
Chapter 3:

Contributions and Spending



Many of the 1991 Council races were the focus of intense fund raising and spending. Figure 3.1 shows the total contributions and spending for the primary and general elections. A comparison of contributions to and spending by participants and non-participants makes it clear that participants were viable candidates capable of waging strongly competitive campaigns. In the primary, for example, in terms of contributions received, the two groups of candidates are virtually indistinguishable — the average participant received about \$26,000, while the average non-participant took in roughly \$25,600. And, if spending figures are any index, participants waged even more aggressive campaigns than their non-participating counterparts, outspending them by an average of \$10,700 per candidate, perhaps reflecting the large number of winning and serious candidates who participated in the Campaign Finance Program and received public funds.

This chapter examines the Council candidates' campaign finances. It describes the relationship between the funds candidates raised and spent and the number of votes they received; the types of contributors to participants' campaigns — individuals versus organizations; the different patterns of support among incumbents and winning and losing participants; and the costs of the Council campaigns and what candidates spent their funds on. Finally, the Act's contribution and spending limits are assessed against the 1991 experience.

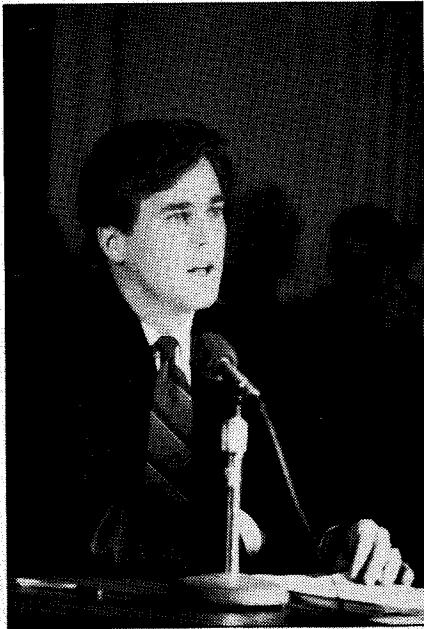
Does More Fund Raising Mean More Votes?

How important are contributions and spending at the Council level? Does a given race turn on a candidate's financial resources, or are there other, more important factors? One way to measure the role of money in Council campaigns is to examine whether there is a correlation between the amount candidates raise in contributions or spend on their races and their success at the polls.

Among some of the factors that may play a role in the amount of votes a candidate gets — for instance, contributions, expenditures, and whether or not the candidate is an incumbent — incumbency is the strongest predictor of success, and it overwhelms the other two components. Examining contributions and spending separately, however, both these factors show a mildly positive correlation with the percentage of votes a candidate receives. Contributions can be an index of the popular support a candidate enjoys among the electorate, and if a candidate has more contributions, he or she may have more voter

support and also more money to spend. For incumbents, however, percentage votes show a mildly negative correlation with contributions (that is, the percentage of votes increases as total contributions decrease), suggesting that the power of incumbency often supercedes the need for campaign contributions.

Who Gives and Who Gets



Newly elected Council member Charles Millard recommended prohibiting campaign contributions from PACs, unions, and corporations.

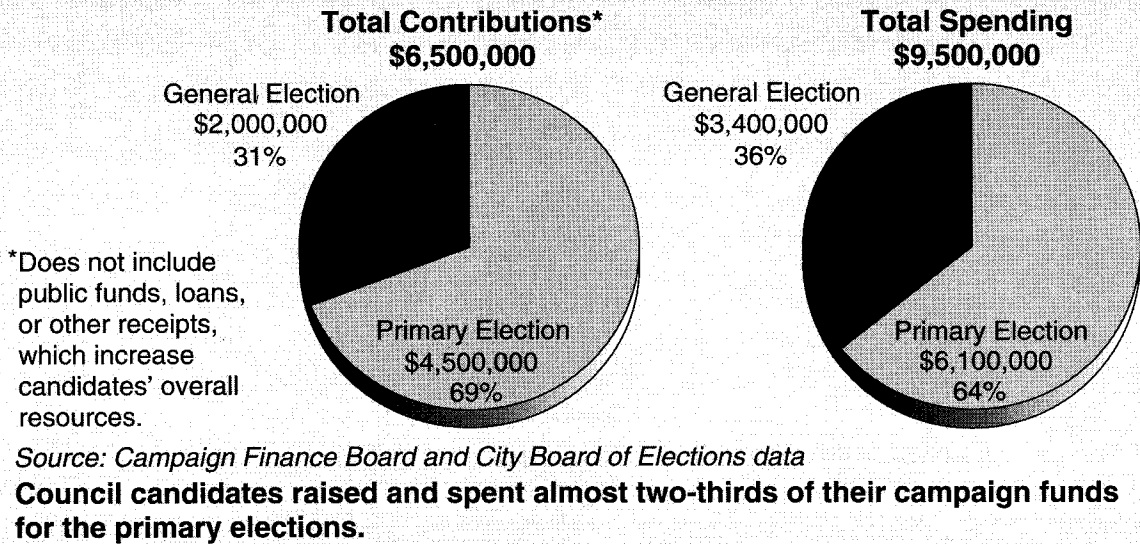
Individuals were the largest single block of contributors to participants in these elections, giving some 69 percent of the total dollar amount of all contributions, an increase over 1989 levels, when 61 percent of all contributions to Council candidates was from individuals. (See Figure 3.2.) Businesses (including corporations)¹, political committees (including special interest PACs, candidate committees, and political party committees), and employee organizations (unions) constitute the next largest sources of campaign money. As described in Chapter 2, public funds counterbalance the effect of special interest giving by organizations. Contributions from all types of organizations to 1991 Council participants totalled \$1.4 million, whereas a total of \$2.5 million in public funds was disbursed to these candidates.

The predominance of individual contributors to 1991 Council participants contrasts with the predominance of organizations among the top 15 contributors listed in Table 2.1. Newly elected Council member Charles Millard observed that on the Board's list of the "top 15 contributors to the City Council races this year, there is only one human being . . . [and] no-

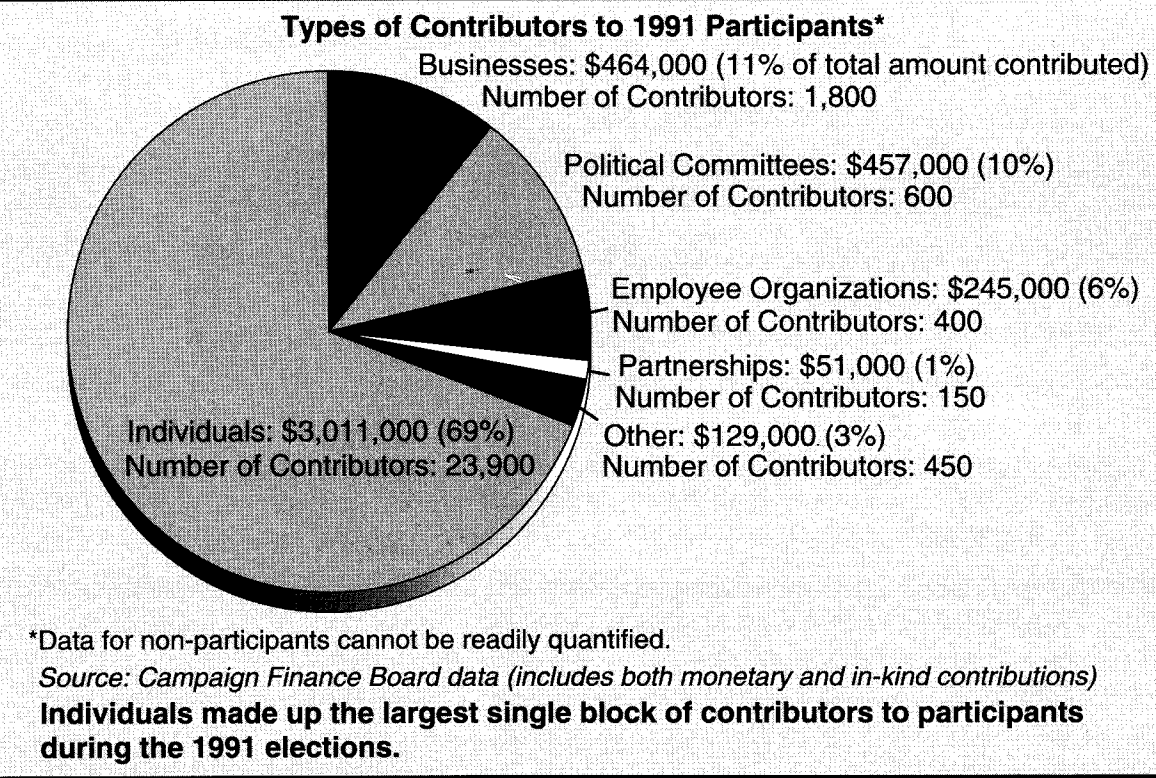
body there except for the one human being has the right to vote."² Millard and several others who testified at the post-election hearings favored prohibiting or placing further restrictions on contributions from PACs, unions, and corporations.³

Although contributions from organizations make up a smaller portion of candidates' revenues overall, they played a larger role in some candidates' campaigns than others. Winners received greater support from political committees, businesses, and other organizations than losers, while losers relied more heavily on contributions from individuals, as

**Figure 3.1
CONTRIBUTIONS AND SPENDING OF ALL CANDIDATES
FOR THE 1991 COUNCIL ELECTIONS**

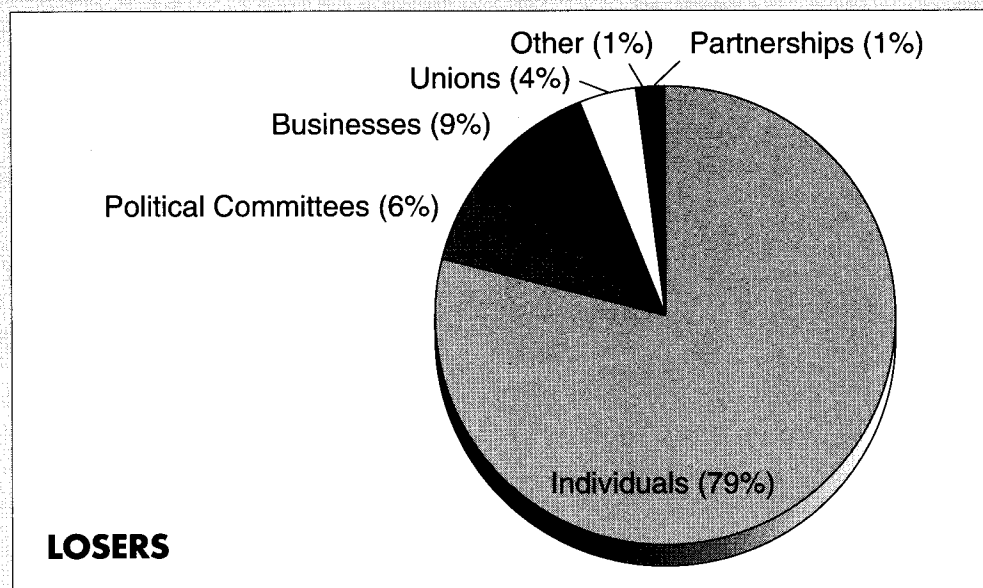
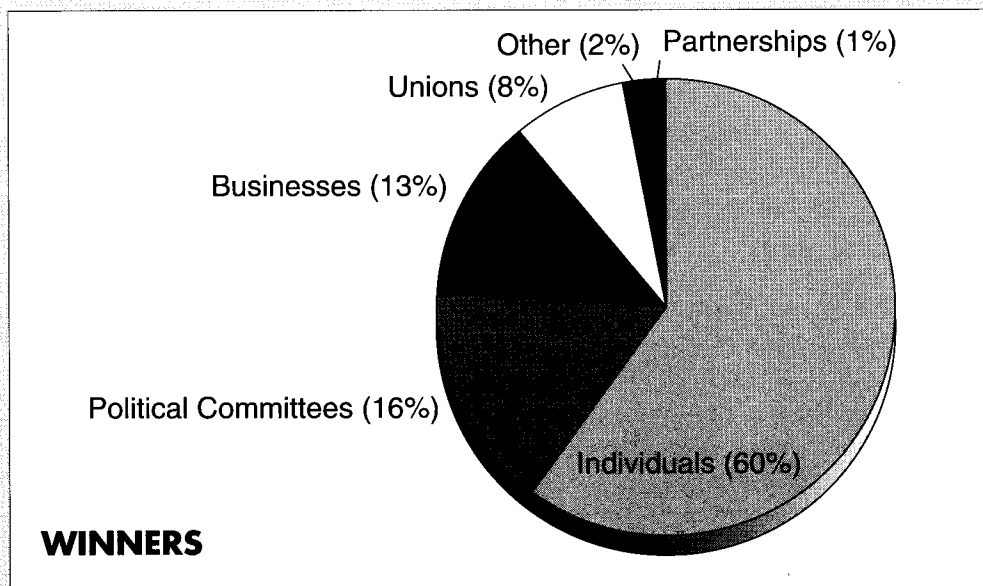


**Figure 3.2
WHO GIVES?**



**Figure 3.3
WHO GETS?**

Types Of Contributors To Winning and Losing Participants*



*Similar data for non-participants are not available.

Source: Campaign Finance Board data

Business and political committee donations make up a larger portion of the revenues of winners than of losers.

Figure 3.3 shows. Over two-thirds of the participants who received donations from the top 15 contributors listed in Table 2.1 were winners. The category of “winners” is, however, broad: it includes not only incumbents (who were for the most part re-elected), but also the 21 new faces on the City Council.

There are some significant differences between the participants’ fund-raising patterns depending upon whether they were incumbents, new winners, or losers. New winners and losers both received a significantly higher percentage of their contributions from individuals than did incumbents: new winners received 17 percent more from individuals, and losing candidates received 30 percent more. In addition, incumbents received more contributions from political committees than either new winners or losers, although new winners received a significantly higher percentage of contributions from political committees than did losers. The timing of contributions from political committees to incumbents and to new winners was different, however. Whereas incumbents attracted political committee contributions throughout the period between the 1989 and 1991 elections, new winners received their political committee contributions in peaks just before the primary and general elections.

As the Campaign Finance Program is intended to increase the role of individuals’ contributions to campaigns, the importance of the availability of public funds to offset significant giving by PACs, businesses, unions, and other organizations is underscored in the face of the ability of winners, including incumbents and new winners, to attract more of the institutional giving.

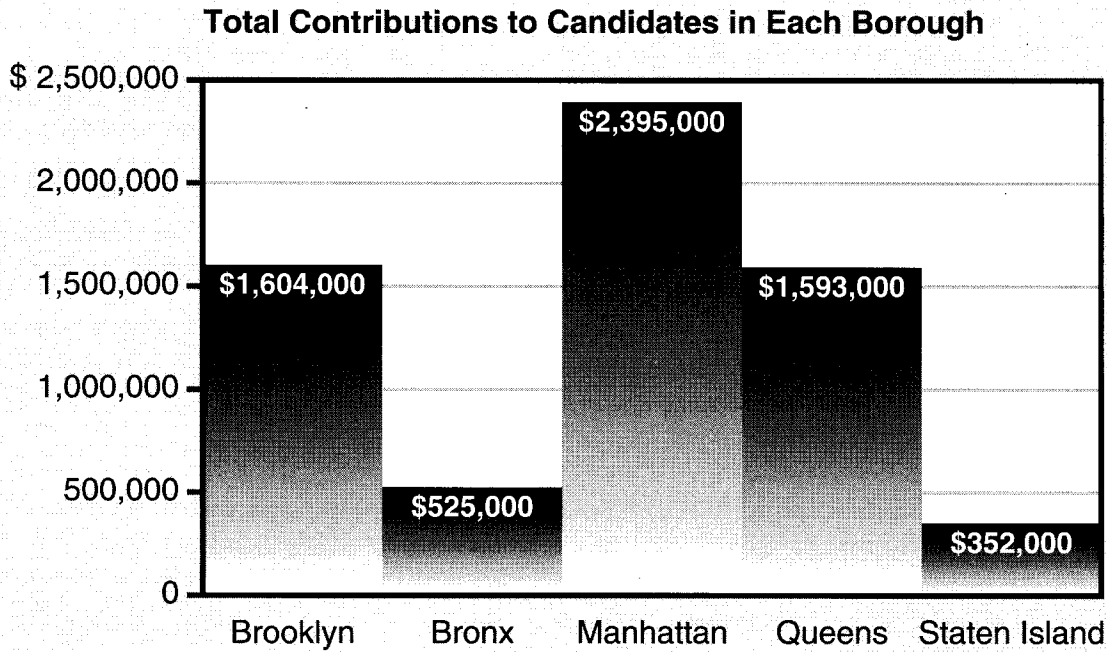
Political Geography. In terms of raising funds and the costs of campaigns, all boroughs are not equal. Races in Manhattan drew more contributions than races in any other borough, as Figure 3.4 illustrates, equal to 37 percent of all contributions made during the elections. Races in Manhattan ranked far above average in terms of contributions received, even though Manhattan falls behind both Brooklyn and Queens in the number of candidates on the ballot.

