v. Dow, 216 N.J. 314, 320 (2013) (quoting McNeil v. Legis. Apportionment Comm’n, 176 N.J. 484, 486 (2003) (LaVecchia, J., dissenting)). “Each of these factors must be clearly and convincingly demonstrated,” Waste Mgmt. of N.J., Inc. v. Union County Utils., 399 N.J. Super. 508, 520 (App. Div. 2008) (citations omitted).

“Although it is generally understood that all the Crowe factors must weigh in favor of injunctive relief, a court may take a less rigid view than it would after a final hearing when the interlocutory injunction is merely designed to preserve the status quo.” Ibid. (citing Gen. Elec. Co. v. Gem Vacuum Stores, Inc., 36 N.J. Super. 234, 236-37 (App. Div. 1955)). Further, a court must “exercise sound judicial discretion . . . which—when limited to preserving the status quo during the suit’s pendency—may permit the court to place less emphasis on a particular Crowe factor if another greatly requires the issuance of the remedy.” Ibid. (citations omitted).

“When a case presents an issue of ‘significant public importance,’ a court must consider the public interest in addition to the traditional Crowe factors.” Garden State Equality, 216 N.J. at 321 (quoting McNeil, 176 N.J. at 486 (LaVecchia, J., dissenting)).

A. Plaintiffs do not establish irreparable harm by clear and convincing evidence.

Plaintiffs must first prove by clear and convincing evidence that they have no adequate remedy at law, that they will be irreparably harmed in the absence of an injunction, and that the harm is imminent, concrete, and non-speculative.

Subcarrier Commc'ns., Inc. v. Day, 299 N.J. Super. 634, 638 (App. Div. 1997).

The likelihood that adequate compensatory or other corrective relief will remain available, in the ordinary course of litigation, weighs heavily against a claim of irreparable harm. Delaware River & Bay Auth. v. York Hunter Constr., 344 N.J. Super. 361, 365 (Ch. Div. 2001) (citing Sampson v. Murray, 415 U.S. 61, 90 (1974)). “The availability of adequate monetary damages belies a claim of irreparable injury.” Id. at 364-65. “In other words, plaintiff must have no adequate remedy at law.” Subcarrier Commc'ns. Inc., 299 N.J. Super. at 638.

Plaintiffs advance several arguments in support of irreparable harm. They argue that the Board's action requires the League to divert its resources away from its other activities, such as voter registration, education, and outreach. They assert that defendants' actions have already burdened the targeted voters with assembling and producing documents containing personal and confidential details. The Board's requirement that the affected voters attend a mid-day meeting further burdens the voters, along with the warning that the Board may require them to cast provisional ballots if they do not attend, constitutes further impairment of their

right to vote. They argue that a voter could reasonably conclude that attempting to vote in this election could result in “legal jeopardy, public scrutiny, or disenfranchisement.” Pb33.

Defendants counter that plaintiffs fail to establish irreparable harm. They advance that, even if the Board finds reason to suspect a registered voter is ineligible in the district of registration, the Board does not remove the voter from the rolls. They assert that the Board instead places the voter’s name on a challenge list, citing N.J.S.A. 19:32-10. They explain that the voter may then sign an affidavit at the polling place to show eligibility. They assert that the district board decides whether to give a ballot. They assert that a voter denied a ballot may apply to the Superior Court for permission to vote, citing N.J.S.A. 19:32-29. They conclude that no Bay Head Voter will be denied the right to vote before the November 3, 2026 General Election.

Defendants assert that a voter unable or unwilling to sign the affidavit may seek relief in the Superior Court, citing N.J.S.A. 19:32-29. They contend the October 13 meeting will adjudicate nothing. They assert that the only decision the Board must make before early voting is whether sufficient question exists about a voter’s domicile to place the voter on the challenge list, citing N.J.S.A. 19:32-10. They assert that a listed voter’s right to vote would be challenged at the polls under Title 19 procedure and that provisional ballots play no role in the process.

