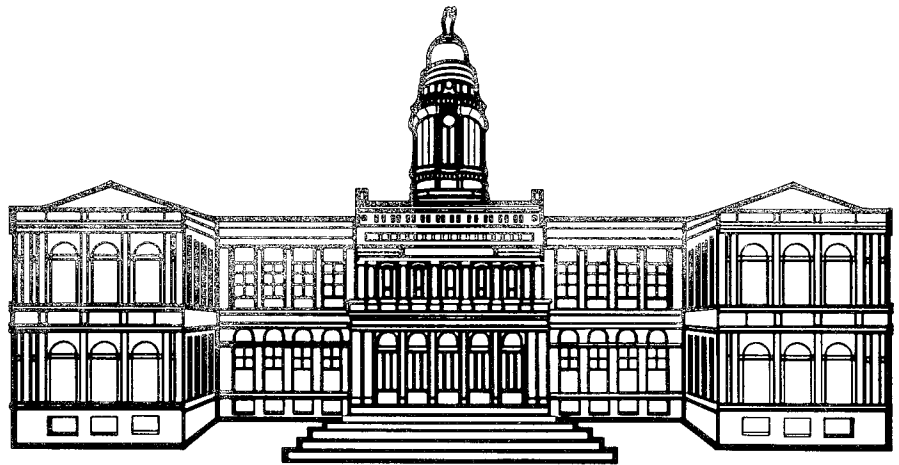


WINDOWS OF OPPORTUNITY:



Campaign Finance Reform and the New City Council



NEW YORK CITY
CAMPAIGN FINANCE BOARD



July 1992

**WINDOWS
OF OPPORTUNITY**



**CAMPAIGN
FINANCE REFORM
AND THE NEW
CITY COUNCIL**



NEW YORK CITY
CAMPAIGN FINANCE BOARD



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Foreword

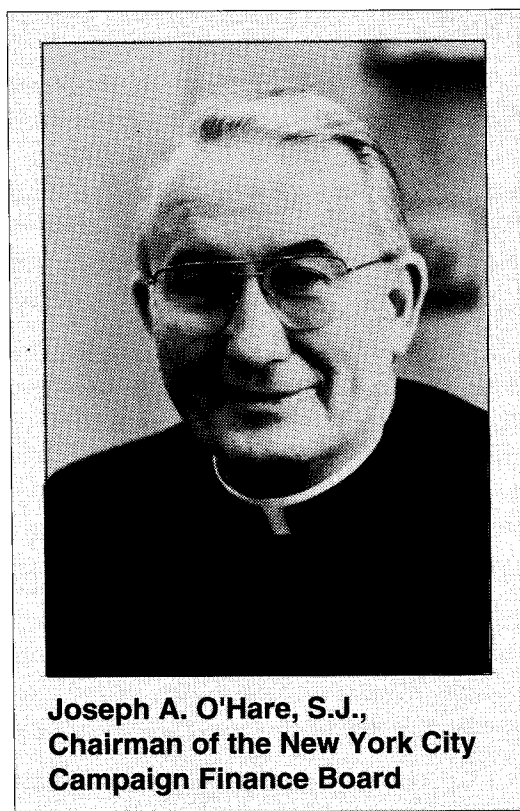
In its September 1990 report, *Dollars and Disclosure: Campaign Finance Reform in New York City*, the Campaign Finance Board reviewed the performance of the Campaign Finance Program in the 1989 New York City municipal elections, the first in which the new Program was operative. The Board concluded that in the campaigns for citywide office the Program had been a substantial success. But in the campaigns for City Council, the Program appeared to have far less impact.

The Program's limitations on contributions and expenditures had reduced the influence of wealthy contributors on the campaign, and the publication of the Voter Guide, along with the new disclosure requirements of the Program, provided much more information to the voters of New York City than they had ever had in the past. But in the City Council campaigns, the Program had only limited success in encouraging new candidates and more democratic fund raising.

A revised City Charter, approved in November 1989, mandated elections in 1991 for a new City Council, with strengthened powers and a membership expanded from 35 to 51. These elections presented a clear challenge to the Campaign Finance Board and its staff: Could the Program, successful in 1989 for citywide offices, be simplified and enhanced to promote wider participation in the electoral process and help fulfill the purpose behind the Charter changes in the City Council?

This second report of the Campaign Finance Board, *Windows of Opportunity: Campaign Finance Reform and the New City Council*, seeks to answer that question. It marshals persuasive evidence that the challenge was met, and met successfully. For example, a larger percentage of the City Council elected in 1991 (61 percent) participated in the Campaign Finance Program than was true of the City Council elected in 1989 (54 percent). A major purpose of the City Charter revisions of 1989 was to make the Council more representative of the different populations of the City, and the Campaign Finance Program played a critical role in achieving this end. Of the 21 new members elected to the Council for the first time, 12 represented minority candidates, seven were women, and four were from the Republican party. Of these 21 new Council members, 18 were participants in the Program.

Furthermore, the public funds made available to candidates who chose to participate in the Program played a bigger role in the 1991 Council elections, constituting more than



**Joseph A. O'Hare, S.J.,
Chairman of the New York City
Campaign Finance Board**

one-third of the funds spent by candidates, as opposed to approximately one-fifth of the funds spent in the 1989 Council elections. As a result, races were more competitive; more candidates entered the campaign; and the margin of victory between winners and losers narrowed significantly. The pattern of campaign contributions continued to demonstrate the more democratic trends that were obvious in the 1989 elections. For example, the number of individuals contributing to Council campaigns nearly doubled; and public funds outstripped contributions from special interest "PACs."

As the 1989 Charter Revision Commission had hoped, the new City Council is more diverse in terms of representation of minority groups and different political parties. The Campaign Finance Program, by providing candidates with the necessary resources to compete on a more even playing field, helped realize this goal of the Charter Revision Commission.