But the money did not all stay in Manhattan, as Figure 3.5 shows. Manhattan contributions are a major factor practically everywhere else in the City. Contributions from Manhattan constitute the second largest source of participants’ campaign revenues in every other borough, in some cases as much as 30 percent of the total dollar amount received. Contributions from Manhattan made up, on average, about one-fifth of the total contributions received by participating candidates running in other boroughs. Individual candidates in the other boroughs who received a higher concentration of contributions from Manhattan tended to be winners, incumbents, and highly visible challengers.

Loans to Participating Candidates

Loans can be an important resource for candidates, especially as start-up money for challengers when they begin their campaigns. Like big contributions, however, large loans

Figure 3.4
THE GEOGRAPHY OF CAMPAIGN FINANCE



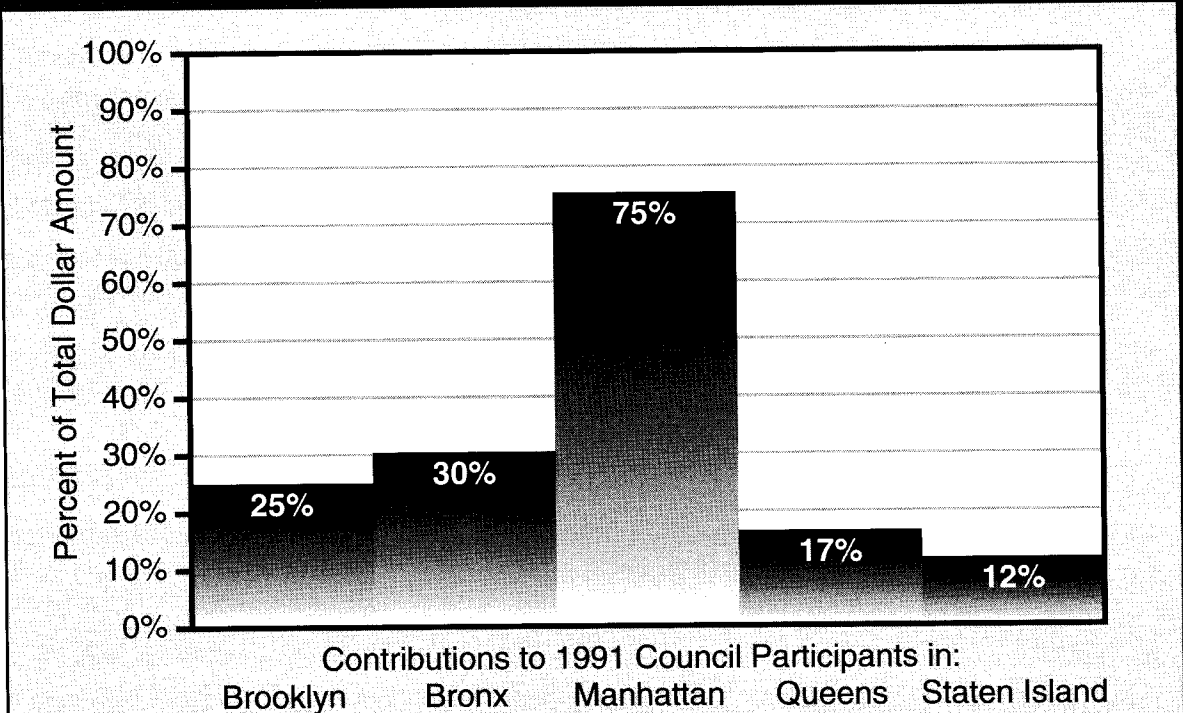
Source: Campaign Finance Board and City Board of Elections data

Despite the fact that Manhattan had fewer candidates running in 1991 than either Brooklyn or Queens, candidates in Manhattan races received more contributions than those in any other borough.

from wealthy individuals or special interests to a candidate can carry with them the appearance of undue influence. To ensure that contributors do not use loans to circumvent the Campaign Finance Act's contribution limits, the Act has special provisions applicable to loans. Candidates may borrow as much as they like, but any amount not repaid as of the date of the election is treated as a contribution from the lender and becomes subject to the Act's contribution limit.

Overall, loans did not play a large role in participants' campaigns during the 1991 elections. Loans to participants — some \$439,879 — totalled only about one-tenth of the total of contributions, although they made up a somewhat larger percentage of Council candidates' receipts than in 1989. Of those who received loans, the average participant got approximately \$6,700, although this varied widely. Eight participants received \$15,000 or

Figure 3.5
CONTRIBUTIONS FROM MANHATTAN



Source: Campaign Finance Board and City Board of Elections data

Contributions from Manhattan were a major source of revenue for participating candidates in the other boroughs.

more each during the course of the elections, but of this, 84 percent came from the candidates and their immediate families, which suggests that concerns about undue influence in these cases would not arise from the taking of loans. In fact, loans from participating candidates to themselves constituted the largest single block of loans made during the 1991 elections, about 41 percent of the total, averaging about \$2,700 per candidate among those with loans. Loans from relatives (not including the candidate) accounted for \$82,000, or an additional 19 percent. The remaining 40 percent came from sources outside the candidates' immediate families.

Loans were, however, much more important for challengers and candidates in open seats than they were for incumbents. Only two of the 15 participating incumbents received loans, whereas over half of the 121 participating challengers and candidates in open seats took loans, and over half of the participating new winners took loans.

Table 3.1
THE TOP TEN SPENDERS IN THE 1991 COUNCIL ELECTIONS

Candidate	District	Winner	Election	Amount Spent
(P) Carolyn Maloney*	4	W	PR, GE	\$ 280,396**
Tom Duane	3	W	PR, GE	279,629
(P) Margaret Chin	1		PR, GE	196,565
Philip Howard	2		PR	185,193
(P) Charles Millard	5	W	GE	180,318**
(P) Liz Abzug	3		PR	178,161**
Noach Dear*	44	W	PR, GE	158,335
(P) Una Clarke	40	W	PR, GE	156,940
(P) Carl Andrews	40		PR, GE	150,379
(P) Kathryn Freed	1	W	PR, GE	147,554

(P) Indicates Campaign Finance Program participant
 * Indicates incumbent
 ** In districts 3 and 4, the spending limits were removed because of a high-spending non-participant. In district 5, the Republican candidate had an additional primary spending limit because of a Democratic primary.

Source: Campaign Finance Board and City Board of Elections data

The Costs of Running

Money spoke loudly in some races, in others it whispered, and in still others it was loud but no one seemed to hear. Table 3.1 shows top spenders in the 1991 Council elections. These top ten spenders include six opposing candidates from three districts. In some districts, the most lopsided victories were scored by those who spent the most, while in other districts, the biggest spenders trailed distantly. In Manhattan's 2nd district primary, for example, Philip Howard, a non-participant, spent slightly more than his two chief opponents, Antonio Pagan and Miriam Friedlander, put together, but ended up trailing them by 14 percent when the votes were counted. Some incumbents received a huge share of the vote after spending a very small amount. In the open seats, which were among the most watched and some of the closest races of the 1991 election season, spending was — with a few notable exceptions — not excessive.

Figure 3.6 shows the main categories of campaign spending for the 1991 elections. Candidates at the Council level rarely use television or radio advertising, preferring instead to target their constituencies directly through campaign mailings. Thus, the organization paid the most by Council candidates in their bids for office was not a media consultant, but the United States Postal Service, as Table 3.2 shows.

Were there any particularly effective ways of spending campaign dollars? Although spending alone did not determine the outcome of most races, there are some differences

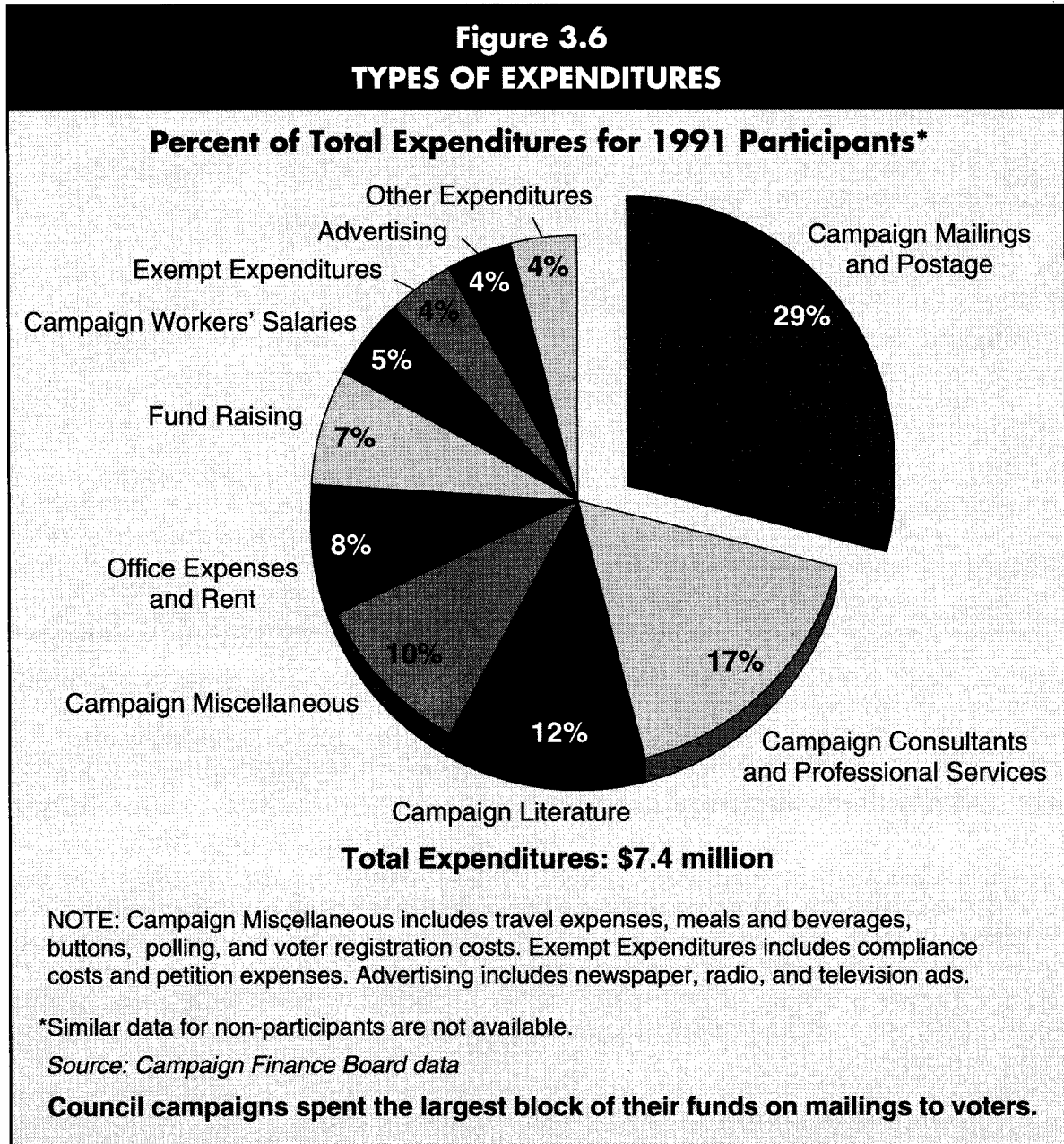


Table 3.2
TOP 15 VENDORS TO 1991 PARTICIPANTS*

Vendor	Number of Participants Paying Vendor	Total Paid
U.S. Post Office	93	\$ 812,860
Prime NY	44	190,855
Brandford Communications	9	123,985
Sheinkopf Ltd.	10	119,084
New York Telephone	80	111,577
Venture Graphics	14	101,314
Bates & Associates	2	97,437
John Houston	4	95,595
Zale Koff Graphics	51	94,593
Syndicated Graphics	28	93,597
Loma	2	68,523
Johnson Survey Research	8	61,592
Election Computer Services	35	60,952
Martin Connor	7	37,256
Multimedia Advertising	5	32,521

Source: Campaign Finance Board data
*Data for non-participants cannot be readily quantified.

between the spending patterns of winning and losing campaigns. The biggest categories of campaign-related spending were the same for winners and losers: both devoted most of their funds to campaign mailings and postage, consultant fees, and campaign literature. Winners as a group, however, devoted nearly 42 percent of their budget to campaign mailings, 10 percent more than losers.

Contribution and Spending Limits

Controlling the size of contributions and campaign spending — both of which are major objectives of the Campaign Finance Program — do not come into play at the Council level as dramatically as they do at the citywide and boroughwide levels.⁴ One reason for this is that there is a far smaller disparity between the Program's contribution limits and state law contribution limits for Council candidates than there is for citywide and boroughwide candidates. (See Figure 1.1.)

Contribution Limits. Compared with 1989, the number of contributors to Council participants increased dramatically in 1991, and they gave smaller amounts. In 1989, a total

of 14,000 contributors gave a median contribution of \$75 to Council participants. In 1991, nearly double this number of contributors, approximately 27,300, gave to Council participants, and the median amount they gave was \$50. The significant increase in the number of contributors and the decrease in the median amount are encouraging signs of the Program's success in broadening the base of citizens involved in the political process. The large number of candidates running in the 1991 elections and the incentive that the Program gives them to gather small contributions that can be matched by public funds seems to have invigorated grass roots campaigning. Council member Guillermo Linares stated that "the matching funds rewarded me for building a large base of less affluent contributors and gave me the opportunity to get my message out."⁵

Figure 3.7 shows the total number and the total dollar amount of contributions to participants at various dollar ranges. As the figure shows, the vast number of all contributions to Council participants was below \$500, and most contributions were below \$100.

Although "big money" did show itself in the 1991 elections to some extent — there were 56 contributions to Program participants at the \$3,000 per contributor maximum⁶ — 99.8 percent of all contributions, representing 95.5 percent of all contribution dollars received by participants, were below this mark. At the same time, although contributions of greater than \$500 accounted for only 5 percent of the total number of contributions made, they accounted for 41 percent of the total dollar amount. Data for non-participants on a per contributor level are unavailable, so a comparison cannot be drawn between the size of their contributions and participants' contributions.