“The right to vote is among the most prized of all rights in a democracy.” In re Att’y Gen.’s “Directive on Exit Polling: Media & Non-Partisan Pub. Int. Grps.”, 200 N.J. 283, 302 (2009). Restrictions on the fundamental right to vote constitute irreparable injury. League of Women Voters of N.C. v. North Carolina, 769 F.3d 224, 247 (4th Cir. 2014) (noting that “[c]ourts routinely deem restrictions on fundamental voting rights irreparable injury.”); Obama for Am. v. Husted, 697 F.3d 423, 436 (6th Cir. 2012) (“A restriction on the fundamental right to vote therefore constitutes irreparable injury”); Williams v. Salerno, 792 F.2d 323, 326 (2d. Cir. 1986) (“The registration applicants in this case would certainly suffer irreparable harm if their right to vote were impinged upon.”). As the Fourth Circuit noted, “there can be no do-over and redress” after an election. League of Women Voters, 769 F.3d at 247; see also Emineth v. Jaeger, 901 F. Supp. 2d 1138, 1142 (D.N.D. 2012) (“Elections are, by nature, time sensitive and finite. While there will be other elections, no future election will be this election.”). The number of targeted voters is irrelevant. League of Women Voters, 769 F.3d at 247 (finding irreparable harm “whether the number is thirty or thirty-thousand” affected voters).

Here, plaintiffs do not establish irreparable harm. If concerns regarding the voters’ domicile persist, those voters will be able to sign an affidavit that the voter is “eligible to vote in the district and shall set forth the place of his residence, the fact that he actually resides at that place, the length of time of such residence, and

also all the facts necessary to qualify him as a voter under the constitution of this State.” N.J.S.A. 19:32-10. If the district board denies the voter a ballot, the voter may seek relief from the Superior Court. N.J.S.A. 19:32-29.

Here, the Board’s process does not impinge on the voters’ rights any more than the Legislature has deemed appropriate, consistent with the Board’s obligation to verify that a voter is qualified to vote. While the letter is susceptible to harsh or less harsh readings, it is not uncontroverted that it is intimidating or anything other than truthful. While it may overstate or misstate the Board’s role, under plaintiffs’ reading, it largely is a request for information. Any misstatement or inaccuracy in the letter’s language falls short of intimidation. See Willingham v. Cnty. of Albany, 593 F. Supp. 2d 446, 463 (N.D.N.Y. 2006) (concluding that misinformation or trickery not intimidation absent any acts of compulsion). Moreover, the specter that plaintiffs painted of the Board removing the voters from the rolls on the last possible day to re-register in another county is not realistic as the Board is not removing the voters at all. Rather, it would just add the voter’s name to the challenge list.

While the Court understands plaintiffs’ arguments concerning uncertainty and burden, and does not dismiss them out of hand, they do not constitute irreparable harm. Similarly, the order to show cause seeks temporary injunctive relief that is inapposite or inapplicable. Regarding the first bases, the Board has no

ability to adjudicate the voters' eligibility. Any public statements to the contrary are not accurate and, where public trust in the electoral process is vitally important, not helpful to voters or the Board's important mission of ensuring election integrity.

Similarly, the Court accepts defendants' position at its face value:

"Provisional ballots play no role in this process." Db3. There is nothing to enjoin in this regard.

Irreparable harm is harm that is not reparable. Here, plaintiffs have legal remedies available. Where they have adequate remedy available at law, the harm is not irreparable. Subcarrier Commc'ns. Inc., 299 N.J. Super. at 638.

B. Plaintiffs do not establish a reasonable probability of success on the merits of their claims.

Plaintiffs establish a reasonable probability of success on their claims. First, although no court has construed the John R. Lewis Voter Empowerment Act of New Jersey ("NJVEA"), the statute itself and its federal analogue broadly define voter intimidation. Plaintiffs establish a reasonable probability of success of prevailing on the claim that defendants' conduct falls within that definition. Second, plaintiffs establish a reasonable probability of success on their claim that defendants' exclusive focus on Democratic and unaffiliated voters violates our State's equal protection guarantees. Third, plaintiffs establish a reasonable

probability of success on their claim that defendants' conduct imposes an unconstitutional burden on their right to vote.