The 1991 Council elections posed new administrative problems for the Campaign Finance Board staff. The Candidate Services Unit, newly established after the review of the 1989 campaign, worked closely with candidates and their campaigns to explain the Program and facilitate compliance with its provisions, considerably simplified after the 1989 elections. The uncertainties of redistricting, court-ordered reruns, and changes in deadlines and residence requirements midway through the primary season complicated the staff's planning and called for increased flexibility as the rules for the election changed in mid-stream.

This need for increased flexibility was particularly pertinent to the production of the Voter Guide, which, to arrive in time for both the primary and general elections, must meet deadlines several weeks in advance of those dates. Similarly, the importance of making timely payments of public funds within the brief period of a campaign, while also confirming that such payments are justified, made necessary a prompt review of disclosure statements and decisive resolution of disputed claims.

I know I speak for the other members of the Board when I express our pride and confidence in the highly professional and non-partisan manner in which the Campaign Finance Board staff discharged their different responsibilities during an election season marked by extraordinary uncertainty and continued conflict over the very rules that would govern the elections.

The new Council represents an opportunity for government in New York City to better represent the people of the City in all their diversity, just as the Campaign Finance Program represents an opportunity for the people to participate more effectively in the development of that government. Opportunities are not guarantees, however, and the Campaign Finance Board and its staff remain committed to a continued review and reform of the Program so that it can become an ever more enlightened and effective instrument to serve the people's common good, which is, after all, the business of government.

With this in mind, the Campaign Finance Board proposed to the New York State Legislature in the spring of 1992 that state contribution limits be lowered and disclosure requirements increased to conform to those of the Program, and that these provisions be applicable for all candidates for citywide and boroughwide office, including those who do not choose to participate in the Program.

For several reasons, the spring of 1992 presented a rare opportunity for reform of New York State law governing election practices. The spotlight of the national Presidential campaign had once again drawn attention to the scandalously arcane laws that govern elections in New York State. Furthermore, the need for the Governor and the Legislature to agree on a redistricting plan provided unusual leverage to achieve long-overdue reforms. Unfortunately, the modest package of election reforms passed by the Legislature and approved by the Governor disappointed the expectations of those interested in reform. The proposals of the Campaign Finance Board were not part of this package.

It remains the hope of the Campaign Finance Board that the New York State Legislature and the Governor will revisit our proposals in the next session in Albany. At a time when public confidence in the political process has been shaken, the proven success of the New York City Campaign Finance Program should be seen as a foundation for further reforms. For those candidates who do not wish to accept public funds for their campaigns, their compliance with the Program's disclosure requirements and submission of disclosure statements to the Campaign Finance Board would provide the public with the information they need and deserve to make wise decisions on Election Day.

This report and its recommendations for changes in New York State and local law, necessary in our judgment to continue the process of electoral reform, reflect the desire of the Campaign Finance Board and its staff to open the windows of opportunity even wider.

Joseph A. O'Hare, S.J.
Chairman
New York City
Campaign Finance Board

PART I



**THE NEW YORK CITY
CAMPAIGN FINANCE
PROGRAM**

Chapter 1:

Introduction and Summary of Recommendations

Just four years ago, New York City created a campaign finance reform program. The Campaign Finance Act (the “Act”), a landmark in New York election law reform, was passed by the City Council and signed into law by then-Mayor Koch in February of 1988. It transformed the laws governing campaign finance in New York City into some of the strictest and most effective in the country, limiting contributions and expenditures, requiring detailed disclosure of campaign finances, and providing for matching public funds for those local candidates who choose to join the voluntary New York City Campaign Finance Program (the “Program”). The Act was first implemented in the 1989 citywide elections by the New York City Campaign Finance Board (the “Board”).

In 1989, New York City Charter revisions established the Board as a Charter agency and added to its mandate the ambitious task of publishing a unique, non-partisan Voter Guide, to be distributed to all registered voters in New York City.

New York is one of only four cities in the country that have adopted campaign finance reform programs providing public funding to candidates. The Program covers the five municipal offices of mayor, City Council president, comptroller, borough president, and City Council member. The Program is one of the largest of its kind in the nation, in terms of the number of candidates who participate and the amount of public funds distributed.

Joseph A. O’Hare, S.J., Chairman of the New York City Campaign Finance Board, has observed:

We recognize there are many problems in New York City. We are well aware of the present fiscal crisis. I would propose that at the heart of these problems, however, is a political crisis, and the true solution to our problems will come when the citizens of New York have a sense of ownership of the City The Program’s reforms — less money, more information, wider participation, and a better-informed electorate — are intended to give the citizens of New York City a sense of owning the City.¹

Chapter 1

The Program provides public matching funds to give serious candidates an opportunity to run for office, regardless of their own personal wealth or access to wealthy contributors. It is designed to reduce the influence of large contributions on elected officials, to reduce campaign spending, and to increase competition among candidates.

Campaign Finance Board Chairman Joseph A. O'Hare, S.J., sums up the Program's reforms in local politics as "less money, more information, wider participation, and a better-informed electorate."

The Board also provides more and better information about local candidates to New York City voters, through enhanced disclosure of the candidates' financial information and publication of the Voter Guide. Through these reforms, the Program is changing the way political campaigns are conducted in New York City.

The 1991 New York City Council elections afforded an unprecedented opportunity for New Yorkers to become involved in local politics. Redistricting, mandated by the City's new Charter, changed district lines and created 16 new Council seats, which attracted scores of new candidates. The public funds provided by the Campaign Finance Program gave many of these candidates a meaningful opportunity to

run for office and wage competitive contests. Newly elected Council member Una Clarke said, "without the Board's support, I personally would not have been able to run or finance a campaign in a new district with the lowest voter registration in Brooklyn."²

Two hundred fifty-six individuals filed with the Board to join the Program for the 1991 elections by the May 10, 1991, deadline. Of these, 136 Program participants in the races for the 51 redistricted seats made it onto the ballot in the primary or general elections. This is in stark contrast to the 1989 elections, during which 33 Council candidates in the races for 35 seats participated in the Program. The number of Council candidates on the ballot in the 1991 elections, 239, is two and a half times the number on the ballot in 1989, despite the fact that the number of new districts increased by only a third. Council Finance Committee Chair Herbert Berman, who joined the Program in both 1989 and 1991, stated: "I . . . want to commend [the Board] for having caused such a vast amount of people to have opted in . . . [T]he increase in participation bodes well for the outcome of government and politics in the City of New York."³

In 1991, many open seat primaries had crowded fields of seven, eight, or nine competing candidates. As Gene Russianoff, senior attorney with the New York Public Interest Research Group, told *The New York Times*, "For a town where democracy was almost dead, this is good news."⁴ Only about half of all incumbent Council members participated in the Program, however, roughly the same rate as in 1989. This was particularly disappointing in light of major improvements made in the Program after the 1989 elections, improvements that the Council approved by a vote of 31 to 3.