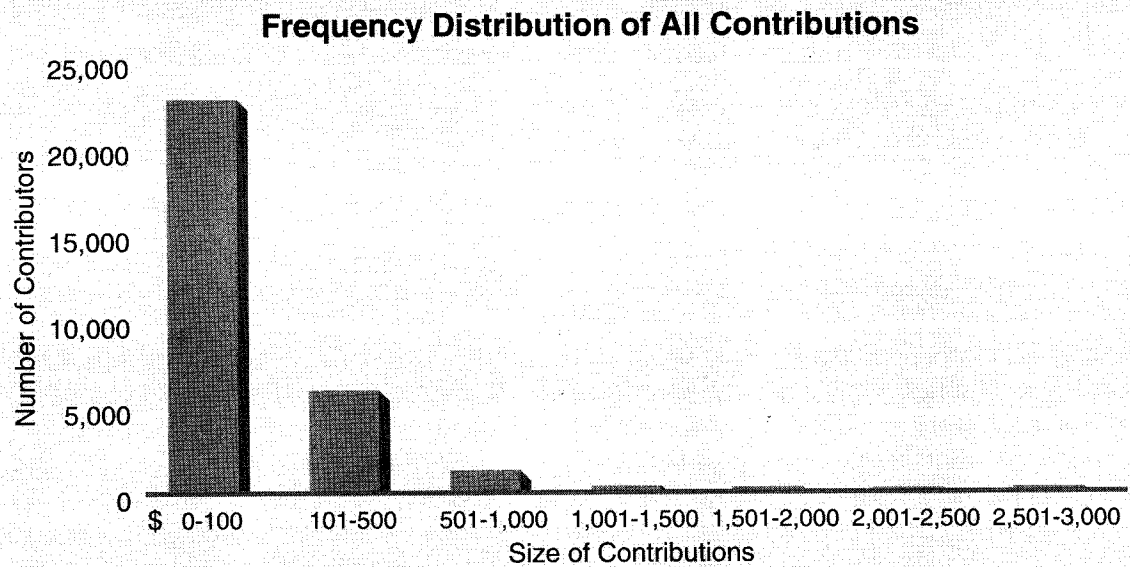
Lowering the per contributor limit to \$2,000, which would make the Board's limit equivalent to the lowest per contributor limit for Council candidates under state election law, would not have impeded 99.6 percent of all contributions made to participants during the 1991 Council elections — which were, by all accounts, unusually competitive races.

Spending Limits. The \$105,000 primary and general election spending limits currently in force under the Campaign Finance Act do not appear to hamper the vast majority of campaigns at the Council level. Under the Act, a "third year" limit of \$40,000 was also applicable for expenditures made by participants' campaigns during 1990. The average participant spent about \$38,000 in the primary and \$38,400 in the general election, excluding exempt expenditures such

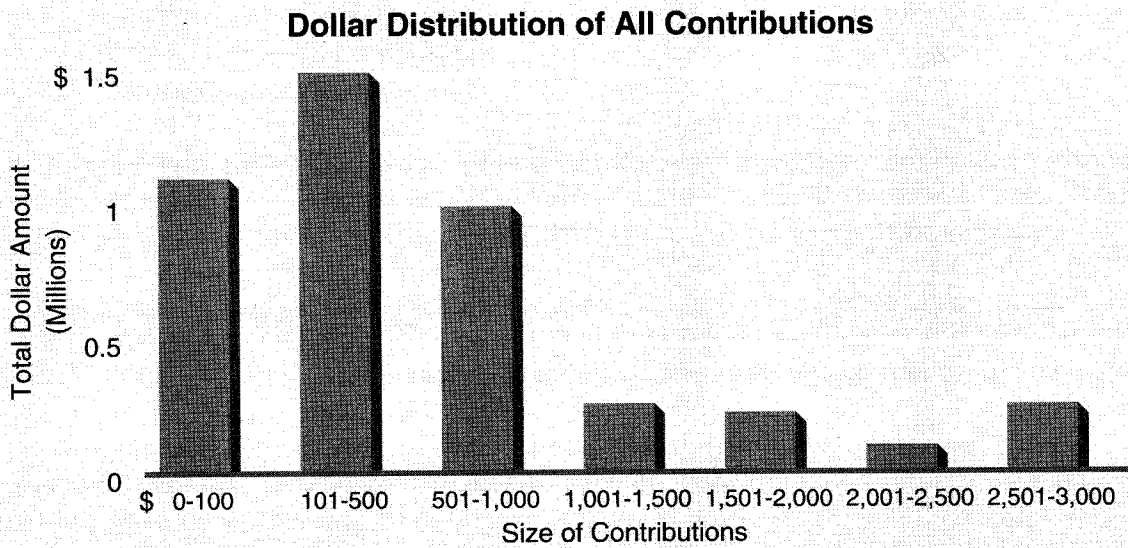


"[T]he matching funds rewarded me for building a large base of less affluent contributors and gave me the opportunity to get my message out." — Council member Guillermo Linares

Figure 3.7
CONTRIBUTIONS TO 1991 COUNCIL PARTICIPANTS*



Despite the fact that big contributions are only a fraction of the number of contributions made . . .



. . . they can have a disproportionately large effect on the resources available to a campaign.

Source: Campaign Finance Board data

*Data for non-participants cannot be readily quantified.

as the costs of compliance and petitioning, which are not subject to the Act's spending limits.⁷ Ninety-eight percent of all participants in the primary and 93 percent in the general election spent less than \$105,000 per election. Program rules provide that if there is a primary race in one party in a given district, participants in other parties are permitted to make expenditures up to the primary election spending limit even if they appear on the ballot only in the general election. In 1991, four Republicans who had Democratic primaries in their districts made expenditures attributable to a primary spending limit, as noted in Appendix H. In virtually every case in which a participant's spending exceeded \$105,000 per election, either the additional primary spending limit was applicable, or the spending limit had been removed by a high-spending non-participant. Only 22 participants had expenditures that were subject to the Act's third year limit.⁸ Clearly, the Program's spending limits did not act as a major constraint in the majority of campaigns.

What about non-participants? The data show that fear of being unable to spend a sufficient amount during a campaign should not deter most candidates from participating in the Program. The average non-participant reported spending only \$27,000 in the primary and \$8,400 in the general election. Ninety-three percent of non-participant spending would have been within the Program's limits in the primary, and 100 percent in the general. There is, however, a risk for non-participants: in half of the districts in the primary and general elections in which spending limits were lifted, non-participants who triggered this action ended up being outspent by their participating opponents.

The Board has recommended eliminating the third year spending limit and consolidating it with the current per election limit, thus raising the per election spending limit to \$150,000 for Council candidates. Raising the spending limits might act as an inducement for some non-participants to join the Program. One of the four non-participants in the primary who spent over the Board's limit did so by only about \$1,000, another by about \$33,000; clearly, a \$45,000 boost in the per election limit would comfortably embrace both campaigns. The remaining two non-participants who spent over the Board's limit, however, did so by a wide mark and would still have exceeded the proposed \$150,000 limit.

* * *

Overall patterns of contributions and spending show that participants received about two-thirds of their contributions from individuals and spent much of their campaign funds on direct mailings to constituents. Manhattan races proved to be the most expensive, and Manhattanites contributed significantly to contests in other boroughs. The results of the 1991 elections indicate that the Act's contribution and spending limits are not an impediment to mounting competitive Council races. The Board continues to support eliminating the third year spending limit and raising the Council spending limit to \$150,000 per election. With this background on how the campaigns were funded and what they spent, the next chapter turns to the results: electioneering and the outcome of the 1991 races in each borough.

NOTES

¹ The category of “business” contributors includes all contributions reported and coded by campaigns as having been contributed from corporations as well as other organizational contributions reported by campaigns that were clearly identifiable as businesses.

² *Campaign Finance Board 1991 Hearings*, at 205 (testimony of Council member Charles Millard).

³ There is no prohibition on PAC, union, and corporate donations in New York State law, and attempting to prohibit them by local law rather than state law could therefore be an extreme hardship on participants.

⁴ The effect of the Campaign Finance Program in markedly reducing the size of contributions and controlling expenditures in the 1989 citywide elections is described in *Dollars and Disclosure*, 53-60 and 84-91.

⁵ *Campaign Finance Board 1991 Hearings*, at 331-332 (testimony of Council member Guillermo Linares).

⁶ The Board's audit reviews of participants' disclosure statements revealed several contributions that exceeded the \$3,000 limit, all of which are being pursued and resolved through the Board's audit and enforcement process.

⁷ When these exempt expenditures are included, average spending by participants increases slightly, to \$40,200 in both the primary and general elections.

⁸ These expenditures totalled only about \$138,000, or two percent, of all expenditures made by participating candidates during the 1991 elections. Half of those candidates who made expenditures in 1990 were incumbents.

Chapter 4:

The Council Races



f all the factors influencing the 1991 Council elections, redistricting was paramount. Redistricting, with the acknowledged help of the Campaign Finance Program, generated highly contested races in many districts throughout the boroughs. Figure 4.1 shows the number of new districts, open seats, and candidates running in each borough. While incumbent power was largely preserved (two lost, compared with one in the 1989 elections and none in the 1985 elections), minority representation on the Council increased substantially, as Figure 4.2 shows.

Manhattan

Manhattan was the scene of some of the most unexpected turnarounds in the 1991 elections. Two incumbents lost their seats. A heavily favored contender — Margaret Chin, who ran in the open seat in the 1st Council district — was upset by attorney and housing activist Kathryn Freed. Several races were the focus of intense media attention, such as incumbent Stanley Michels' primary battle against Peggy Shepard and activist C. Vernon Mason, and the 3rd district's open seat primary for Manhattan's first Council seat designed in part to elect a gay candidate.

Manhattan also saw a successful candidacy for Adam Clayton Powell IV, the son and namesake of the Reverend Adam Clayton Powell, Jr. who, in 1941, became the first African-American ever to win a seat on the City Council. Powell's chief opponent was William Del Toro, who initially claimed victory by some 34 votes. When the Powell campaign charged that it had discovered approximately 700 voting irregularities that cast the outcome into doubt, a rerun election was ordered.¹ Powell ultimately won the rerun election with a comfortable 73 percent of the vote.

In Focus . . . the 3rd Council District. In terms of contributions and spending, Manhattan's hottest race was the primary contest in the 3rd district between non-participant Tom Duane and participants Liz Abzug and Victor Del Mastro. Tom Duane did not join the Program in 1991 in part because he believes its spending limits are too low.² Although only three candidates were on the ballot, the new 3rd district had the highest level of contribution and spending activity in the primary of any district in the City, with more than half of it accounted for by Tom Duane, as Figure 4.3 shows.

Because non-participant Duane's high spending entitled Program participants in the district to receive two-for-one matching, Abzug and Del Mastro collected about \$40,000 in

**Figure 4.1
THE RACES IN EACH BOROUGH**

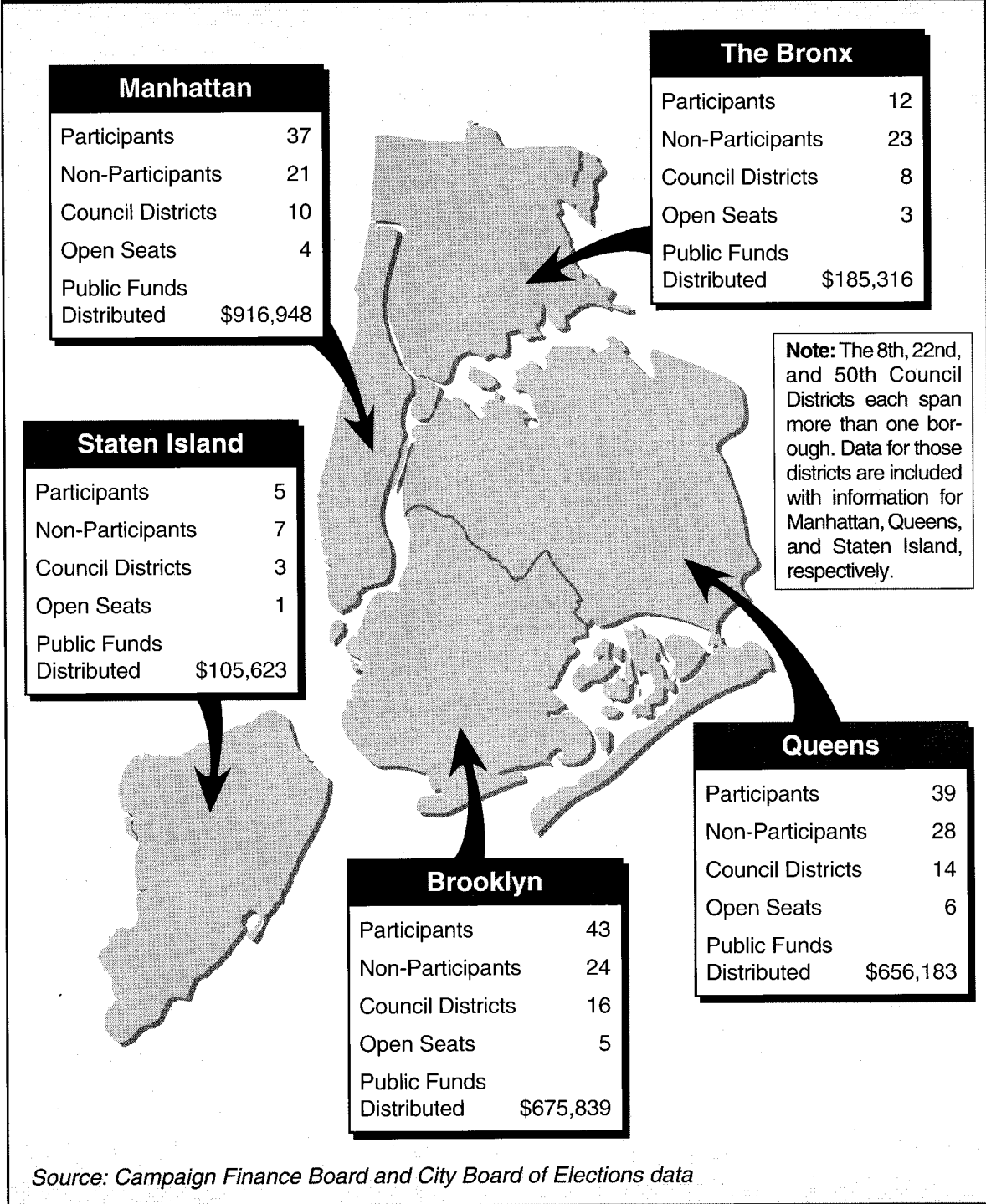
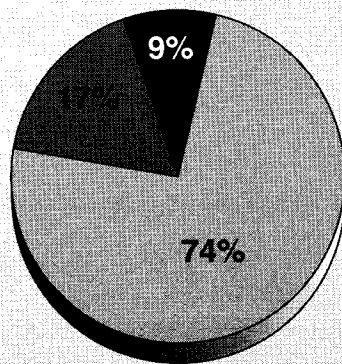
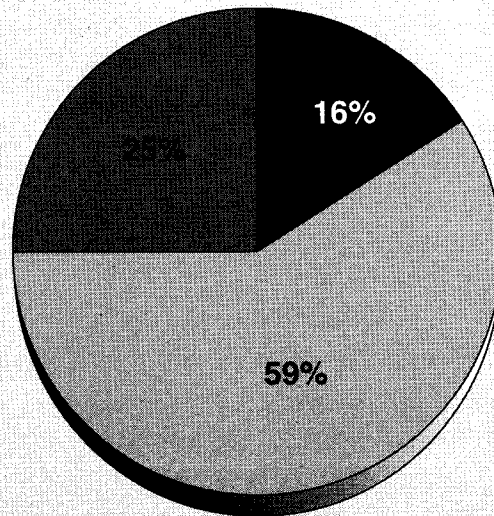


Figure 4.2
RACIAL AND ETHNIC COMPOSITION OF CITY COUNCIL DELEGATION
1989 AND 1991

- African-American
- Hispanic
- White



1989
35 Members



1991
51 Members

Source: Campaign Finance Board informal survey

The size of the minority contingent in the City Council increased substantially after the 1991 elections.

public funds apiece in the primary, substantially higher than the average amount of public funds received by participants in the primary — \$16,000. Front-runners Duane and Abzug both had well-financed and well-organized campaigns, although Duane took the lead in fund raising. He received over \$255,000 in contributions from hundreds of contributors, clearly an indication of a wide base of popular support. Approximately 29 percent of those eligible to cast a ballot in the Democratic primary did so, Manhattan's highest voter turnout. Duane drew nearly 60 percent of the total vote in his district, rivalling the number of votes received by many incumbents running in the primary. Duane won the general election easily, capturing nearly 72 percent of the vote.