Preliminary injunctive relief such as a temporary restraint should only be granted when the issues raised present a legally settled right. Crowe, 90 N.J. at 133 (citing Citizens Coach Co. v. Camden Horse R.R. Co., 29 N.J. Eq. 299, 304-05 (E. & A. 1878)). The Court does not review the claims for their ultimate merit but instead asks whether Plaintiffs have established a reasonable probability of success on the merit of the claims. Waste Mgmt. of N.J., Inc. v. Union County Utils., 399 N.J. Super. 508, 520-21 (App. Div. 2008).

a. Plaintiffs do not establish a reasonable probability of success on their claim that defendants' actions violate the NJVEA.

Plaintiffs claim that defendants' actions – specifically, the Gilmore letters – violate the NJVEA's provision barring any person from “inflict[ing] or threaten[ing] to inflict any injury, damage, harm or loss,” or practicing “intimidation that causes or will reasonably have the effect of causing any person to vote or refrain from voting.”

Plaintiffs argue that case law and the NJVEA itself establish that the Court should give the statute's provisions liberal construction in favor of enfranchisement. Relying on federal authority and the analogous enforcement provision of the Voting Rights Act, 52 U.S.C. § 10307(b), plaintiffs argue that a

threat encompasses threats of legal action or economic harm, including any message that a reasonable person would read as a threat of injury tending to deter voting.

Plaintiffs contend the letters “threaten[] to inflict . . . loss” by warning that incomplete compliance with the Board’s demands may endanger the right to vote in the November 3, 2026 election and in future elections. They argue the procedural burden, the risk of public exposure, and the fear of legal consequences could reasonably deter a voter. They assert that voters might feel intimidated, confused, or discouraged on receiving notice that their right to vote has been challenged. They contend the letters go beyond the conduct found in other matters resulting in injunctive relief because they threaten challenge to voting in future elections.

Plaintiffs argue that several factors aggravate the threat. They point to the letter arriving on the Board’s official letterhead, all the more meaningful given the Board’s statutory role as commissioner of registration positions it to follow through on its dire warnings. The stakes include the right to vote in this and every future election.

Plaintiffs contend the conditional framing offers recipients no meaningful choice. A recipient may comply partially or refuse and risk challenge, comply

fully and hope to vote, or forfeit the right by signing a Letter of Removal. They assert that each option could reasonably cause a voter to refrain from voting.

Plaintiffs rely on the Voter Plaintiffs' certifications. Colby states he felt he had no choice but to comply and doubts he will be allowed to vote. Draesel states she remains confused and nervous about whether her right is forfeited, because she cannot attend the meeting or complete the questionnaire alone. Robertson states the letter's language was aggressive and she worries about further barriers. Plaintiffs argue that the voters most intimidated are the least likely to join a lawsuit.

Plaintiffs further assert that the letters arrive amid national and local claims of voter fraud. They contend the letters do not state the basis of the eligibility question while stressing its "extremely significant" nature. They argue a reasonable voter might fear a criminal investigation, and a voter confident of compliance could read the letters as threatening legal jeopardy on baseless allegations. They urge the Court to enforce the NJVEA.

In response, defendants argue the following. They argue that Title 19 imposes upon the Board an obligation to maintain the accuracy of the voter rolls and to ensure that registered voters are domiciled in their district of registration. N.J.S.A. 19:31-1, -5, -6.6, -15, and N.J.S.A. 19:32-5. They argue that the Board has broad power to investigate domicile. They cite N.J.S.A. 19:31-2, which makes

the commissioner “responsible for adding to, deleting from, amending and maintaining the records of persons registered to vote.” They stress the mandatory nature of N.J.S.A. 19:32-5, which requires investigation of “all complaints relating to the registration of voters.” They assert that, on a question about a registered voter’s domicile, the Board has far broader authorities than executed here, including inspecting addresses and questioning residents and neighbors, citing N.J.S.A. 19:32-5.