**"Without the Board's support, I personally would not have been able to run or finance a campaign in a new district with the lowest voter registration in Brooklyn."
— Council member Una Clarke**

Introduction and Summary of Recommendations

Yet, the multitude of candidates who ran in the 1991 elections gave voters the opportunity to make meaningful choices, and offering voters meaningful choices is essential in getting them to come to the polls. Candidate Robert Miller, who challenged Council member Noach Dear in Brooklyn's 44th district, found as he campaigned that "there is extraordinary cynicism out there, and I think what's contributing to it is that we are constantly having non-race races."⁵ He credited the Campaign Finance Program with having made his own race against an incumbent competitive.

As the analysis presented in this report shows, the City's Campaign Finance Program, by helping an unprecedented number of candidates compete in the 1991 elections, gave voters greater choice over who will govern New York in challenging times. Former Corporation Counsel Victor Kovner testified at hearings held by the Board after the 1991 elections that the Program has "really helped democracy work in our City, and there is no greater testament to this than in this new election."⁶

The Board is mandated to conduct a comprehensive review of the effects of the Program after each election and to make recommendations for changes in the law.⁷ After the 1989 elections, the Board published its first review, *Dollars and Disclosure: Campaign Finance Reform in New York City*. That report was prepared after the Board conducted public hearings, took written comments from candidates and treasurers, and analyzed data collected on the 1989 elections.

Following the 1991 elections, the Board held two days of public hearings, at which 43 candidates, treasurers, government reform advocates, and others testified about their experiences with and impressions of the Program.⁸ In addition, the Board analyzed data from the 1991 elections and mailed a post-election questionnaire to all 1991 Council candidates and treasurers to get their assessment of the Program.⁹ This report, *Windows of Opportunity: Campaign Finance Reform and the New City Council*, is the result of the Board's analysis and study of the effects of the Program in the 1991 elections.

The Campaign Finance Board

The New York City Program is administered by the Campaign Finance Board, an independent, non-partisan City agency. The Campaign Finance Board has five members.



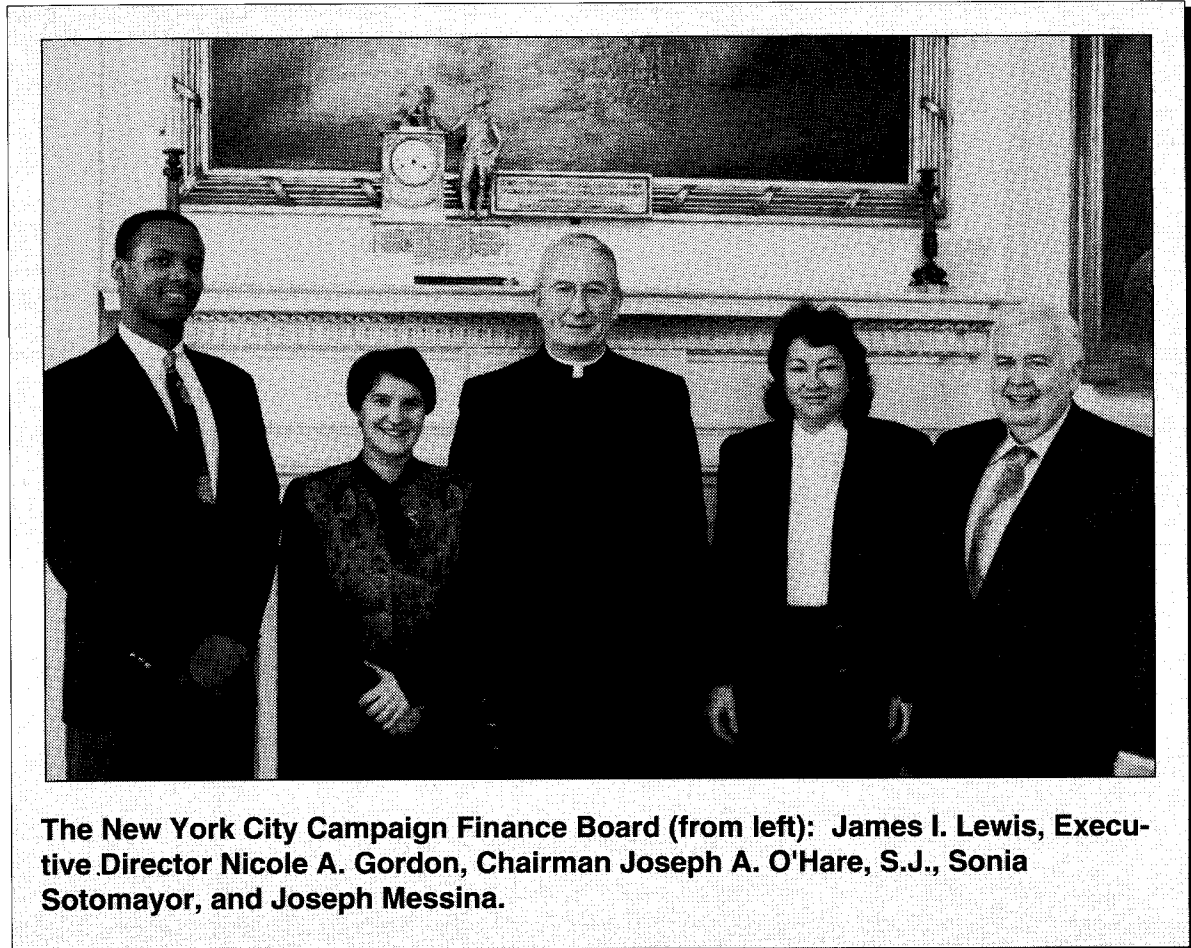
**"The increase in participation bodes well for the outcome of government and politics in the City of New York."
— Council member Herbert Berman**

Chapter 1

The chairman is appointed by the mayor in consultation with the speaker of the City Council. Two members are appointed by the mayor and must be enrolled in different political parties. Two members are appointed by the speaker of the City Council and must also be enrolled in different political parties. Board members serve staggered five-year terms and can be removed only for cause. The Board meets regularly to administer the Program, provide matching funds to candidates, and hear presentations by candidates.