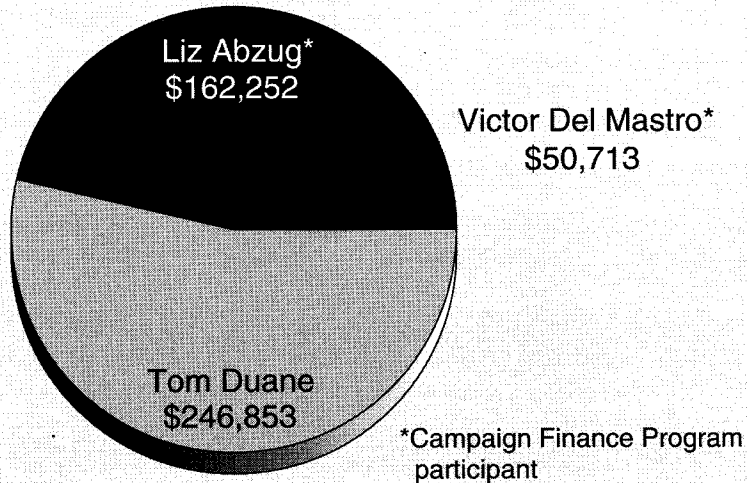
In Focus . . . the 2nd, 4th, and 5th Council Districts. The upset of a sitting Council member is among the most noteworthy of events in local politics. Two such reversals of fortune occurred in Manhattan in stiff competitions among participants. Miriam Friedlander's loss to Antonio Pagan in the 2nd district's primary turned on only 121 votes.

The other upset, that of Carol Greitzer by Republican challenger Charles Millard in the 5th district, is unique on several counts. Although she was an incumbent, Greitzer opted to run in a different district from the one she had previously represented. Local Democratic organizations were, however, solidly in her camp³ and she won the primary with ease, but Millard defeated her by a comfortable margin in the general election.

Participant Carolyn Maloney faced a similar challenge in Upper Manhattan's 4th district, but fared differently. Confronting a newly drawn district with a relatively large Republican contingent, she fought a tough battle against Republican challenger David Goldstein, a non-participant, in the general election. Maloney ultimately triumphed in the high-spending contest, receiving 61 percent of the vote to Goldstein's 37 percent.

Of Manhattan's delegation on the new City Council, nine out of 10 participated in the Campaign Finance Program during the 1991 Council elections, a higher percentage than in any other borough.

Figure 4.3
SPENDING IN THE 3RD DISTRICT PRIMARY



Source: Campaign Finance Board data

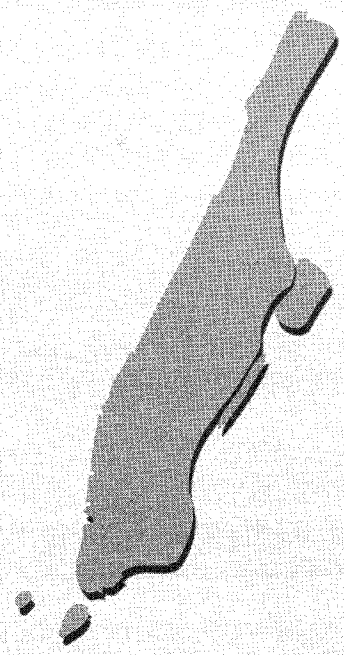
Because a high-spending non-participant was in the race, participants received two-for-one matching.



Newly elected Council member Tom Duane, who chose not to join the Program in 1991, believes the \$105,000 "spending cap is just not enough money to build name recognition."

THE NEW COUNCIL: MANHATTAN

Council Member	Party	District
(P) Kathryn Freed	Dem	1
(P) Antonio Pagan	Dem, Lib	2
Tom Duane	Dem, Lib	3
(P) Carolyn Maloney*	Dem, Ind	4
(P) Charles Millard	Rep, Lib	5
(P) Ronnie Eldridge*	Dem, Lib	6
(P) Stanley Michels*	Dem, Lib	7
(P) Adam Clayton Powell IV	Dem, Lib	8
(P) C. Virginia Fields*	Dem, Lib	9
(P) Guillermo Linares	Dem	10



(P) Indicates Campaign Finance Program participant
 * Indicates incumbent

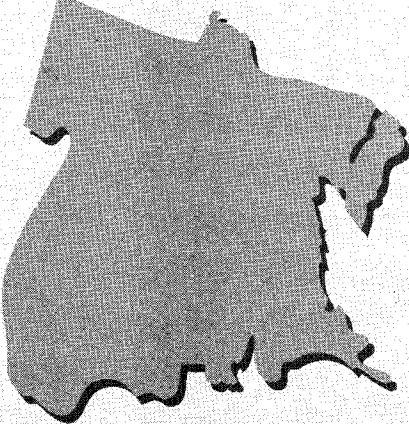
The Bronx

Bronx races ran the gamut from relatively easy wins to some of the most aggressively fought campaigns of the 1991 elections. Voter turnout in the Bronx was very low. Only about 17.5 percent of all registered Democrats in the borough cast primary ballots, putting it fourth amid the five boroughs in the primary, and only 15 percent of all registered voters went to the polls in the general election, placing it last in the general election. Generally speaking, incumbents who ran faced little opposition. All were re-elected. Only two out of five, Jose Rivera in the 15th district and Rafael Colon in the 17th, faced opponents in the primary, and in the general election incumbents garnered an average of 78 percent of the votes in their districts.

In Focus . . . the 14th Council District. The primary contest in the 14th Council district, ending in a virtual tie between former State Senator Israel Ruiz and Sandra Ramos-Alamo, Chairperson of Community School Board 10, was among the most heated races in the 1991 elections. A court-ordered rerun election left victory in Ruiz's hands by some 95 votes. Ruiz and Ramos-Alamo faced off again in the general election, which he won with 4,097 votes to her 864.

Contributions and spending in the 14th district were typical of most Bronx races in 1991 in that very little was spent. In fact, the Bronx reported the lowest average campaign spending

THE NEW COUNCIL: THE BRONX		
Council Member	Party	District
June Eisland*	Dem, Lib	11
(P) Lawrence Warden	Dem	12
Michael DeMarco*	Dem, Con	13
(P) Israel Ruiz	Dem, Lib	14
Jose Rivera*	Dem, Lib	15
Wendell Foster*	Dem, Lib	16
Rafael Colon*	Dem, Lib	17
Lucy Cruz	Dem, Lib	18



(P) Indicates Campaign Finance Program participant
* Indicates incumbent

during the 1991 elections of any borough in the City, at approximately \$21,000 per candidate. In Queens, the typical candidate reported spending about \$35,000, in Brooklyn about \$37,000, in Staten Island about \$38,000, and in Manhattan, spending soared to over \$60,000 per candidate. The combination of low voter turnout and low candidate participation in the Bronx suggests a need for greater efforts to inform voters and candidates about the importance of voting and the opportunities presented by the Campaign Finance Program.

Queens

The new districting plan increased the Queens delegation to the City Council from nine to 14 members. Queens has been called “the borough where one-candidate races are often the rule instead of the exception”⁴ In the 1989 elections, only one of Queens’ nine incumbent Council members faced a primary challenge, and in the 1985 elections, there were primary races in only three districts in Queens. The 1991 elections broke this pattern: there were primary races in 11 of Queens’ 14 newly drawn Council districts. Candidates in Queens joined the Program at a relatively high rate, with a solid majority of candidates on the ballot participating, as shown in Figure 4.1.

Queens had six open seats, the largest number of any borough. Primary contests for these seats were very competitive and attracted large fields of candidates. There were highly contested, expensive races in the open seats in districts 19, 25, 28, 30, and 31. One contest for an open seat, in district 21, was less competitive and costly than the others. Helen Marshall, who had represented the area for nine years as an Assemblywoman, ran and won easily in that district.

In Focus . . . the 19th Council District. Twelve candidates, ten Democrats and two Republicans, ran in primaries in district 19, the largest primary field in any district. In the Republican primary race in district 19 between two participants, Michael Abel, a legislative aide to Assemblyman Douglas Prescott, beat attorney John Tsanas. In the closer and more expensive Democratic primary, called a “10-candidate free-for-all,”⁵ participant Howard Weiss bested nine opponents to win the Democratic nomination. Michael Abel outspent and defeated Howard Weiss in the general election race, becoming one of the four new Republican members on the Council. With 12 candidates, including eight participants, district 19 was the most expensive primary race in Queens. Candidates in that district received more public funds than in any other race in Queens.

In Focus . . . the 30th Council District. In another open seat, district 30, six participants vied for the Democratic nomination. In a primary race that was extremely close in both spending and votes, Pamela Fisher narrowly beat runners-up Frank Sansivieri and Dario Centorcelli. Sansivieri challenged the election results, and a lower court ordered a rerun primary. A higher court reversed this decision, leaving Fisher the victor.

In the general election, another close race in both spending and votes, Republican Thomas Ognibene, former counsel to State Senator Serphin Maltese, defeated Democrat Pamela Fisher and Frank Sansivieri, who ran on an independent line. All three candidates participated in the Program and received substantial amounts of public funds. The primary and general election races in district 30 were the most expensive in Queens overall.

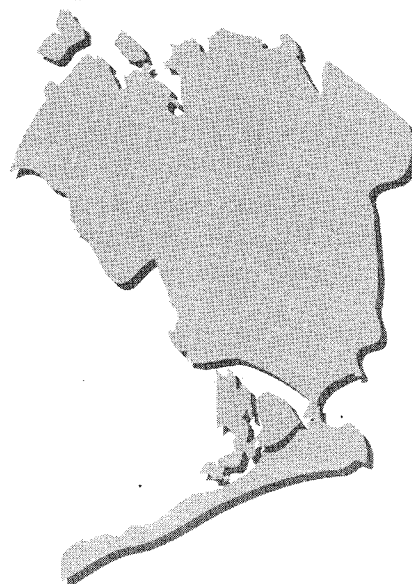
In Focus . . . the 31st Council District. In another heated open seat contest, nine candidates, all but one of them participants, competed for the Democratic nomination in the 31st district. In the primary, Juanita Watkins, a civil service commissioner supported by the Queens County Democratic organization, outspent and appeared to run slightly ahead of Malcolm Smith, district office manager for Congressman Floyd Flake. The courts ordered a rerun primary between participants Watkins and Smith, however, in light of voting irregularities in this close race.

The rerun primary was held on October 22, 1991, just two weeks before the general election. Because of this brief period and expected low voter turnout, the rerun hinged on last minute get-out-the-vote efforts. Anticipating a low turnout, candidate Malcolm Smith said, “We’re going to literally carry people to the polls You live in the district, give us a time and we’ll pick you up.”⁶ In the rerun, the power of political advertising was less important than volunteer efforts by the party, churches, and unions to persuade voters to get to the polls. In view of the short time available for the rerun election, the Campaign Finance Board acted quickly to disburse the public fund grants provided by law. With voter turnout a little more than half the number who voted in the primary, Watkins defeated Smith, winning 60 percent of the vote. Watkins easily beat her Republican opponent in the general election.

In one of the challenged seat races, Council member Julia Harrison faced a high-spending primary opponent, Pauline Chu, but still won with about 75 percent of the vote. Incumbents Walter McCaffrey, Archie Spigner, and Walter Ward defeated their primary challengers and ran

THE NEW COUNCIL: QUEENS

Council Member	Party	District
(P) Michael Abel	Rep, Con	19
Julia Harrison*	Dem, Lib	20
Helen Marshall	Dem, Lib	21
(P) Peter Vallone*	Dem	22
Sheldon Leffler*	Dem, Lib	23
Morton Povman*	Dem	24
(P) John Sabini	Dem	25
Walter McCaffrey*	Dem, Rep, Lib	26
Archie Spigner*	Dem, Lib	27
(P) Thomas White, Jr.	Dem, Lib	28
(P) Karen Koslowitz*	Dem	29
(P) Thomas Ognibene	Rep, Con, RTL	30
(P) Juanita Watkins	Dem, Lib	31
Walter Ward*	Dem, Con	32



(P) Indicates Campaign Finance Program participant
 * Indicates incumbent

unopposed in the general election. Council member Karen Koslowitz faced a primary challenge from Sidney Strauss, and defeated Donald Adolff, her Republican opponent, in the general election. The three Council members with no primary opposition, Peter Vallone, Sheldon Leffler, and Morton Povman, faced relatively minimal opposition in the general election, both in terms of their opponents' spending and vote-getting ability, and won by large margins.

Brooklyn

Brooklyn had its share of electoral ups and downs. Because of a voting machine mixup, Una Clarke, a Caribbean-born candidate, initially thought that the primary race in the 40th district had gone to her opponent Carl Andrews. A rerun election was ordered but was subsequently canceled, and Una Clarke emerged as the primary victor after a recount of the original primary results by a margin of about 0.6 percent of the votes.

What must rank as one of the more tumultuous races in the City's annals took place in the 44th district, in which attorney Robert Miller, a participant, mounted a strong chal-

lenge to incumbent Noach Dear, a non-participant. Dear raised about \$150,000, compared with Miller's \$54,000 in contributions, but Miller received an additional \$40,000 in public funds from the Campaign Finance Board. Miller attributed the closeness of his race to the Campaign Finance Program, stating that public funds were "an absolutely vital component to my mounting a credible campaign. Without it, I would not have come as close as I did."⁷ The race was neck and neck, and immediately afterward there was a question who had won. Miller was originally informed by his staff that he had lost by some 500 votes. The election night canvass showed Miller the winner by 16 votes, while a still later, and final, tally once again put Miller behind Dear, this time by 181 votes. Dear and Miller faced off once again in the general election. Dear won that race with 65 percent of the votes to Miller's 35 percent.

In Focus . . . the 38th Council District. The 38th district was drawn as a Hispanic district,⁸ but a minority candidate was never favored to win. As the Democratic primary race opened, newspapers named Louis Valentino, business administrator of Local 1814 of the International Longshoreman's Association, the odds-on favorite. When the primary votes were counted, Valentino suffered a surprising setback: he placed fourth in a field of nine candidates, with victory going to political newcomer and Program participant Joan Griffin McCabe. McCabe, an education lobbyist, went on to win the general election as well.

**Table 4.1
CAMPAIGN FINANCE IN THE 38TH DISTRICT DEMOCRATIC PRIMARY**

Candidate	Contributions	Public Funds	Spending	Percent of Total Votes
(P) Joan Griffin McCabe	\$ 20,735	\$ 20,780	\$ 37,718	21.9 %
(P) Javier Nieves	12,420	18,900	27,084	16.1
(P) Pedro Velazquez	8,283	11,138	20,262	12.7
Louis Valentino	44,571	N/A	42,153	12.6
(P) John O'Hara	18,623	33,160	52,489	10.1
(P) Beatrice Byrd	7,453	0	5,962	8.4
(P) Ann English	34,321	29,226	56,082	8.2
(P) Ismael Moices	6,281	10,042	15,508	6.4
Martin Krongold	0	N/A	9,797	3.6

(P) Indicates Campaign Finance Program participant

Campaign Finance Board and City Board of Elections data

Chapter 4

As with many of the open seat races, based on contribution and spending patterns, the campaigns in the 38th district appear to have been relatively small, grass roots efforts, shown in Table 4.1. Some of the biggest spenders got very little return for their money. Three candidates spent substantially more than McCabe, but lost to her by sizeable margins.