In light of the Shaning allegations, defendants maintain that they had an obligation to confirm the voters’ eligibility per N.J.S.A. 19:32-5. And the notice provided to the voters accurately conveyed that (a) a complaint had been made regarding the individuals’ domicile; (b) the Board was attempting to determine their domicile; and (c) their right to vote may be challenged in the general election. Defendants maintain that nothing in the letter is objectively threatening or intimidating and, indeed, stops short of the full investigatory powers given the Board per N.J.S.A. 19:32-5.

Defendants argue that plaintiffs seek to elevate the NJVEA over the Board’s longstanding obligations under Title 19. They argue that the Court must harmonize the two statutory schemes, not obliterate the Board’s responsibility to ensure voter eligibility.

The Court recognizes that the NJVEA is a new statute not previously subjected to judicial interpretation or analysis. It became effective only a few months ago. That acknowledgment does not modify or alter the act's plain language. It is well-settled that "[t]he overriding goal of all statutory interpretation 'is to determine as best we can the intent of the Legislature, and to give effect to that intent.'" State v. S.B., 230 N.J. 62, 67 (2017) (quoting State v. Robinson, 217 N.J. 594, 604 (2014)). As a result, "[t]o determine the Legislature's intent, we look to the statute's language and give those terms their plain and ordinary meaning because 'the best indicator of that intent is the plain language chosen by the Legislature.'" State v. J.V., 242 N.J. 432, 442-43 (2020) (first citing DiProspero v. Penn, 183 N.J. 477, 492 (2005); and then quoting Johnson v. Roselle EZ Quick, LLC, 226 N.J. 370, 386 (2016)). Accordingly, "[i]f, based on a plain and ordinary reading of the statute, the statutory terms are clear and unambiguous, then the interpretative process ends, and we 'apply the law as written.'" Id. at 443 (quoting Murray v. Plainfield Rescue Squad, 210 N.J. 581, 592 (2012)). It is inappropriate for "[a] court ... [to] rewrite a plainly[]written enactment of the Legislature [or to] presume that the Legislature intended something other than that expressed by way of the plain language." Ibid. (quoting O'Connell v. State, 171 N.J. 484, 795 (2002)) (third alteration in original).

The act declares that, in light of protections for the right to vote under federal and State constitutions and New Jersey law, it is the public policy of New Jersey to encourage participation in voting by all eligible voters to the maximum extent and to ensure that eligible voters who are members of protected classes, including racial, color, and language-minority groups, have an equal opportunity to participate in the political process and exercise the franchise. It further directs that State voting laws and related enactments are to be construed liberally in favor of protecting the casting of valid ballots, ensuring eligible persons are not impaired in registering, preventing unlawful discrimination in voting, making voting more accessible, and ensuring equitable access to registration and voting opportunities for protected-class members. P.L. 2026, c. 31, § 2(a), (b).

Plaintiffs rely up on section 15 of the Act, which relates to enforcement. Section 15 prohibits any person, whether acting under color of law or otherwise, from engaging in intimidation, deception, violence, restraint, or obstruction affecting the right to vote or the performance of election workers' official duties (§ 15(a)).¹ The section defines violations to include:

a person uses or threatens to use any force, violence, restraint, abduction, or duress; inflicts or threatens to inflict any injury, damage, harm, or loss; or in any other manner practices intimidation that causes or will reasonably have the effect of causing any person to vote

¹ For ease of reference, the Court refers to the NJVEA. It has been codified at N.J.S.A. 19:4A-1 to -22. Section 15 is codified at N.J.S.A. 19:4A-15.

or refrain from voting in general or for or against any particular person or for or against any public question submitted to voters at such election; to place or refrain from placing their name upon a registry of voters; to request or refrain from requesting a mail-in ballot; or to be impeded in the performance of their official duties if they are an election worker.

[§ 15(b)(1).]

The act allows any aggrieved party or “organization whose membership includes aggrieved persons” or “any organization whose mission, in whole or in part, is to ensure voting access and such mission would be hindered by a violation of this act” to file an action in the Mercer vicinage. Id. at § 15(a). The act further allows, with certain exceptions, counsel fee awards to prevailing plaintiffs. Id. at § 16. The act refers to the Voting Rights Act several times throughout its definitional and decretory provisions.