Board members must be registered to vote in New York City. Under the law, they may not participate in a campaign for any of the five offices under the Board's jurisdiction and they, as well as all Board staff, adhere to a strict set of Ethical Guidelines to ensure impartiality in their actions affecting candidates.¹⁰ The current Board members are:

Joseph A. O'Hare, S.J., Chairman. A Democrat appointed in June 1988, Father O'Hare is the president of Fordham University. He also served on the New York City Charter Revision Commission from 1986 to 1988.



Introduction and Summary of Recommendations

James I. Lewis. A Liberal appointed to a one-year term in July 1988 by the City Council speaker, he was reappointed in 1989 to a five-year term. He is an assistant professor of History at the City College of New York.

Joseph Messina. A Democrat appointed in December 1988 by the City Council speaker to fill an unexpired three-year term, he was reappointed in 1991 to a five-year term. He is the president of the not-for-profit Motor Vehicle Accident Indemnification Corporation.

Sonia Sotomayor. An Independent appointed by the mayor in June 1988, she is a member of the law firm of Pavia and Harcourt and has been nominated for a federal judgeship. Although her term has technically expired, she is continuing to serve on the Board as provided by the New York Public Officers Law.

The fifth Board seat is vacant.¹¹

The Campaign Finance Program

Background. Before 1988, candidates running for local office in New York City were governed only by New York State campaign finance laws, among the most lax in the nation. Under current state law, a candidate running for mayor in New York City in the 1993 elections may accept up to \$100,000 from a single contributor for the primary and general elections, whereas under the New York City Campaign Finance Program, a mayoral candidate may accept only \$6,500 from a contributor. The state law contribution limits for citywide candidates are even higher than those for gubernatorial candidates. The state limits have been called “lawless,”¹² “a disgrace,”¹³ “indefensible,”¹⁴ and “no practical limit at all.”¹⁵ Despite recent changes in state election law, unfortunately, these descriptions still apply.¹⁶ Under state law, there is no limit on the amount of money candidates can spend on their campaigns.

The New York State Assembly and Senate have been at loggerheads over the issues of campaign finance reform and public financing of elections for more than a decade. It was in response to the state legislature’s failure to enact reform that New York City took the initiative to provide reform that could be effected by local law for its own municipal elections.

Elements of the Program. There are four central elements of the Campaign Finance Program: campaign contribution limits, spending limits, public matching funds for campaigns, and greater accountability and disclosure of campaign finances.¹⁷

a. Contribution Limits. The Program’s contribution limits are designed to reduce the disproportionate influence of wealthy contributors on elected officials. The top contributors to participants’ campaigns in 1989 and 1991 include individuals and organizations such as Leonard Litwin, Howard Rubenstein, the Neighborhood Preservation PAC, the Real Estate Board PAC, the American Federation of State, County, and Municipal Employees, and the Uniformed Firefighters’ Association. These contributors obviously have the means to give far more than \$6,500 to a mayoral candidate. In establishing the Campaign Finance Program, however, the City Council and the Mayor recognized that the amounts given by contributors must be sharply limited to

**Table 1.1
CAMPAIGN FINANCE PROGRAM
CONTRIBUTION AND SPENDING LIMITS**

Office	Contribution Limit (for primary and general elections combined)	Spending Limit (for each election*)
Mayor	\$ 6,500	\$ 4,000,000
City Council President	6,500	2,500,000
Comptroller	6,500	2,500,000
Borough President	5,000	900,000
City Council	3,000	105,000