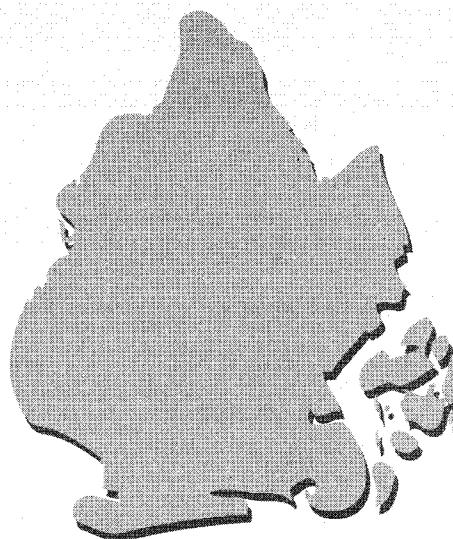
In Focus . . . the 45th Council District. Participant Susan Alter's odyssey highlights the problems encountered in the redistricting process. The Districting Commission's initial plan excluded her from the predominantly African-American area she had represented for over ten years, and placed her residence in the approximately 80 percent white 44th district, where she would have confronted long-time incumbent Noach Dear. She brought suit against the Districting Commission, charging that it had refused to place her in a majority African-American

THE NEW COUNCIL: BROOKLYN

Council Member	Party	District
Kenneth Fisher*	Dem, Lib	33
(P) Victor Robles*	Dem, Lib	34
(P) Mary Pinkett*	Dem, Lib	35
(P) Annette Robinson	Dem, Lib	36
(P) Martin Malave-Dilan	Dem	37
(P) Joan Griffin McCabe	Dem	38
(P) Stephen DiBrienza*	Dem, Lib	39
(P) Una Clarke	Dem, Ind	40
Enoch Williams*	Dem	41
Priscilla Wooten*	Dem, Lib	42
(P) Sal Albanese*	Dem, Lib	43
Noach Dear*	Dem, Con	44
(P) Susan Alter*	Dem	45
(P) Herbert Berman*	Dem, Lib	46
Samuel Horwitz*	Dem, Lib	47
(P) Anthony Weiner	Dem	48

(P) Indicates Campaign Finance Program participant

* Indicates incumbent



district because she is white. The Districting Commission's final plan placed Alter's residence in the predominantly African-American 40th district. However, after a federal three-judge panel ruled that candidates could run in any district regardless of their place of residence, Alter declared as a candidate in the 45th district, also a majority African-American district. She won the primary in the 45th by a wide margin and scored a heavily lopsided win in the general election.

The Brooklyn delegation on the City Council is the largest of the five boroughs, with 16 members. Slightly more than two-thirds of Brooklyn's Council members participated in the Campaign Finance Program during the 1991 elections.

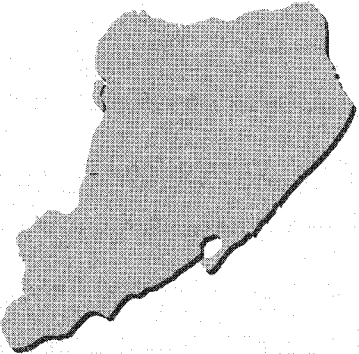
Staten Island

Newly created district 50 generated the most heated race on Staten Island. The new district overlaps boroughs, covering the middle of Staten Island and a small portion of Brooklyn in Bay Ridge and Bensonhurst. In districts 49 and 51, Council members Jerome O'Donovan and Alfred Cerullo, a Program participant, were re-elected with relative ease. Outspending and defeating two primary challengers by a large margin, Council member O'Donovan went on to prevail over Republican opponent Richard Thomas, a Program participant, in the general election. Republican Alfred Cerullo faced no primary challenge and minimal opposition in the general election.

In Focus . . . the 50th Council District. This was the only open seat on Staten Island, and the costliest of the three races in the borough. Candidates running here also received more public funds than candidates in the other districts on Staten Island. Jon Del Giorno, administrative manager at the City Board of Elections, defeated Vincent Serapiglia, a bus operator, in the Democratic primary. The general election between Program participants Del Giorno and Republican John Fusco, an attorney and president of Meals-on-Wheels, was characterized as a race in which "each party [had] a shot."⁹ Voter registration in the district is

THE NEW COUNCIL: STATEN ISLAND		
Council Member	Party	District
Jerome O'Donovan*	Dem, Con	49
(P) John Fusco	Rep, Con	50
(P) Alfred Cerullo III*	Rep, Con	51

(P) Indicates Campaign Finance Program participant
* Indicates incumbent



Chapter 4

60 percent Democratic and 36 percent Republican. Fusco outspent Del Giorno two-to-one and received the maximum in public funds. He won with 56 percent of the vote, giving Staten Island two Republicans out of the three members of its Council delegation.

The New Council

The 1991 elections resulted in a more ethnically and politically diverse Council of 51 members, 31 of whom participated in the Campaign Finance Program. Twelve new minority members, seven new women, and four new Republicans were elected. The Council now also has substantially more political muscle. It was previously eclipsed by the powerful Board of Estimate, which has been abolished. The revised Charter has cast local government in the classic executive-legislative model, in which broad new powers have been conferred on the Council to make it a more effective counterweight to the executive branch. The mayor has the authority to propose the City budget, but the Council now has the sole power to approve the budget, and has greater power over land use and contracts. The expanded size and role of the Council increase the importance of the Council elections, and accordingly, the importance of the Campaign Finance Program in enabling more grass roots candidates to participate in the electoral process.

The combination of the facts that a significant majority of the current Council were Program participants, that the Program has been simplified, as shown in Chapter 1, and that non-participants generate not only additional costs to the Program but give advantages to their opponents by triggering bonuses, should result in a continued high rate of participation among all candidates and, it is to be hoped, a higher rate of participation by incumbents in future elections.

* * *

Another factor that should help contribute to higher participation is the increasingly more efficient administration of the Program, described in the next chapter.

NOTES

- ¹ Maurice Carroll, "District 8 Set for Council Re-run," *New York Newsday*, October 25, 1991, 25.
- ² *Campaign Finance Board 1991 Hearings*, at 5 (testimony of Council member Tom Duane).
- ³ Jessie Mangaliman, "An Uphill Climb for Millard," *New York Newsday*, October 30, 1991, 23.
- ⁴ Joseph W. Queen, "Surprise Awaits Queens Voters," *New York Newsday*, November 4, 1991, 8.
- ⁵ Frank Lombardi, "Political Free-for-All: Hundreds of Contenders in Impending Council Primaries," *The Daily News*, September 1, 1991, 24.

⁶ Rita Delfiner, "Primary Reruns in Bronx and Queens Today," *The New York Post*, October 22, 1991, 4.

⁷ *Campaign Finance Board 1991 Hearings*, at 193-94 (testimony of Robert Miller).

⁸ Andrew L. Yarrow, "Varied Interests Vie to Represent Brooklyn District," *The New York Times*, August 19, 1991, B1.

⁹ Maurice Carroll, "Campaign's Cliche: Newness," *New York Newsday*, November 4, 1991, 23.

Chapter 5:

Administration of the Campaign Finance Program

In administering the Program, the Campaign Finance Board assists candidates in complying with the Program's requirements; it receives, computerizes, and makes available to the public campaign finance information submitted by candidates; it makes public funds payments to eligible candidates; and it monitors the candidates' adherence to the Program's requirements through auditing and enforcement. The large number of participants and competitive races in 1991 meant that the Board handled a high volume of payments to candidates, including rerun election payments and two-for-one bonus matching determinations during these elections.

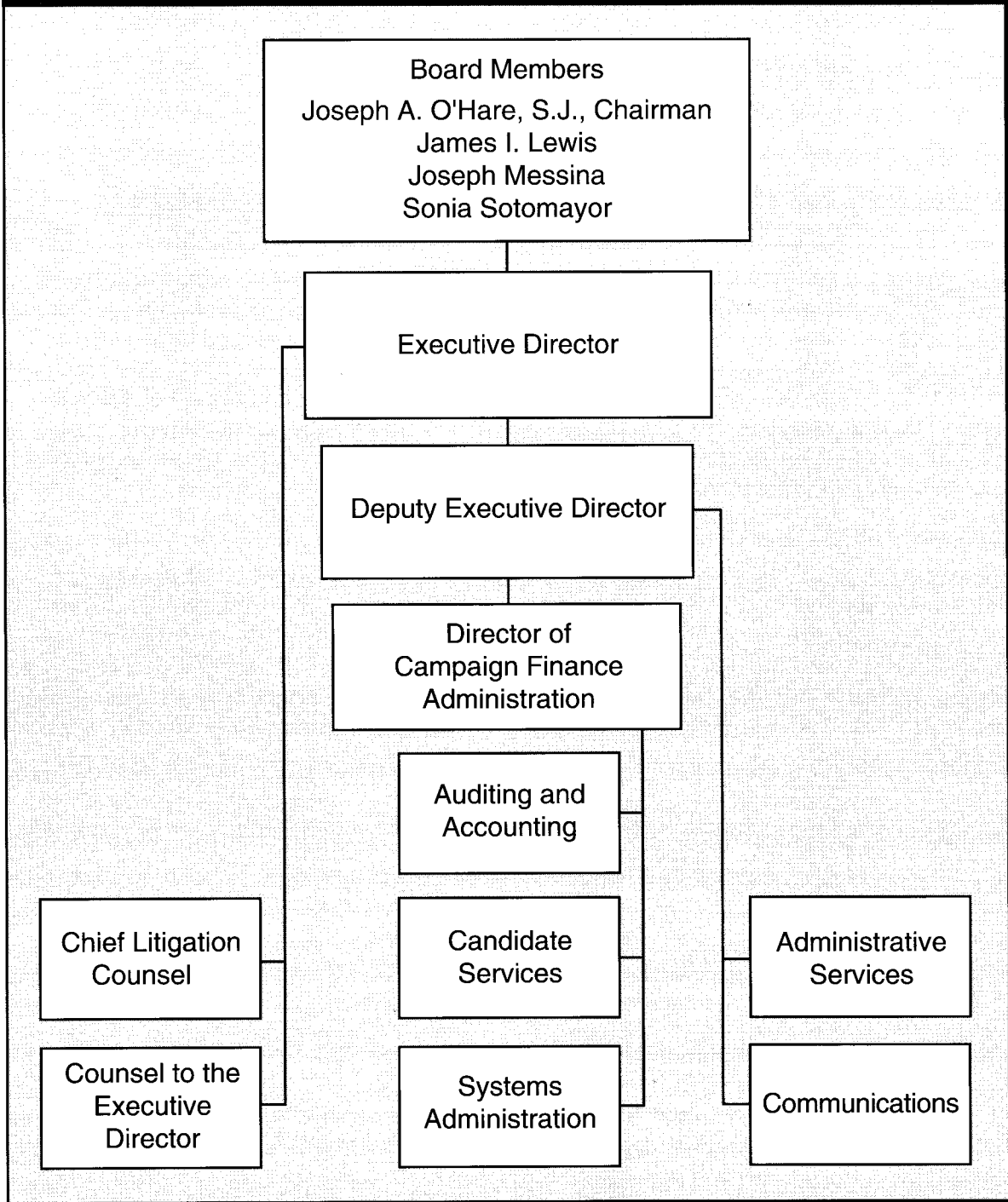
The Board's staff is organized into six units under the Executive to carry out its mandates efficiently. These are the three Campaign Finance Administration units: Candidate Services, Systems Administration, and Audit and Accounting; the Legal Unit; the Communications Unit; and the Administrative Services Unit, as shown in Figure 5.1. For the 1991 elections, the Campaign Finance Board had an authorized headcount of 44 personnel. During the periods of peak activity, the Board also employed temporary personnel and summer interns to assist the permanent staff, particularly with data entry of campaign finance information and production of the Voter Guide.

Candidate Assistance

The Candidate Services Unit was established in 1990 in response to candidates' requests and the Board's review of its procedures after the 1989 elections, to train and assist participants in meeting the requirements of the Program and receiving public funds. The Candidate Services Unit held 13 group training sessions for participants between April and July 1991, and 18 individual sessions for candidates who had more complex questions or wanted more information. The candidates and treasurers who attended these sessions reportedly found them helpful, although many campaigns did not take advantage of them.

In addition to the help provided to candidates and campaign staff when they came in to the Board's offices to file financial disclosure statements, Candidate Services staff received thousands of telephone calls from campaigns during the elections. This staff also made hundreds of calls to alert campaigns to filing deadlines, inadequacies in disclosure statements, and

Figure 5.1
CAMPAIGN FINANCE BOARD
ORGANIZATION CHART



Administration of the Campaign Finance Program

other compliance issues. On the post-election survey, 95 percent of the respondents reported that the Candidate Services staff was helpful or very helpful; the remaining five percent answered that they had little or no contact with the staff. Most respondents, 87 percent, were assisted by Candidate Services staff at least once during each filing period, and many said that they were in contact with the staff once a week or more. The Candidate Services Unit was heavily relied on by the candidates, and by many accounts, greatly appreciated. Eighteen candidates and treasurers who responded to the survey specifically praised the staff. Council member Mary Pinkett, Chair of the Governmental Operations Committee, found the Board staff very cooperative: "the fact that the staff was available, that the staff was concerned, [that] the staff wanted to make sure that [participants] had . . . the information [they needed], was important."¹ Council member Herbert Berman said his treasurer, a housewife with no particular experience as an accountant or attorney, found the staff "very patient, very understanding and very helpful . . . [S]he was able, after the initial trauma of facing the forms and with the help of the staff, to understand the [Program]" and comply with its requirements.²



"The fact that the staff was available, that the staff was concerned . . . was important" — Council member Mary Pinkett

The Candidate Services Unit was also responsible for the initial review of the candidates' financial disclosure statements. The Board received over 2,200 disclosure statements and other documents from campaigns for the 1991 elections. These included 256 certifications, the forms used to join the Program, 179 principal committee designations, and approximately 1,300 financial disclosure statements. In addition, the Board received 529 amendments to these filings, including 441 amendments to financial disclosure statements.

In addition to the creation of the Candidate Services Unit, another improvement for 1991 was the publication of the Campaign Finance Kit, a comprehensive plain-English guide for candidates and treasurers, including instructions for filling out forms and detailed information about compliance with the Program. In responses to the post-election survey, these materials were widely praised. This kit will be updated and expanded for the 1993 elections.

Campaign Finance Information System

The Campaign Finance Act mandates that the financial disclosure information submitted to the Board be entered onto a computer database and made available to the public. In 1989, the Board, working with consultants from the City's Department of General Services and a

private contractor, developed the Campaign Finance Information System ("CFIS"). This system stores candidates' financial information on New York City's mainframe computer and allows the Board to run hundreds of public disclosure and analytic reports from the data. For the 1991 elections, the Board modified CFIS to allow the entry of the new, simpler reporting forms and improved the data control procedures so that the Board was able to release public disclosure reports twice during the elections. The Board was also able to provide public disclosure information on computer diskettes, which enables others to analyze and run their own reports from the data. For the 1991 elections, approximately 60,000 contribution and expenditure records were entered onto CFIS. CFIS now contains a total of approximately 220,000 records from the 1989 and 1991 elections, as well as the special elections that took place in 1990 and 1991.

For the 1989 and 1991 elections, a few campaign consultants and campaigns developed their own computer report formats that allowed them to provide financial disclosure to the Board using printouts, rather than handwritten reports. Many candidates have requested that the Board develop software which would allow them to enter their contributions and expenditures onto their computers and report to the Board using diskettes and printouts. This is an extremely demanding project which the Board, given its small staff and severe budget constraints, was not able to undertake for the 1991 elections. The Board has, however, begun developing computer software which it plans to make available, if possible, to candidates for the 1993 elections. The benefits of having such software are considerable. For the candidates it will mean less labor-intensive reporting, and for the Board it will ultimately mean immediate access to computerized data and reduced data entry costs.

Public Funds Payments

The Board is required to pay public matching funds to eligible candidates within four business days of the filing deadline, if practicable. This is a very short time to review the filings, enter and run the payment claims on the computer system, and draw checks for the candidates. But because the immediate receipt of public funds is so important to the candidates during the elections, the Board's policy is to pay within the four-day period except after the election, when audits are being completed and the campaigns' immediate need for funds is not as great. By law, the first payment is not made to candidates until two weeks after the petition deadline when candidates' ballot status is known. The extended petition filing period in 1991 resulted in a first payment date of August 21. After that, candidates were paid following submission of each periodic disclosure statement. Because of the numerous court-ordered rerun primaries in 1991, in addition to the regular primary and general election payments, the Board distributed matching funds grants as provided by law. Ten candidates in five districts in which rerun elections were ordered received payments, although in two of these districts the rerun election was later canceled.