Given the lack of precedential or persuasive authority interpreting the recently enacted NJVEA, the Court finds that plaintiffs’ invitation to consider federal authority interpreting the VRA is reasonable, given the NJVEA’s explicit and repeated references to the VRA. Plaintiffs point the Court to National Coalition on Black Civic Participation v. Wohl, which defined intimidation as “messages that a reasonable recipient, familiar with the context of the message, would interpret as a threat of injury – whether physical or nonviolent – intended to deter individuals from exercising their voting rights.” 512 F. Supp. 3d 500, 509

(S.D.N.Y. 2021). “[A]ctions or communications that inspire fear of economic harm, legal repercussions, privacy violations, and even surveillance can constitute unlawful threats or intimidation.” Ibid. “Allegations of conduct that ‘put [an individual] in fear of harassment and interference with their right to vote’ is ‘intimidation sufficient to support a [] claim.’” Ibid. Other courts have adopted the reasonable recipient standard. See, e.g., Fair Fight Inc. v. True the Vote, 710 F. Supp. 3d 1237 (N.D. Ga. 2024).

In Olagues v. Russoniello, the Ninth Circuit considered a request for injunctive relief against the United States Attorney. 770 F.2d 791 (9th Cir. 1985). The court found no quarrel with the prosecutor’s limited preliminary investigation into the voters’ eligibility, noting that the investigation did not involve any suspect class and the investigation “was aimed at ferreting out potential voting fraud, in order to enhance the right to vote of those who qualified.” Id. at 802. The court emphasized that the investigation was conducted in good faith and was limited in scope. The court noted that even the plaintiffs in that matter “recognize[d] that a United States Attorney is entitled, indeed required, to conduct an investigation into allegations of voting fraud.” Ibid.

Such construction is consistent with the plain language of § 15, which uses a reasonableness standard in its discussion of intimidation. § 15(b)(1). The broad language – “in any other manner” – speaks to the Legislature’s intent that the

intimidation provision be broadly protective of “the right of voters to vote.”

Unlike the subsequent provision, the intimidation provision contains no intent requirement.

Here, the Court finds that plaintiffs fail to establish a reasonable probability of success on intimidation on uncontroverted material facts. The letter requests the recipients to respond to the letter and affords them an opportunity to appear before the Board at a public hearing. The Board was obligated to investigate the allegations – however spurious or partisan – and the Board put the affected voters on notice of that fact.

b. Plaintiffs fail to establish a reasonable probability of success on their equal protection claim.

Plaintiffs argue that defendants’ conduct violates their equal protection rights under Article I, Paragraph 1 of the New Jersey Constitution.

Plaintiffs contend that where a practice does not apply evenhandedly to similarly situated people, courts weigh the nature of the right, the extent of the restriction, and the public need on a continuum. Plaintiffs argue that the right to vote is fundamental and personal, that the Constitution devotes an article to elections, and that burdens on the right require a compelling state interest. They assert that questioning one class of voters beyond similarly situated others is unconstitutional, citing Worden v. Mercer County Board of Elections, 61 N.J. 325, 348 (1972).

Plaintiffs contend the voters suffered this discrimination twice. Officials singled them out for their tax-bill mailing address and for their Democratic or unaffiliated registration. They argue that voters with matching addresses, and Republicans with different addresses, would face no comparable demands.

Plaintiffs maintain that no public need supports the treatment. They argue that domicile is construed broadly and flexibly and that part-time residency and continuing connections suffice for voting. They assert that a voter with more than one residence alone decides where to vote. They contend that the registration process, which requires a sworn home address, suffices to confine ballots to eligible voters, citing N.J.S.A. 19:31-6.4. They argue nothing justifies greater scrutiny of Democratic and unaffiliated voters than of Republican voters, and that the disparity can result only from political motive.

Plaintiffs argue that a similar party-initiated voter challenge process violated federal equal protection, citing Charfauros v. Board of Elections, 249 F.3d 941 (9th Cir. 2001), and urge the Court to apply the same reasoning under the state Constitution.