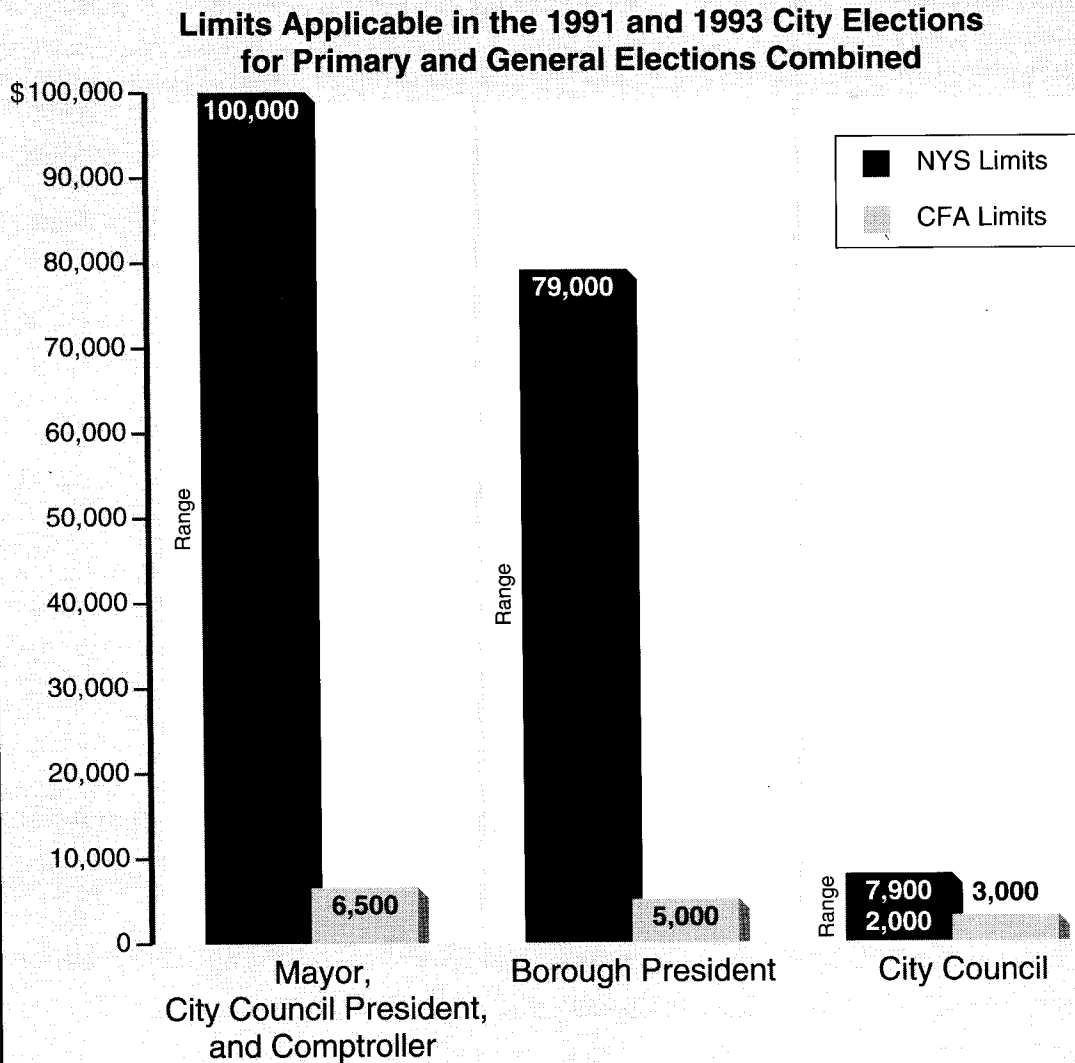
*These spending limits cover the fourth year of the election cycle. The Act does not restrict what candidates may spend in the first two years of the cycle, and applies the following limits to the third year of the cycle: mayor, City Council president, and comptroller, \$180,000; borough president, \$120,000; and City Council member, \$40,000.

reduce the possibility that contributions could buy or appear to buy influence or access to elected officials. Table 1.1 shows the contribution and spending limits that Program participants agree to abide by. These limits were in effect for the City Council election in 1991 and will be in effect for the citywide elections in 1993.

These contribution limits, particularly for citywide candidates, are generally far lower than those permitted under state law, as Figure 1.1 illustrates. Unlike under state law, the Program limits are also uniform for all party primaries. In order to reduce the influence of top dollar contributions and promote fair competition among local candidates, the Board has proposed state legislation, more fully described in Chapter 7, that would require all candidates for the offices of mayor, City Council president, comptroller, and borough president to abide by the same contribution limits as those currently in force under the Campaign Finance Act for Program participants.

In addition to lower contribution limits, the Program imposes the same contribution limit on what the candidate may give to his or her own campaign, unlike state law which has no limits on what candidates can give to their own campaigns. The Program also treats contributions from affiliated contributors, such as a corporation and its subsidiary, as subject to a single contribution limit, again unlike state law.

Figure 1.1
MAXIMUM STATE LAW CONTRIBUTION LIMITS* COMPARED WITH
CAMPAIGN FINANCE ACT LIMITS



*State contribution limits vary according to the number of registered voters in the City, borough, or district (and enrolled voters in the case of primary election limits, resulting in different contribution limits for each party primary). The lowest limit under state law is \$2,000 for the primary and general elections combined. For borough president, limits can range from \$2,000 to \$79,000; and for City Council, limits can range from \$2,000 to \$7,900.

Source: New York State Election Law and the Campaign Finance Act

The Campaign Finance Act's limits are markedly lower than state law limits for
citywide and boroughwide offices.

As under state law, the Program requires that candidates who take out loans must repay them by the date of the election. Loans outstanding after the election are treated as contributions, and they violate the Act if they exceed the contribution limit.

**The Program
"allows the serious
candidates to run
an effective
campaign."
— Council member
Annette Robinson**

b. Spending Limits. The Program is intended to curtail excessive campaign spending. Campaign costs for Congressional and statewide offices have increased astronomically over the past several decades, and the cost of local campaigns throughout the nation has begun a similar upward spiral.¹⁸ Particularly in New York City, where candidates for mayor, City Council president, and comptrol-

ler must advertise in an extremely expensive media market, campaign costs threaten to rise uncontrollably without spending limits.

The Supreme Court held in *Buckley v. Valeo*¹⁹ that campaign spending limits (and limits on what candidates may spend of their own money) cannot be imposed except in the context of a voluntary program that provides a benefit to candidates such as public funds. In light of this decision, the only way to hold campaign costs in check (besides providing free or subsidized television time to candidates) is through a voluntary campaign finance program like New York City's.

The Program's spending limits shown in Table 1.1 cover most campaign expenditures, although some expenditures, such as those for compliance purposes, are exempt from the limits. If a Program participant runs against a high-spending opponent who has not joined the Program (and thus is not bound by the same spending limit), the participant's spending limit is removed and he or she receives a matching funds bonus, described below.

c. Public Funds. The Program's greatest effect on the 1991 Council elections was the disbursement of \$2.5 million in public funds, including disbursements to many first-time Council candidates. As stated by newly elected Council member Annette Robinson, who received almost \$19,000 in public funds, the Campaign Finance Program "allows the serious candidates to run an effective campaign."²⁰

The Program rewards candidates with public match-

To Receive Public Funds a Candidate Must:

- ▶ Join the Program and abide by its contribution and spending limits
- ▶ Be on the ballot and face opposition
- ▶ Meet the Program's threshold
- ▶ File required disclosure statements with the Board
- ▶ Make valid matching claims
- ▶ Pass the Board's audit tests

Introduction and Summary of Recommendations

ing funds only if they are able to demonstrate significant local support. Council candidates in 1991 had to raise a "threshold amount" of \$5,000 from at least 50 individual New York City contributors before they could qualify for public funds.²¹ Table 1.2 shows the threshold (minimum dollar amount and number of contributors) that candidates must meet to become eligible to receive public funds, as well as the maximum amount of public funds they can receive for each of the primary and general elections.