Payment Procedures. The Board must distribute matching funds payments quickly, while taking steps to avoid overpaying candidates. The Board disburses payments after reviewing all filings to those candidates who are on the ballot, have reached the threshold, have all filings up-to-date, and meet other tests of eligibility. To protect against overpayments, the Board withholds ten percent from each candidate's first payment and then bases subsequent withhold-

Administration of the Campaign Finance Program

ing amounts on the candidate's rate of questioned contributions in earlier filings. Each filing is entered onto CFIS, which produces detailed reports accepting or questioning matching claims, based on pre-programmed standards. Using these computer reports, auditors verify matching claims or request more information from the candidates. Public matching funds thus are only paid on facially valid claims. As a result of the Audit Unit's review, the Board saved approximately \$250,000 before election day by not disbursing public funds for matching claims which were deemed invalid.

Bonus Determinations. To enable participants to compete effectively against high-spending non-participants, the Act provides that when the Board has determined that a non-participating Council candidate has raised or spent more than \$30,000, participants running in the same district become eligible to receive matching funds at a two-for-one rate, and the participants' expenditure limits are removed, as described in Chapter 1. Bonus determinations may be initiated either by the Board or by a candidate. In making bonus determinations, pursuant to Program rules, the Board considers information about the non-participating candidate's fund raising and spending, including financial disclosure forms filed by the candidate with the City Board of Elections, statements made by the candidate or his or her representatives about the campaign's fund raising or spending, the fair market value of office space, advertising, mailings, or other campaign expenses reported to have been made by the candidate, and any other relevant information. The Board makes a preliminary determination whether the bonus has been triggered and notifies the non-participant and any opposing participants, giving them an opportunity to present evidence.

Because the Council elections this year were highly active, the Board had to consider whether the bonus had been triggered in 19 districts for the primary election and in six districts for the general election. The Board found that the bonus should be in effect in 16 districts in the primary and in five districts in the general election. In a majority of cases, bonus determinations were made based upon the non-participants' financial disclosure forms filed with the City Board of Elections. In five instances, participating and non-participating candidates also appeared before the Board to present information relevant to whether the bonus should be triggered.

The Act's two-for-one matching funds provision is important in guaranteeing that participants, who are bound by fund-raising and spending constraints, are able to compete against high-spending non-participants. Thus, bonus determinations must be made quickly during the course of a campaign. The Board makes every effort to consider bonus determinations in a timely manner, fairly considering all information presented by the affected candidates. Difficulty in making bonus determinations has arisen when information on a non-participant's financial activity is not available at the City Board of Elections because the candidate's filings are missing, incomplete, outdated, or improperly filled out, or when a non-participant fails to respond to the participant's allegations that he or she has triggered the bonus. Adoption of the Board's state legislative proposals, which would require that all candidates for four of the covered offices file financial disclosure statements with the Campaign Finance Board, would facilitate the Board's ability to make bonus determinations in a timely manner.

Monitoring Compliance

During the elections, the Board's staff monitored participating candidates' compliance with filing deadlines, contribution and expenditure limits, loan restrictions, and disclosure requirements. All violations are recorded on a tracking system that also records actions taken by the Board and candidates' responses. If candidates have outstanding violations, the Board withholds public funds and pursues enforcement efforts described below. In addition, in 1991, the Board performed sample reviews during the campaign of back-up documentation for contributions for each campaign that received public funds. Audit staff reviewed randomly selected transactions to ensure that campaigns were maintaining the records needed to demonstrate compliance with the Act and the Program rules. If candidates did not pass this test, all further payments to them were suspended until they responded satisfactorily.

Audits

The Board conducted a number of compliance visits during the election. Auditors visited campaign offices of participants to determine whether they were keeping the required records. The Board also conducted post-election audits of all 1991 participants' campaign committees on a much faster schedule than in the 1989 elections. The Board's auditors inspect the records kept by each participant's campaign committee to ensure that the committee has complied with contribution and spending limits and other requirements of the Program, has accurately reported financial activity to the Board, is able to provide back-up documentation, and has complied with the rules regarding the spending of public funds. Because participants who have surplus funds left over after the election must repay the Board up to the amount of public funds they have received, the audits also determine whether the campaign has a surplus or deficit. The Board recovered approximately \$350,000 in surplus public funds and other funds returned for the 1989 elections, representing eight percent of gross payments. At this writing, as a result of the 1991 campaign audits, approximately \$39,000 has already been returned to the Fund by candidates who had surplus funds, in addition to the \$250,000 saved by monitoring of public funds claims during the election, described above.

Enforcement and Litigation

The Board's enforcement powers include the ability to withhold public fund payments, to subpoena documents, records, and testimony from campaigns, and to seek penalties. During the 1991 elections, the Board withheld payments to campaigns on several occasions for various reasons, including failure to file disclosure statements and other violations of the Act. The Board served subpoenas on six candidates who failed to respond to requests for audit documentation. The Board penalized four candidates for having outstanding loans on the date of the election. The Board commenced lawsuits against ten participants for failing to file financial disclosure statements.³ Eight of these participants have now completed their filings and have paid or been assessed penalties.

Two lawsuits were brought against the Campaign Finance Board in 1991. Both were successfully defended by Board staff and the Corporation Counsel's office. The first was

Administration of the Campaign Finance Program

brought by Michael Garson, a candidate in the 48th district in Brooklyn, who sued to be allowed to join the Program after the opt-in deadline. The case was dismissed.⁴ The second case was brought by a candidate in Manhattan, Hyman Dechter, and two New York City citizens, who argued that the payments of public funds by the Board are contributions to candidates' campaigns and should be subject to state contribution limits. This argument was rejected, and the public funds payments were held not to be contributions governed by state law.⁵

Under the Act, third parties may charge participants with violations of the Act or the Program's rules. Candidates often monitor the behavior of their opponents' campaigns closely, and they can prompt a Board investigation by filing a sworn or affirmed written complaint. Only one formal complaint was filed in 1991, alleging that a candidate failed to report certain expenditures and in-kind contributions to the Board. The complaint was ultimately dismissed. This was a low volume of complaints compared with the nine filed during the 1989 elections. The number may very well increase in 1993, when all citywide and boroughwide offices are up for election, as well as the 51 new Council seats.

Board Rules and Advisory Opinions

The Board thoroughly reviewed and revised the rules governing the Program in several rulemakings following the 1989 elections. The rules were revised to reflect the amendments to the Act passed by the City Council in November of 1990 and to simplify Program requirements. The Board issued eight advisory opinions during 1991 to answer novel questions of interpretation of the Act, a low number compared with the 63 advisory opinions issued relating to the 1989 elections, which covered all five municipal offices. The number of advisory opinions requested and issued can therefore be expected to rise again substantially in 1993.

Communications and Public Education

The Board's Communications staff conducts extensive public education about the Program. To inform candidates about the Program for the 1991 elections, Board staff sent out numerous mailings and spoke at more than 85 community group meetings throughout the City. A significant number of participants learned about the Program from this ambitious effort, and this fact was reflected in the high rate of participation in the Program in 1991. As discussed in Chapter 2, Board staff makes candidates' financial information available to the press and public, responds to inquiries about the Program and participating candidates, and issues numerous press releases during the course of the elections regarding public funds payments to candidates and their campaign contributions and spending. Campaign finance and elections agencies in other states, cities, and foreign countries, as well as government reform groups and organizations such as the national Council on Governmental Ethics Laws, frequently seek information about the New York City Program and the Board's Communications staff assists them. In addition to their public education efforts related to the Campaign Finance Program, the Communications staff is responsible for producing the Voter Guide, which is sent to all registered voters in the City, as described in Chapter 6.

Budget

The Campaign Finance Board's budget is divided into two distinct parts. The first is the Fund, from which public matching funds are distributed to candidates who qualify to receive them. For the 1991 elections, approximately \$3.5 million was appropriated for the Fund for payments to Council candidates. A total of about \$2.5 million was actually paid out to candidates, and the remainder returned to the City treasury. The second and entirely distinct part is the Board's operating budget, which covers staff salaries and operating expenses, including costs associated with the Voter Guide and data entry during an election year. For fiscal year 1992, the personal services ("PS") component of the operating budget was approximately \$1.7 million, and the other than personal services ("OTPS") component was about \$4.3 million. Of the OTPS amount, approximately \$2.8 million was budgeted for the 1991 primary and general election Voter Guides. In fact, the Board published and distributed 3.6 million copies of the Voter Guide for approximately half that amount, just over \$1.4 million.

* * *

In addition to administering the Campaign Finance Program, the Board is mandated to publish Voter Guides for the primary and general elections and to distribute them to all households in New York City having registered voters. The Voter Guide is discussed in the next chapter.

NOTES

¹ *Campaign Finance Board 1991 Hearings*, at 322 (testimony of Council member Mary Pinkett).

² *Ibid.*, at 246 (testimony of Council member Herbert Berman).

³ Three candidates filed their outstanding statements and paid penalties, ranging from \$100 to \$250. Five candidates filed their outstanding statements, and the Board was in the process of seeking penalties at the time of this writing. The two remaining candidates did not appear, and motions for default judgments have been served.

⁴ *Garson v. The New York City Campaign Finance Board, et al.*, No. 43576/91 (Sup. Ct. N.Y. Co. August 8, 1991) (Justice Edward H. Lehner).

⁵ *Fidler v. New York City Campaign Finance Board, et al.*, No. 20979/91 (Sup. Ct. N.Y. Co. August 9, 1991) (Justice Martin Evans).

PART III



**THE
VOTER GUIDE**

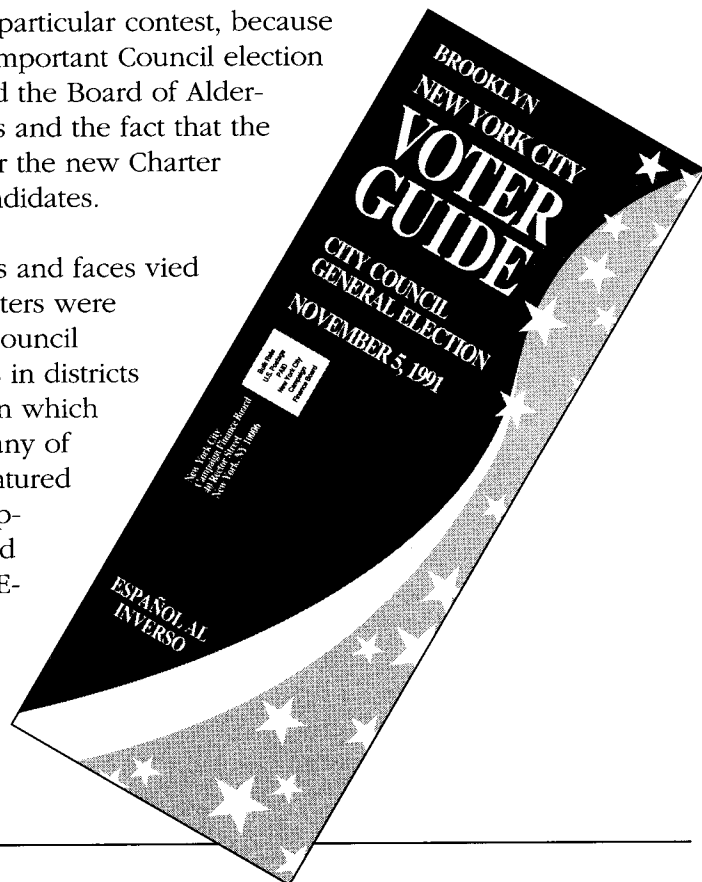
Chapter 6:

The Voter Guide

First published by the Board for the 1989 elections, the Voter Guide has been widely praised as a highly informative package of information for voters. The Voter Guide is mailed to all households in New York City having at least one registered voter. It is designed to give voters a single, non-partisan source of information about municipal candidates, local ballot issues, and voting. New York City's Voter Guide has been recognized by the Washington-based Center for Policy Alternatives as one of "10 Ideas That Work For a Better Democracy."¹

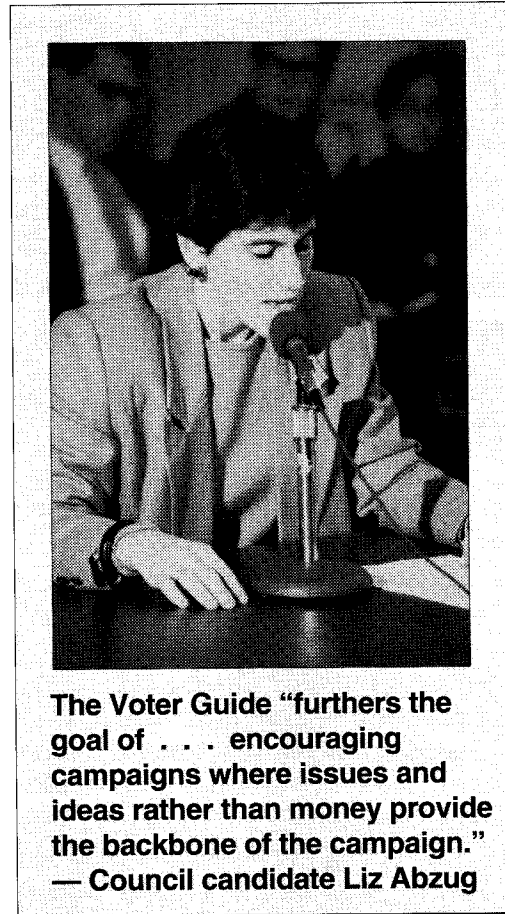
The Voter Guide was especially useful in the 1991 City Council elections, when it included profiles of 186 candidates, because it informed voters about a contest that was by nature less well-publicized than most. As a result of the 1989 Charter revisions, the Council elections were scheduled for an "off" year, with no higher office contests to provide additional visibility through television advertising and the publicity surrounding a mayoral election. Voters were therefore unlikely to have much awareness of these elections. At the same time, this particular contest, because of redistricting, was perhaps the most important Council election held since the modern Council replaced the Board of Aldermen 50 years ago. The 16 new districts and the fact that the Council's powers were expanded under the new Charter attracted an unusually large field of candidates.

A multitude of unfamiliar names and faces vied for seats on the expanded Council. Voters were understandably confused by the new Council districts. Most voters found themselves in districts with different numbers from the ones in which they had been voting for years, and many of those who did vote might not have ventured to the polls without the information supplied in the Guide. The Guide included numerous references to the (212) VOTE-NYC telephone hot line number set up by the City Board of Elections which helps voters find out which district they live in and where their polling places are.



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Did the 1991 Voter Guide help ease voters' transition to a 51-member Council? Responses from candidates and voters suggest it did. "I want to commend you on the voters' handbook," said Council member Julia Harrison. "I think it certainly has stimulated considerably more interest in the elections than I was aware of up until the time that you began distributing them. People do read them. People do take note of what they . . . contain, and they have been extremely helpful."² Liz Abzug, a candidate in Manhattan's 3rd Council district, stated that the Voter Guide was "a very valuable resource provided by [the Board], and I was told that by voters on the street. It furthers the goal . . . of encouraging campaigns where issues and ideas rather than money provide the backbone of the campaign."³ One Staten Island voter wrote about the Guide, "I've found it to be easy to understand and invaluable. . . . I actually look forward to voting and having a say in our community."⁴ Another voter said, "In my 13 years of voting in Manhattan, I have never before seen anything like the New York City Voter Guide. Congratulations."⁵



**The Voter Guide "furthers the goal of . . . encouraging campaigns where issues and ideas rather than money provide the backbone of the campaign."
— Council candidate Liz Abzug**

Separate editions of the Voter Guide are published for the primary and general elections. In 1991, as in 1989, five different versions of the Guide were produced, one for each borough. The Guide gives information about municipal candidates running for the five offices covered: mayor, City Council president, comptroller, borough president, and City Council member. As mandated by the City Charter, each book is presented in English and Spanish. Among others, the Executive Director of the Institute for Puerto Rican/Hispanic Elderly noted that the Guide was an important step toward "enhancing the civic participation of the Latino population."⁶

What is in the Voter Guide

The information in the Voter Guide is divided into two sections. One focuses on the candidates, and the other provides general voting assistance information.