In opposition, defendants argue that Plaintiffs' equal protection claim rests on two unsupportable contentions: that the Board may not investigate a voter's eligibility on a complaint that the voter receives a tax bill outside the district of registration, and that the Board may not investigate a complaint unless it covers

both Democratic and Republican voters. Plaintiffs' arguments contradict the Board's statutory duty to keep registered voters eligible in their district of registration and depart from the requirements of equal protection under the New Jersey Constitution.

Defendants argue the Board must verify continued qualification to vote, including residence in the district of registration. They argue the duty to investigate arises on a complaint that certain voters may not reside in Bay Head, whatever the voter's party or lack of party. They contend that the tax-bill difference Plaintiffs cite relates to the significant state interest in verifying eligibility in the district of registration, citing Jersey City United and Brady.

Defendants argue the investigation does not exclude Bay Head Voters from voting. They assert the Board requested their participation to clarify their domiciles and avoid unnecessary challenges on election day. They contend Plaintiffs point to no classification that excluded them from participation.

Defendants argue that Worden does not apply. They state that in Worden a board refused to let college students register from their college addresses on the belief that they were temporary residents. They contend the Bay Head Voters, unlike those students, have not been denied the right to vote. They contend the classification in Worden had no root in the Constitution or any statute, while Title 19 states the residence requirement, citing N.J.S.A. 19:31-5.

Defendants contend nothing supports a conclusion that the investigation is politically motivated. They assert that the Board's standard practice on complaints such as the Shaning Letter is to send letters and a domicile questionnaire. They assert that the Board treats each complaint and evaluates each response without regard to political affiliation, citing Varano's certification. They contend Plaintiffs plead no facts suggesting otherwise and urge dismissal of the equal protection claim.

Article I, Paragraph 1 of the New Jersey Constitution provides: "All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness." N.J. Const. art. 1, ¶ 1. "Although our State Constitution nowhere expressly states that every person shall be entitled to substantive due process of law, the expansive language of Article I, Paragraph 1 embraces that fundamental guarantee." State in Int. of C.K., 233 N.J. 44, 73 (2018). It is also "well settled law that the expansive language of that provision' is the source of the state constitutional guarantee" of equal protection. UAW v. New Jersey Governor Philip Murphy, 483 N.J. Super. 414, 441 (App. Div. 2026) (quoting Sojourner A. v. N.J. Dep't of Human Servs., 177 N.J. 318, 332 (2003)).

In evaluating claims under Article I, Paragraph 1—whether styled as equal protection or substantive due process—New Jersey courts do not apply the federal tiers of scrutiny, but rather a more flexible balancing test. See Greenberg v. Kimmelman, 99 N.J. 552, 567 (1985) (“The analysis of fundamental rights under the New Jersey Constitution differs from analysis of those rights under the United States Constitution.”); UAW, 483 N.J. Super. at 446 (“‘Under [the New Jersey Constitution], a right need not be labeled ‘fundamental’ or a classification deemed ‘suspect’ to trigger searching judicial review.’” (quoting Robert F. Williams & Ronald K. Chen, The New Jersey State Constitution 58 (3d ed. 2023))).

This constitutional balancing test “considers three aspects: (1) ‘the nature of the affected right’; (2) ‘the extent to which the governmental restriction intrudes upon it’; and (3) ‘the public need for the restriction.’” UAW, 483 N.J. Super. at 443-44 (quoting Greenberg, 99 N.J. at 567). “[I]n many instances,” the New Jersey balancing test “entails looking at the same facts and interests and produces the same outcomes” as the federal tiers of scrutiny, id. at 446, as “the factors to be balanced are ‘implicit, if not explicit, in federal analysis of the due process and equal protection clauses,’” Belmar, 343 N.J. Super. at 17-18 (citing Greenberg, 99 N.J. at 567).

Here, as discussed throughout, the affected right is voting. The right to vote is “very precious and fundamental” and courts “carefully and meticulously

scrutinize[] efforts to restrict it.” Worden, 61 N.J. at 346. “The right to vote is the bedrock upon which the entire structure of our system of government rests.” Afran v. County of Somerset, 244 N.J. Super. 229, 232 (App. Div. 1990). “A citizen has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction.” Dunn v. Blumstein, 405 U.S. 330, 336 (1972).