In addition to reaching the threshold, a candidate must meet New York State's onerous requirements for getting onto the ballot, and must face opposition on the ballot in order to receive public funds. The candidate must also submit the required financial disclosure statements to the Campaign Finance Board and must pass audit tests of contributions claimed as matchable.

**Table 1.2
CAMPAIGN FINANCE PROGRAM
THRESHOLD AND MAXIMUM PUBLIC FUNDS**

Office	Threshold		Maximum Public Funds Per Election
	Dollar Amount	Number of Contributors	
Mayor	\$ 250,000	1,000	\$ 2,000,000
City Council President	125,000	500	1,250,000
Comptroller	125,000	500	1,250,000
Borough President*			
The Bronx	24,076	100	450,000
Brooklyn	46,013		
Manhattan	29,751		
Queens	39,032		
Staten Island	10,000		
City Council	5,000	50	40,000

* For borough president, the threshold is equal to the number of persons living in each borough (based on the 1990 census) multiplied by two cents, or ten thousand dollars, whichever is greater.

Chapter 1

The Program matches each dollar up to the first thousand dollars that a New York City resident gives a candidate, but it does not match contributions from organizations or from contributors living outside the City. As Table 1.2 shows, the maximum amount of public funds a Council candidate may receive for each election is capped at \$40,000 per election and one-half the spending limit for the other offices.

A participant running against an opponent who does not join the Program may receive “bonus matching” if faced by a high-spending opponent (one who raises or spends more than \$30,000 for Council or more than one-half the spending limit for the four other offices). In such a case, the Act provides that the participant will receive public funds at the rate of two dollars for every matchable dollar raised (up to the same maximum amount of public funds as usually applies), and the participant’s spending limits are removed.

d. Disclosure and Accountability. The Program provides vastly increased disclosure of candidates’ campaign finances to New York City voters. Participating candidates generally submit a series of 11 or more financial disclosure statements to the Board, which it makes available to the press and public upon receipt. Program participants are required to disclose much more detailed information about their campaign finances than is required under state election law, including information about whether contributions have been collected through intermediaries and employment information for contributors. Campaign finance disclosure statements are also computerized, scrutinized by the Board, and subject to audit. This enhanced disclosure allows the Board to monitor candidates’ compliance with Program requirements and gives the public and press a clear picture of candidates’ campaign finances, including who is funding their campaigns.

The Program and the 1989 Elections

The Program was first implemented in 1989, when all covered offices were up for election. The Campaign Finance Board hired its Executive Director and the first staff members in the fall and winter of 1988. Working against the clock, the Campaign Finance Board established a mechanism to administer the Program and distribute the Voter Guide within six months. In that period, the Board, among other things, created disclosure forms and instructions for candidates, issued rules to implement the Act, set up a computerized information system, and made extensive efforts to inform potential candidates about the Program. During the 1989 elections, 57 candidates, including all the major mayoral, comptroller, and borough president candidates, joined the Program.²² The effect of the Program in these elections is described in detail in *Dollars and Disclosure: Campaign Finance Reform in New York City*.

“In its first test, during the 1989 local election campaign, the Act was a remarkable success . . .”
— Mayor David N. Dinkins

The mayoral race in 1989 was highly competitive. Five major mayoral candidates — Democrats David Dinkins, Harrison Goldin, Edward Koch, and Richard Ravitch, and Republican

Introduction and Summary of Recommendations

Rudolph Giuliani — joined the Campaign Finance Program and agreed to abide by the restrictions then in effect: contribution limits of \$3,000 and spending limits of \$3.6 million per election. Republican candidate Ronald Lauder, who chose not to participate in the Program, spent \$13.7 million, of which \$13 million was his own money, on the campaign.²³ Under the Program, Lauder's contributions to his own campaign would have been limited to \$3,000 in each election.

In the 1989 elections, the Campaign Finance Program markedly reduced the size of contributions that participating citywide candidates could accept and substantially increased the number of contributors to candidates for office compared with previous elections. The Program's spending limits effectively controlled campaign spending and helped level the playing field among participating mayoral candidates. The Board distributed \$4.5 million to 37 candidates in the course of the 1989 elections, the first experience in New York City history with public financing of campaigns.

The Program proved to be a substantial success, particularly in the citywide races. A *New York Times* editorial hailed it as "An Electoral Example for the Country."²⁴ Following the 1989 elections, however, there was concern that the Program was not as effective at the Council level as it had been at the citywide level. Only about half of the incumbent Council members participated in the Program, despite the fact that the Council had approved the Campaign Finance Act by a vote of 24-9. The participation rate among Council candidates generally was lower than for other offices, and relatively less in public funds was distributed to their campaigns. Council campaigns, small operations often run by all-volunteer staffs, had a more difficult time meeting the requirements of the new law and complying with its disclosure provisions.

Simplification of the Program Following the 1989 Elections

The Board undertook a thorough review of the law, rules, and administration of the Program after the 1989 elections, and, in March 1990, proposed a series of reforms designed to simplify and improve the Program. Based on recommendations proposed by the Board, the Council adopted amendments to the Act in November 1990 that simplified the Program's recordkeeping and reporting requirements and increased the availability of public funds.²⁵ When he signed Local Law No. 69 into law, Mayor Dinkins stated:

In its first test, during the 1989 local election campaign, the Act was a remarkable success Nevertheless, the complexity of the law resulted in lower than desired participation in the Campaign Finance Program, particularly by candidates in Council races. The bill before me today simplifies many of the requirements of the Act and enhances some of the benefits of participation in the Campaign Finance Program.²⁶

The Board also took substantial administrative steps to ease the burden on candidates.