Candidate Profiles. The interest which the 1991 elections sparked among candidates — especially in the open seats — resulted in races for which voters were faced with an unprecedented number of names of candidates when they entered the voting booth. As many as eight, nine, and ten candidates ran in some primaries. Elections were often decided by hundreds, and in some districts even tens, of votes. In most elections, even concerned

citizens find it difficult to obtain balanced information about candidates from the media and candidates' campaigns. Elections for City Council are not covered widely or consistently by the media, and certainly not by television news. Publicity about City Council candidates comes almost exclusively from their own printed literature and depends on the candidates' ability to distribute that literature to potential voters.

The Guide fills this information void. "The Voter Guide keeps the voter connected to the process," said Jane Kalmus, Acting Chair of the Voter Assistance Commission. "It offers non-partisan information to the voter, and at a time when there is much information forthcoming from various sources which attempt to persuade the public to a particular point of view, it is important to remember the single source to which the voter may turn for accurate information regarding the candidates. Not every voter gets to buy and read *The New York Times*. But every registered voter receives the Voter Guide free."⁷

The candidates' section of the Guide indicates which candidates are on the ballot and includes candidate profiles, organized within each book according to the office and district in which they are running. At the bottom of each candidate's page, a note indicates whether he or she is participating in the Campaign Finance Program. Each candidate who chooses to submit information appears on a separate page which contains background information, a statement setting forth the candidate's views, and a photograph. The candidates swear to the accuracy of the information submitted in their statements, subject to the penalty of perjury. Charges that false statements have been published in the Voter Guide are referred to the District Attorney's Office.

Who Was Included. The Campaign Finance Board attempts to include as many candidates as possible in the Voter Guide. To inform potential 1991 City Council candidates about the Voter Guide, Board staff publicized it at Community Board meetings, Police Precinct Community Council meetings, in newspaper advertisements, and in mailings to county committees, district leaders, and all candidates and potential candidates known to the Board, whether or not they had joined the Campaign Finance Program. It was important to reach candidates early enough so that they could meet the June 20th submission deadline. The size of the Voter Guide project requires a production schedule that both in 1989 and in 1991 placed the submission deadline before the petition filing deadline, which is the first day on which it is possible to know with certainty who is running for office.

In 1991, the Voter Guide included profiles of 186 of the 239 candidates who eventually qualified to be on the primary and general election ballots. While the Board attempts to include profiles for all candidates in the Guide, some candidates who were contacted in 1991 chose not to submit information. A few other candidates may have started their campaigns too late to be included in the Guide.

Voting Assistance. This section of the Voter Guide provides general voting information in plain language, including information about registering to vote, the date of the primary and general elections, using a voting machine or voting by absentee ballot, and obtaining additional information from the Board of Elections. In the center of the Voter

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Guide for each borough is a map showing the outlines of the new Council districts. The maps — provided by the New York City Districting Commission — gave voters a general sense of the new district lines. More detailed maps labeled with street names to give voters greater certainty about their new districts were not available when the Guide went to press, and, for that reason, voters were referred to the (212) VOTE-NYC hot line for this information. The Board plans to include more detailed maps in future Guides, if possible.

Publication and Distribution

Publication. The 1991 elections, with the changes in Council district lines, ensuing litigation, and shifted petition filing deadline, presented unusual administrative and production difficulties for the Board's staff. A number of candidates did not know which district they were running in until after submitting information for the Guide by the June 20th deadline. Publishing and mailing the Voter Guide on time to all eligible voters required that the material be in final form — produced in-house on computers by Board staff — and sent to the printer about seven weeks prior to election day. At the end of July, after the first primary election Voter Guide pages had already been sent to the printer, a three-judge federal panel extended the deadline and liberalized the requirements for petition filing. As a result, many more potential candidates qualified to be on the ballot, which delayed the printing schedule for the Guide. The general election edition of the Guide was also complicated by court challenges and rerun elections, which altered the initial results of the primary elections in some districts.

Distribution. The Board is mandated by the City Charter to send a copy of the Voter Guide to each household having a registered voter. The Board uses addresses supplied in computerized form by the New York City Board of Elections, and sorts the information to reduce duplication when more than one registered voter lives at the same address. The list is also sorted so that, to the extent possible, primary election Guides are only mailed to voters in districts that have primaries. A total of approximately 3.6 million copies of the Voter Guide were distributed to New York City voters in 1991. The Board provided some 120,000 copies of the Guide to various organizations and locations to reach eligible voters and interested citizens who might otherwise not receive a Guide. Voter Guides were delivered to public libraries, local colleges, homeless shelters, the Board of Elections offices in each borough, the Bronx Voter Participation Project, and the League of Women Voters, among others. In future elections, the Board will also send copies of the Guide to high schools to help educate students about their local government.

The Voter Guide has been recognized as a success in making New York voters better informed about and more active in local elections. The Guide, like the New York City Campaign Finance Program, makes more information available to voters and reduces the dominance of money in New York City's political campaigns by providing equal space to all candidates in a forum that reaches all eligible voters. The non-partisan format and multi-candidate scope of the Guide make it useful to voters in a way that paid campaign advertising is not. Candidates pay nothing to appear in the Guide, and the public pays relatively little for the service. In 1991, the Guide cost voters approximately 39 cents a copy — about the cost of a daily newspaper.

* * *

The Board reviews the Voter Guide after each election to examine ways in which it should be improved. Suggestions for expansion and other changes in the Guide are set forth in the next chapter, along with the Board's recommendations for improving the Campaign Finance Program.

NOTES

¹ The Center for Policy Alternatives sponsored a symposium, 10 Ideas That Work For a Better Democracy, on June 15, 1992, to highlight model programs around the country that strengthen democracy, including the Voter Guide issued by the Board.

² *Hearings Before the City Council Governmental Operations Committee* (December 18, 1991) at 29 (comments of Council member Julia Harrison).

³ *Campaign Finance Board 1991 Hearings*, at 40 (testimony of Liz Abzug).

⁴ Letter dated November 24, 1991, on file with the Campaign Finance Board.

⁵ Letter dated September 10, 1991, on file with the Campaign Finance Board.

⁶ Letter from Suleika Cabrera Drinane, Executive Director of the Institute for Puerto Rican/Hispanic Elderly to the Campaign Finance Board, dated August 27, 1991.

⁷ *Campaign Finance Board 1991 Hearings*, at 84 (testimony of Jane Kalmus).

PART IV



**BOARD
RECOMMENDATIONS
AND
CONCLUSION**

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Recommendations and Conclusion



he 1991 elections proved that the Campaign Finance Program had a major impact on campaigns for the City Council, as attested to by the 256 prospective candidates who joined the Program, the 113 who received a total of \$2.5 million in public funds and the competitive races in which they ran, and the 31 out of 51 members of the new Council who participated in the Program.

The Campaign Finance Board is mandated to review the Program's performance after each election cycle. As described in Chapter 1, the Board undertook an extensive review of the Program following the 1989 elections and recommended changes, many of which were adopted by the City Council in November of 1990. The Board conducted a similar review of the Program following the 1991 elections. It held two days of public hearings, sent out a post-election questionnaire to all candidates (participants and non-participants), and analyzed data to assess the Program's effectiveness. To pursue further campaign finance reform in local elections, the Board is seeking changes in state law and recommends additional changes in the Program which can be effected by local law or administrative means.

Proposals for State Law Reform

The Board's experience over the past two elections demonstrates that there are dimensions of reform of City campaign financing that cannot be fully achieved without amendments to current state law. Candidates who choose not to participate in the Campaign Finance Program avoid the Program's contribution and spending limits, detailed public disclosure requirements, and the close scrutiny and audits that apply to all Program participants, regardless whether they receive public funds. In March of 1992, the Board proposed state legislation that would dramatically lower contribution limits and increase public disclosure requirements for all candidates running for the offices of mayor, City Council president, comptroller, and borough president. The legislation would require all candidates running for these four local offices to abide by the same

**"Clearly, the
\$100,000
contributions
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law have no place
in City elections."
— Mayor David N.
Dinkins**



The Campaign Finance Board members held two days of public hearings in December of 1991 at which candidates, government reform groups, and others expressed their views about the Program.

stringent campaign contribution limits and detailed financial disclosure requirements set forth in New York City's Campaign Finance Act whether or not they choose to participate in the voluntary Program of public campaign financing.¹

- **Lower Contribution Limits.** The proposed legislation would reduce the risks of undue influence and promote fair competition by eliminating the contributions of up to \$100,000 per campaign now allowed under state law for New York City candidates in 1993. (These limits are even higher than those applicable to New York gubernatorial races.) The proposals would replace current state limits with a \$6,500 limit for citywide candidates and a \$5,000 limit for boroughwide candidates, limits supported by the results of the 1989 elections, which showed that candidates can wage effective campaigns while restricted to contributions of this size.

- **Increase Disclosure.** The legislation would also require all candidates for these four City offices to file enhanced disclosure statements (including, for example, employer information and intermediary or "bundler" information) with the Campaign Finance Board and to subject their campaigns to oversight and audit by the Board. This would enable the public, by virtue of

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the existing computer capabilities of the Board, to receive the same computerized, detailed information for non-participants as is now available for participants.

Announcing his support for these proposals, Mayor David Dinkins stated:

The results of the 1989 and 1991 elections demonstrated that it is possible to run successful and effective campaigns within [the Program's] contribution limits. Clearly, the \$100,000 contributions allowed under state law have no place in City elections.²

The proposals received bipartisan support. Corporation Counsel O. Peter Sherwood, former Corporation Counsels Victor Kovner and Peter Zimroth, Edward Koch, Rudolph Giuliani, and Dean John Feerick were among those who testified at the Board's hearings in favor of the proposed legislation.

The Board maintains its strong support for these proposals, despite the fact that New York State enacted legislation in May of 1992 that would only reduce the contribution limit for citywide candidates to \$12,000 for the primary and \$25,000 for the general election, for a total of \$37,000 per campaign. These new contribution "limits" are still among the very highest of those in any state in the country that has contribution limits, and would not take effect until 1994, after the 1993 municipal elections. Even after 1994, there will remain an overwhelming discrepancy between the contribution limits, disclosure requirements, and scrutiny to which participants and non-participants are subject.

Recommendations For Changes in the Program

Following its proposals in March 1990 for changes in the Program that primarily affected City Council candidates, the Board made further recommendations for changes affecting citywide candidates in July of 1990 that were summarized in *Dollars and Disclosure*. Some of these recommendations have not yet been acted upon. The recommendations that were adopted are described in Chapter 1. Those that have not yet been considered, as well as new proposals to improve the Program, are set forth below. Building on the improvements in the Program that have already been adopted, these recommendations are designed to continue to simplify the Program, to enhance its rewards for participants, and to make refinements based upon the empirical data analyzed by the Board.

The Board makes the following recommendations concerning, among other subjects, the deadline for joining the Program, contribution limits, expenditure limits, public funds, and increasing the rewards for participants who face high-spending non-participants. (Recommendations originally made in 1990 are noted with an asterisk.)

1. **Deadline for Joining the Program.** Some who testified at the post-election hearings favored a later deadline for joining the Program. The Board recognizes that a later "opt-in" date might allow an even greater number of candidates to join the Program. The opt-in date must be early enough, however, for the Board to have time to educate participants about the requirements of the voluntary Program before the first disclosure filings are due.

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In the Board's view, it is possible that the deadline for joining the Program (currently April 30th of the election year) could be moved later. This would certainly be the case if the Board's proposed state law reform regarding disclosure (discussed above) were adopted because the Board would have continuing jurisdiction over local candidates' filings. If, over time, a growing number of candidates were to submit their disclosure reports on computer software provided by the Board, this, too, might permit a later opt-in date. The Board accordingly recommends that the deadline for joining the Program not be fixed by law, but that the law be amended to allow the Board to set the deadline by rule. This would increase the flexibility for unpredictable situations such as redistricting, or a state law change in the date of the primary, and would permit the Board to move the opt-in deadline gradually as it becomes administratively feasible to do so.

2. **Lowered Contribution Limits.*** The Board supports lowering "per campaign" contribution limits (covering both the primary and general elections) for certain offices:

	<u>Proposed</u>	<u>Current</u>
City Council President	\$ 5,000	\$ 6,500
Comptroller	5,000	6,500
Borough President	3,500	5,000

Runoff and special election limits should be set at one-half these amounts.

3. **Spending**

a. **Eliminate Separate "Third Year" Spending Limits.*** The Board recommends eliminating the separate spending limit that covers the year prior to the elections. This limit adds unnecessary complexity to the Act and is a greater benefit to incumbents because, depending on the office, they are more likely to make campaign expenditures during the third year of the election cycle, whereas most challengers do not. In addition, there is at present no spending limit that covers the first and second years of the election cycle. The Board proposes that two spending limits should cover the entire four-year election cycle: a primary election spending limit covering the first three years of the election cycle and the period up until the primary, and a general election spending limit covering the day after the primary election through the day of the general election. The primary election limit would apply to all candidates whether or not they have a primary race. This change would simplify the Program and would put incumbents and challengers on a more equal footing with respect to spending limits.

b. **Increased Spending Limits.*** The Board recommends increasing the expenditure limits applicable for the primary election period and again for the general election period:

	<u>Proposed</u>	<u>Current</u>
Mayor	\$ 4,500,000	\$ 4,000,000
City Council President	3,000,000	2,500,000
Comptroller	3,000,000	2,500,000
Borough President	1,000,000	900,000
City Council	150,000	105,000

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4. Public Funds

a. **Lowered Threshold Levels.*** The Board recommends that the threshold amounts that candidates for each office must meet in order to become eligible to receive public funds be uniform for all boroughwide offices and set at the following levels:

	<u>Proposed</u>	<u>Current</u>
Mayor	\$ 150,000	\$ 250,000
City Council President	100,000	125,000
Comptroller	100,000	125,000
Borough President	30,000	10,000 - 46,013 (see Table 1.2)

In addition, the Board recommends modifying the current district residency component of the threshold to require Council candidates to raise contributions from 50 contributors in the borough in which they are running, rather than in the Council district. This will ease a burden on candidates and the Board while maintaining the purpose of requiring candidates to show that they have a significant number of local supporters.

b. **Increased Rewards for Participants Who Face High-Spending Non-Participants.*** When a participant, who is bound by the Act's contribution and spending limits, is opposed by a high-spending non-participant, the Board recommends the following additional bonuses for citywide and boroughwide offices: (a) increase the current two-for-one matching funds payment rate to three-for-one, and (b) increase the maximum amount of public funds that the participant can receive from the current one-half of the spending limit to three-quarters of the spending limit. This change would encourage maximum participation in the Program, and would give participants the added financial resources they need to compete with high-spending non-participants. A review of the 1991 data indicates that the current bonus matching formula is sufficient for City Council candidates and should be retained.

c. **Match Contributions Two-for-One up to \$500.*** The Board supports matching contributions at a two-for-one rate up to \$500 for the primary and general elections combined, instead of the current matching rate of one-for-one up to \$1,000. This change would further the Program's goal of "democratizing" fund raising by providing added financial rewards for candidates who collect smaller contributions.

d. **Increase Maximum Public Funds to Council Candidates.** Based on a review of the 1991 data, the Board recommends that the current \$40,000 maximum in public funds available for Council candidates be increased to \$50,000.