The Board has an “obligation to avoid arbitrary and disparate treatment of the members of its electorate.” Bush v. Gore, 531 U.S. 98, 105 (2000). The Board notified the affected voters that questions had been raised. It afforded them an opportunity to be heard, on paper and in person. The Board’s actions in going through the investigative steps authorized by statute do not violate plaintiffs’ equal protection rights. They are different than the residents who receive their tax bills in Bay Head.

c. Plaintiffs do not have a reasonable probability of success on their fundamental right to vote claim.

Plaintiffs argue that the Board’s action unlawfully infringes on their fundamental right to vote. They contend that courts scrutinize restrictions carefully and that voting’s fundamental importance requires liberal construction in favor of enfranchisement. They assert that no interference is permissible without a compelling state interest. They maintain that the interest must be exceedingly persuasive where a burden operates differently against similarly situated citizens or interferes with the ability to vote.

They argue that the burden is severe. They point to the lengthy questionnaire, the compelled attendance at the Board's mid-day, midweek meeting. They point to a mere one-third of the residents having submitted completed questionnaires and argue that the Board cannot impose such an onerous burden on voters' rights. The timing of the Board's meeting aggravates the injury, as any voters removed from the rolls would likely be unable to register in another county.

They argue the Board has no legitimate interest. They maintain that the tax-bill mailing address criteria is spurious and arbitrary.

Defendants argue that plaintiffs fail to establish any likelihood of success on this claim because it would require the Court to accept that the duty to verify continued qualification serves no legitimate government interest, an unsustainable assertion. The Legislature has charged the Board with verifying voter qualifications and granted the Board significant powers to investigate domicile complaints.

The Court finds plaintiffs unable to establish a probability of success here. The Board is authorized and indeed obligated to investigate the eligibility of voters. It has undertaken that step here. It has allowed but not compelled the affected voters to submit proofs of eligibility. A small fraction of those total voters has done so. The Legislature has established a detailed process for the voters to

ensure their rights are protected; it has placed the burden on the Board to establish otherwise.

C. Plaintiffs fail to establish greater relative hardships.

Plaintiffs also bear the burden to establish that “balancing the ‘relative hardships to the parties reveals that greater harm would occur if a stay is not granted than if it were.’” Garden State Equality v. Dow, 216 N.J. 314, 320 (2013) (quoting McNeil v. Legis. Apportionment Comm’n, 176 N.J. 474, 486 (2003) (LaVecchia, J., dissenting)).

Plaintiffs assert that the balance of equities overwhelmingly favors them. Absent relief, voters face the loss or chilling of a fundamental right and must choose between an intrusive inquiry with an appearance before election officials and abstention. They argue that the restraints would preserve the status quo while the Court determines legality.

Defendants argue that a stay would inappropriately constrain the Board from fulfilling its statutory investigative role. They emphasize the Board’s interest in preventing voter fraud and ensuring public confidence in the electoral process. The Legislature has charged the Board with maintaining current voter rolls, investigating complaints, and applying the challenge list procedures. These critical functions outweigh any incidental burden on plaintiffs for having to fill out a questionnaire.

Here, the Court finds an insufficient basis to stop the Board's investigation or prohibit placing voters on a challenge list. It may be as true for all thirty-seven voters that they remain eligible to vote in Bay Head; it may not be true. The Legislature has established the allocation of responsibilities and burdens in establishing that, and plaintiffs do not establish that they are harmed more by the Board doing its job than the Board is in being restrained from it.

D. The public interest does not weigh in favor of a stay.

Even with the small number of affected voters, elections are matters of public importance. The NJVEA and countless decisions from federal and New Jersey courts emphasize the fundamental importance of the right to vote. Elections should be free and fair. The Legislature is able to define – within constitutional constraints not relevant here – voter eligibility, including questions of residency and domicile. The public interest weighs in favor of the Board being able to go through that process, with the appropriate allocation of responsibility and burden as checkpoints on their actions.