Some of the most important legislative and administrative changes in the Program were:

Chapter 1

- **Matching Threshold Contributions.** The Act was amended to make the threshold contributions candidates must raise to receive public funds matchable. Previously, only contributions raised in excess of the threshold were matchable.

- **Reduced Threshold.** The threshold for Council candidates was reduced from \$7,500 in 1989 to \$5,000 in 1991.

- **Consolidated Contribution Limit.** Separate contribution limits for the primary and general elections were replaced by a single contribution limit covering the entire campaign.

- **Consolidated Expenditure Limits.** Separate limits for fund-raising expenses that existed in 1989 were consolidated into the Program's overall spending limits.

- **Deadline for Joining the Program.** The deadline for joining that applied in 1989 (February 3, 1989 for candidates who already had political committees in existence, or ten days after a new candidate first authorized a political committee for the 1989 campaign) was changed to April 30th of the election year. Because of uncertainty about redistricting, the deadline for joining in 1991 was set at May 10th.²⁷

- **Spending Public Funds.** The Act was amended to remove certain restrictions on the use of public funds, permitting campaigns to spend public funds on nearly any campaign-related expense.

- **Simplified Reporting Requirements.** A provision of the Act was deleted that required candidates to "itemize" contributions of \$99 or less and expenditures below \$50. Another new provision was added permitting candidates to defer filing a disclosure statement if their campaigns had low financial activity in the period covered by the statement. Two technical rules that complicated candidates' reporting in 1989 — the "deduction" rule requiring the amount of a matchable contribution to be reduced by the value of any goods or services given to the contributor, and the "household" rule that treated a husband and wife as a single contributor for matching purposes — were eliminated.

- **Matching Small Contributions.** The Act was amended to allow matching of contributions under \$10.

- **Improved Disclosure Forms.** The Board simplified its disclosure forms and created a single form for contributions that is accepted by the New York City Board of Elections as well as by the Campaign Finance Board.

- **Candidate Services Unit.** The Board created a new unit to assist candidates throughout the campaign with questions about disclosure filings and the Program's requirements.

- **Campaign Finance Kit.** The Board provided candidates with a plain-English guide to Program requirements and a Treasurer's Manual detailing information about completing disclosure statements.



Joan Vitale Strong

Mayor David N. Dinkins, signing into law amendments to simplify the Campaign Finance Program, accompanied by Council Speaker Peter Vallone, and other members of the City Council, Campaign Finance Board staff, and government reform groups. Standing behind Mayor Dinkins is Campaign Finance Board member James I. Lewis.

- **Candidate Education.** For the 1991 elections, the Board also made extraordinary efforts to inform potential candidates about the Program by addressing some 85 community boards, political clubs, and other community groups in the five boroughs. Staff also held extensive seminars on Program requirements for candidates who joined.

These changes proved instrumental in making the Program more attractive and effective for Council candidates in the 1991 elections.

Special Elections

In addition to refining the Program, the Board administered the Program for candidates running in three special elections that occurred prior to the 1991 City Council elections. In May of 1990, two candidates participated in the Program in a special election for the old 1st Council district seat on Staten Island, and received approximately \$6,395 in public funds. In February of 1991, five participants received a total of \$137,190 in a hotly contested special election in Brooklyn's former 29th Council district. Four prospective candidates joined the Program for a special election in Queens' old 22nd district held in April of 1991, but because only one candidate made it onto the ballot and was unopposed, no public funds were distributed.²⁸

Summary of Recommendations

Based on its post-election review of the 1991 elections, the Board recommends the changes in the Program and in state and local law set forth in detail in Chapter 7, and highlighted below:

- **State Law Reform.** In March of 1992, the Board proposed state legislation that would require all candidates running for the offices of mayor, City Council president, comptroller, and borough president to abide by the same contribution limits and detailed financial disclosure requirements of the New York City Campaign Finance Act, whether or not they choose to participate in the voluntary public financing program.

- **Deadline for Joining the Program.** The Board recommends that the deadline for joining the Program not be fixed by law, but that the Act be amended to permit the deadline to be fixed by Board rule so that the deadline can be set later as it becomes administratively feasible to do so.

- **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

- **Eliminate Separate "Third Year" Spending Limits.** The Board recommends eliminating the separate spending limit that covers the year prior to the elections, and 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 until the primary, and a general election spending limit covering the day after the primary election through the day of the general election.

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

Introduction and Summary of Recommendations

	<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

• **Lowered Threshold Levels.** The Board recommends that the threshold amount that candidates for each office must meet to receive public funds be uniform for all borough-wide 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)

• **Increased Rewards for Participants Who Face High-Spending Non-Participants.** The Board recommends 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. The current bonus matching formula for City Council candidates should be retained.

• **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.

• **Recordkeeping and Reporting.** The Board will continue to work with the Board of Elections to attempt to achieve full compatibility between the two agencies' disclosure forms.

• **Software for Candidates.** The Board is developing computer software to enable campaigns to file disclosure reports electronically.

• **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.

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* * *

In large part as a result of simplification and improvements made following the 1989 elections, the Program had a dramatic effect in increasing candidate participation and competitiveness in the 1991 Council elections, as discussed in the next chapter.

NOTES

¹ *Hearings before the New York City Campaign Finance Board*, December 11-12, 1991 (hereafter "*Campaign Finance Board 1991 Hearings*") at 7 (statement of Chairman Joseph A. O'Hare, S.J.).

² *Ibid.*, at 346 (testimony of Council member Una Clarke).

³ *Ibid.*, at 248-249 (testimony of Council member Herbert Berman).

⁴ James C. McKinley Jr., "68 Get Public Money in New York Council Races," *The New York Times*, August 22, 1991, B1.

⁵ *Campaign Finance Board 1991 Hearings*, at 194 (testimony of Robert Miller).

⁶ *Ibid.*, at 43 (testimony of Victor A. Kovner).