5. Recordkeeping and Reporting

a. **Campaign Finance Board and Board of Elections Forms Compatibility.** Following the 1989 elections, the Campaign Finance Board simplified its disclosure forms to reflect

the new changes in the Act passed by the City Council, and to create one set of forms acceptable for filing with both the Campaign Finance Board and the City Board of Elections, so that candidates do not have to make two different disclosure filings. The Board's efforts were largely successful. The City Board of Elections agreed to accept the Board's monetary contributions schedule, the schedule in the disclosure statement that contains the most transactions by far. This benefited numerous candidates in the 1991 elections who filed the Campaign Finance Board's monetary contributions schedule with both agencies. The Campaign Finance Board believes it is a top priority to achieve full forms compatibility between the two agencies, and will continue to work with the Board of Elections toward this goal.

b. **Computer Software for Candidates.** In response to the requests of numerous campaigns, the Board is now developing computer software to allow electronic filing of disclosure data. The Board hopes to make this software available to campaigns for the 1993 elections. Computer software would greatly simplify campaigns' recordkeeping and reporting efforts, would result in savings for the Board by reducing data entry costs, and would make it possible to publish computerized public disclosure reports even more quickly.

c. **Receipts Journals.** After the 1989 elections, the Board repealed the rule requiring candidates to keep receipts journals on an experimental basis for the 1991 elections. Based on its experience in 1991, the Board plans to repeal this rule for all offices for future elections.

d. **Matching Cash Contributions.** Because of the need to safeguard public funds and the risks presented by matching cash contributions, the Board plans to require campaigns to obtain the signature of contributors for cash contributions for which the campaign wishes to claim matching funds.

e. **Timeliness of Disclosure Statements.** Because of the short turnaround time involved in making payments to campaigns (in most cases payments are made within four business days after filings are received), the Board intends to clarify in the Program's rules that candidates expecting payment within the four-day period must, among other things, be up-to-date with all previous filings and must deliver disclosure statements due to the Board on or before the filing deadline.

6. **Administrative Penalties.*** To expedite enforcement of the Campaign Finance Act and avoid costly litigation for both candidates and the Board, the Act should be amended to give the Board the direct power to impose administrative penalties for violations.

7. **Procedures for Bonus Determinations.** The Board is in the process of determining what administrative procedures should be refined in order to ensure that all parties are fully and fairly heard in the time available before bonus determinations are made, since during an election, payment delayed is payment denied. The Board will propose new rules to govern these procedures.

8. **Public Education.** The Board will continue to attempt to increase public awareness of New York City's campaign finance reform and to highlight the importance of participation in the Program by all candidates.

9. **Voter Guide**

a. **Format.** Upon review, most features of the current Voter Guide format appear satisfactory. The Board has, however, received a number of complaints about the endorsements section of the candidate statement. Many candidates found it difficult to obtain endorsements early enough for the Voter Guide statement submission deadline. Other candidates, who gain additional endorsements after the primary election, wanted to add these to their general election statement, but the short time period for preparation of the Guide does not permit candidates to revise their statements between the primary and general elections. In addition, candidates had difficulty obtaining the necessary notarized certifications before the submission deadline from individuals and organizations endorsing them. For these reasons, the Board plans to eliminate the separate section for endorsements in the candidate statement.

The Board plans to obtain more detailed Council district maps for use in the Guide in 1993, and to describe the powers of municipal offices in greater detail. The extremely tight production schedule does not, however, permit candidates to submit different statements for the primary and general elections, as several candidates suggested at the hearings.

b. **Expanding the Guide.** Numerous groups and individuals at the 1989 and 1991 hearings expressed support for expanding the Guide to include candidates for additional offices such as judges and district attorneys, and to include state ballot proposals. The Board generally favors these ideas, and is investigating the feasibility of expanding the Guides, although the short time-frame and administrative complexity of producing the Guide may prevent this. If the Board determines that expanding the Guide is feasible, it will recommend appropriate legislation.

Constraints on time and resources have prevented the Board from producing Guides for special elections, extending the Voter Guide statement submission deadline, or issuing the Guide in other languages. In both 1989 and 1991, however, the Board made candidates' statements available for reprinting to numerous foreign language publications within various districts, and it plans to continue to do so and to take any other steps it can to provide service to foreign language speakers.

10. **Debates.** Several who testified at the 1989 and 1991 hearings expressed their support for requiring Program participants to engage in mandatory debates. The Board recognizes the importance of promoting debates in the political process, but is concerned that its involvement in the administration and enforcement of a debate requirement might interfere with its ability to appear non-partisan and objective. All the decisions involved in administering debates can be interpreted as highly political: which candidates are invited to debate (*e.g.*, participants only, non-participants, minor party candidates); the number and timing of debates; the choice of sponsor and moderator; and the debate format, including length of time for candidates' responses, rebuttals, and opening and closing statements. The Board questions the desirability of a role for government in mandating or administering candidate debates, given the highly political nature of the decisions involved. Should the

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City Council pass legislation mandating debates, the legislation should specifically address the issues listed above, and such legislation should be enacted well in advance of the campaign season to ensure that the role of the agency in administering debates and the public's confidence in the debate process are not impaired by the appearance of partisan decision-making influenced by impending elections.

Issues Under Consideration

The Campaign Finance Board will make additional recommendations for improvements in the Campaign Finance Program, as appropriate, based on further analysis of the 1991 elections. Specifically, the Board expects to make recommendations concerning campaigns' reporting of surplus funds, reimbursements, and early financial activity, as well as "close-out" procedures, outstanding debt, and reducing reporting burdens on small campaigns. These subjects will be addressed through the Board's rulemaking process.

The Board continues to monitor additional campaign finance issues as they affect Program participants, including office-holder advantage, independent expenditures, political party spending, and PAC, union, and corporate contributions. These are complex issues, many of which cannot be effectively addressed by changes in the local Campaign Finance Act alone, but may require reform through other legal and political avenues.

Conclusion

In a recent address, Frederick A.O. Schwarz, Jr., Chair of the Charter Revision Commission in 1989 that brought about redistricting and the restructuring of New York City government, identified serious problems with our political system:

There is today a great malaise about politics and politicians. Voting rates are down. Cynicism is up. Special interests and well connected lobbyists increasingly dominate debate. Money swamps thought in campaigns. Ugly codewords and racial pandering seep into campaigns at the highest level. Government is no longer seen as fair, competent, or able to produce change. Attention to short-term interests at the expense of longer term values is a growing feature of our political system.³

These are pervasive problems afflicting politics and government on the national, state, and local levels. Certainly no single attempt at reform will solve them. But at the local level, the Campaign Finance Program has proven to be one constructive reform that demonstrably contributes to the development of a healthier democracy in New York City.

In the 1991 Council elections, the Program greatly influenced the large number of individuals who chose to run for office, and thereby gave voters more choices among wide fields of candidates. It provided \$2.5 million in public funds to enable serious candidates, regardless of their personal resources or access to wealthy contributors, to wage competitive campaigns. Detailed, understandable information about candidates' campaign finances was

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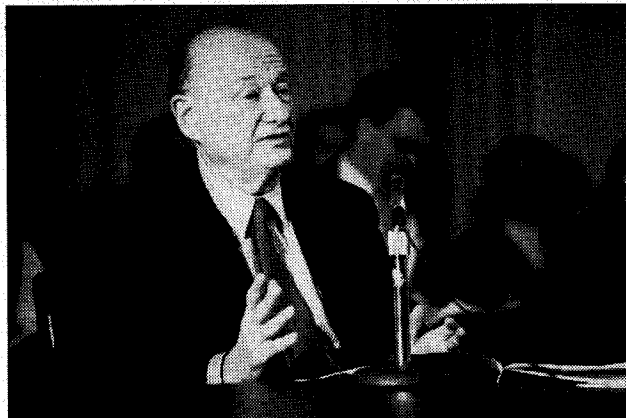
widely disseminated. And the Voter Guide published by the Board encouraged New Yorkers to go to the polls and cast an informed vote. The Program is helping to take control of local politics back from top-dollar contributors and special interests, and to return that control to the citizens of New York.

After its first implementation in the 1989 elections, the Campaign Finance Program was recognized by many observers as having successfully altered the way in which citywide and boroughwide campaigns are conducted. It was seen as less of a success at the City Council level. The 1991 elections for 51 redrawn Council seats provided a dramatic test of how well the Program could operate on the Council level. It proved to be unquestionably effective. The rate of participation by incumbents, however, continued to be disappointing.

Probably the most important challenge in 1993, when citywide, boroughwide, and Council offices will be up for election, will be to maintain or increase the high rate of participation in the Program. Because participation in the Campaign Finance Program is voluntary, the extent to which the benefits of the reform promoted by the Program can be realized depends upon the number of serious candidates for City offices who choose to join, and upon pressure from the press and the public on candidates to do so. The New York press has consistently lauded the Program and the Board's efforts as "a giant improvement over the lax state rules,"⁴ a reform that "prevent[ed] obscene spending wars,"⁵ and one of the City's "best and most effective experiments in real democracy."⁶

Yet while editorial support for the Program has been unwavering, many believe that endorsements must be more clearly tied to Program participation before more candidates are likely to respond to the demand that they commit themselves to campaign finance reform. Council member Herbert Berman stated that candidates thought "the wrath of the press would come down on those who chose not to opt in. . . . [Candidates should be concerned that] if I don't opt in, then I am challenging the *Times*' endorsement, *Newsday*'s endorsement, the *News*'s . . . , etc."⁷ Some who testified went so far as to suggest that newspapers should make participation in the Program a litmus test for editorial endorsement.⁸

Candidates who do not join the Program often argue that in a time of fiscal crisis, they do not want to use the public's money for campaigns. Any candidate who

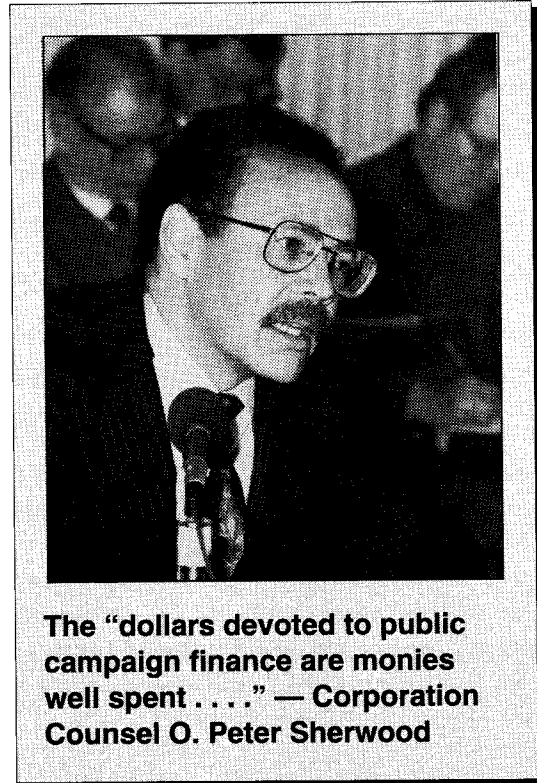


"[T]he argument that [candidates] don't want public tax dollars to finance their campaigns is a smokescreen" to avoid the contribution limits and extensive disclosure required by the Program. — Former Mayor Edward I. Koch

participates in the Program, however, may decline public money. Several participants in both the 1989 and 1991 elections who abided by the Program's requirements chose not to accept public funds, or returned unspent all the public funds they received. Choosing not to join the Program, on the other hand, is a rejection of the meaningful contribution and spending limits, increased public disclosure, and the steps toward the greater integrity in government that the Program represents. Former Mayor Edward Koch stated that "the argument that [candidates] don't want public tax dollars to finance their campaigns is a smokescreen" to avoid the contribution limits and extensive disclosure required by the Program, and he called candidates who make this argument "charlatans."⁹

The Campaign Finance Program is an investment in strengthening democracy in New York City, and the amount it has actually cost has been extremely small. At its inception, the projection for the amount of public funds to be distributed to candidates in the 1989 elections was \$28 million. The actual amount of money distributed to candidates was about \$4.5 million. In 1991, about \$2.5 million was distributed. Former Corporation Counsel Peter Zimroth pointed out that "although public campaign financing is a highly visible municipal expenditure, it represents a negligible portion of the City's budget."¹⁰ Corporation Counsel O. Peter Sherwood stated at the Board's hearings that the "dollars devoted to public campaign finance are monies well spent."¹¹ Indeed, the small amount invested in the Program results in substantial savings to the extent that it helps create a climate in which the truly costly decisions in City administration, such as those affecting land use, contracts and franchises, and taxes, can be made free of undue political influence or conflicts of interest. This monetary expenditure is also an investment in public confidence in and knowledge about the City's leadership, promoted by the existence of the Program and the Voter Guide.

At the federal level, the cost of the persistent stalemate on campaign finance reform is readily apparent. A study prepared by Common Cause found that the savings and loans industry contributed \$11 million to members of Congress and political party committees during the 1980's, when Congress considered but rejected tighter regulation of the industry. The savings and loans, meanwhile, were engaged in activities that led to the bailout, which is currently projected to cost the public from \$300 to \$500 billion, a tiny fraction of which would fully fund public financing of congressional elections for the foreseeable future.¹²



Recommendations and Conclusion

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Former Mayor Edward I. Koch and the City Council under the leadership of then-Vice Chairman Peter F. Vallone created a campaign finance reform program that is changing the way local campaigns are run. The public has been extremely fortunate that two administrations have supported the Program since its enactment in 1988, and that the City Council has passed amendments that significantly improved the Program. While we cannot expect fundamental and lasting reform of the City's political process to take place overnight, the Program's effectiveness in the 1989 and 1991 elections has already helped make the process by which City officials are elected much more open, competitive, and fair. Dean John D. Feerick said of the Program, "It's worked. It's worked, I think, beyond expectation."¹³

The 1993 elections for all citywide and boroughwide offices as well as the 51-member City Council will present the Board with its greatest challenge yet in administering the Program. The Board is committed to building on the Program's strong successes in the 1989 and 1991 elections and continuing to improve the Program for the 1993 elections.

Joseph A. O'Hare, S.J.
Chairman

James I. Lewis
Joseph Messina
Sonia Sotomayor

NOTES

¹ Even under the Board's proposals, state law would continue to allow non-participants, unlike participants, to spend unlimited amounts of their own money, and to conduct campaigns without spending caps. Non-participants would not, of course, be eligible to receive public funds. They would also not be governed by the Program's rules on affiliated contributions.

² New York City Mayor David N. Dinkins, "Statement by Mayor David N. Dinkins Announcing his Support for Campaign Finance Board Legislation," March 20, 1992.

³ Frederick A.O. Schwarz, Jr., *The Constitution Outside the Courts, The 44th Benjamin N. Cardozo Lecture*, (December 5, 1991), in 47 Record of the Association of the Bar of the City of New York 9 (Jan. - Feb. 1992).

⁴ Editorial, "Strong City Council, Strong Smell," *The New York Times*, June 2, 1991, E18.

⁵ Editorial, "A Bigger Council — and Maybe Better," *Daily News*, September 14, 1991, 8.

⁶ Terry Golway, "The Observatory," *The New York Observer*, December 9, 1991, 5.

⁷ *Campaign Finance Board 1991 Hearings*, at 253-54 (testimony of Council member Herbert Berman).

⁸ *Ibid.*, at 63, 83-84 (testimony of Edward I. Koch and Rudolph Giuliani).

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⁹ *Ibid.*, at 54-55 (testimony of Edward I. Koch) and written testimony dated December 12, 1991.

¹⁰ Written testimony dated December 11, 1991, of Peter L. Zimroth for the Campaign Finance Board 1991 hearings.

¹¹ *Campaign Finance Board 1991 Hearings*, at 34 (testimony of Corporation Counsel O. Peter Sherwood).

¹² New York State Common Cause, "S&L Interests Invest More than \$11 Million in Congressional Candidates and Party Committees During the 1980s; Linder Family of Ohio Provides \$800,000; President Bush Receives Six \$100,000 S&L Soft-Money Contributions, According to Common Cause Study," June 29, 1990.

¹³ *Campaign Finance Board 1991 Hearings*, at 288 (testimony of John D. Feerick).