⁷ Section 3-713 of the Act mandates that the Board prepare a report reviewing the effects of the Program on the conduct of municipal elections every four years (contemplating the usual four-year election cycle) and at any other time the Board deems appropriate. The Board determined that it would be appropriate to prepare this report analyzing the Charter-mandated City Council elections which took place only two years after the last Council election.

⁸ The following individuals testified at or submitted written testimony for the post-election hearings held by the Campaign Finance Board on December 11-12, 1991:

Sandy Abby Aboulafia, Council candidate
Liz Abzug, Council candidate
Herbert Berman, Council member
Ismael Betancourt, Council candidate
Stuart Buice, The Women's City Club
Noel Burke, Council candidate
Una Clarke, Council member
Delco Cornett, Council candidate
Will Daniel, Homeless Voter '91
Tom Duane, Council member
John D. Feerick, Dean of Fordham University
School of Law and former Chairman,
New York State Commission on
Government Integrity
Kenneth Fisher, Council member
Alan Gartner, former Executive Director of
the New York City Districting Commission

Rudolph Giuliani, former U.S. Attorney and
mayoral candidate
Jeanette Kahlenberg, Citizens Union
Jane Kalmus, Acting Chair of the Voter
Assistance Commission
Robert M. Kaufman, attorney
Edward I. Koch, former Mayor
Victor A. Kovner, former Corporation
Counsel
Guillermo Linares, Council member
Frank J. Macchiarola, former Chair of the
New York City Districting Commission
Carolyn Maloney, Council member
Charles Millard, Council member
Robert Miller, Council candidate
Margaret Nelson, representing Council
member Ronnie Eldridge

Introduction and Summary of Recommendations

Julian Palmer, New York State
Common Cause
Mary Pinkett, Council member
Annette Robinson, Council member
Neal Rosenstein, New York Public
Interest Research Group
Gene Russianoff, New York Public
Interest Research Group
Marjorie Shea, League of Women Voters
Philip Shelly, Council candidate
O. Peter Sherwood, Corporation
Counsel
George N. Spitz

Gloria Sterling, campaign treasurer for
candidate Lee Sterling
Lee Sterling, Council candidate
John Surina, Staff Director of the Federal
Election Commission
Fred Teng, Council candidate
Ray Trotman, campaign treasurer for
candidate Una Clarke
Irene Van Slyke, Council candidate
Walter Ward, Council member
Geronimo Williamson, Council candidate
Peter L. Zimroth, former Corporation
Counsel

⁹ The Board mailed a survey about the Campaign Finance Program to all participants and their campaign treasurers and to non-participants in December of 1991. For participants, 92 campaigns responded, and 24 non-participants responded.

¹⁰ In April of 1992, the Campaign Finance Board amended its Ethical Guidelines, making them even more rigorous. The Ethical Guidelines provide, among other things, that Board members and staff shall not: serve as officers of political parties or party committees, make contributions to any candidate for City offices covered by the Program, volunteer or advise any candidate running for a covered office, or sign a designating or nominating petition for any candidate for a covered office. Board members and staff must disclose any relationship to or interest in any matter under consideration by the Board, including any current or past relationship with a candidate, and must recuse themselves from any matters in which their interest might impair the conscientious performance of their duties.

¹¹ At this writing, a vacancy has existed on the Board for over two years for the position previously held by the late Robert B. McKay, professor and former Dean of New York University School of Law, a mayoral appointee.

¹² *Campaign Finance Board 1991 Hearings*, at 65 (testimony of former U.S. Attorney and mayoral candidate Rudolph Giuliani).

¹³ *Ibid.*, at 282 (testimony of John D. Feerick, Dean of Fordham University School of Law and former Chair of the New York State Commission on Government Integrity).

¹⁴ *Ibid.*, at 156 (testimony of Neal Rosenstein of the New York Public Interest Research Group).

¹⁵ New York State Commission on Government Integrity, *The Midas Touch: Campaign Finance Practices of Statewide Officeholders*, June 1989, 2.

¹⁶ In May of 1992, New York State adopted legislation that will limit campaign contributions for citywide candidates to \$12,000 for the primary and \$25,000 for the general election, for a total of \$37,000. These limits will not take effect until 1994, after the 1993 municipal elections.

¹⁷ For a more detailed description of the requirements that applied to City Council candidates in 1991, see New York City Campaign Finance Board, *The Campaign Handbook: Understanding the Campaign Finance Program for City Council Elections*, 1991; the Campaign Finance Act, New York City Administrative Code §§ 3-701-715; and the rules of the New York City Campaign Finance Board codified in 52 Rules of the City of New York §§1-01-10-04, Lenz and Reicker, Inc. (1992).

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¹⁸ Herbert E. Alexander, *Reform and Reality: The Financing of State and Local Campaigns* (New York: The Twentieth Century Fund Press, 1991), 1-4, 7-11.

¹⁹ 424 U.S. 1 (1976).

²⁰ *Campaign Finance Board 1991 Hearings*, at 356 (testimony of Council member Annette Robinson).

²¹ To meet the threshold, a Council candidate must raise contributions from 50 individuals who reside in the district the candidate has declared for. Because of uncertainty about the final district lines in 1991, and based on a Board recommendation, the Council amended the Act in 1990 to allow candidates to raise threshold contributions from individuals residing anywhere in New York City for the 1991 elections only.

²² Nine of the prospective candidates who joined the Program ultimately did not run for office.

²³ Financial disclosure statement dated January 15, 1990, filed by Ronald Lauder's campaign with the New York City Board of Elections.

²⁴ Editorial, "An Electoral Example for the Country," *The New York Times*, September 18, 1989, A18.

²⁵ Local Law No. 69 of 1990.

²⁶ New York City Mayor David N. Dinkins, "Statement by Mayor David N. Dinkins at Public Hearing on Local Laws," November 27, 1990.

²⁷ The Program's May 10th opt-in date fell after the Districting Commission's release of the preliminary plan for the new districts but before adoption of the final plan. As the Program's opt-in date drew near, the Board proposed that the deadline be moved to June 10 to permit the broadest possible participation in the Program by Council candidates and to afford candidates who were deciding whether to run based on the new district lines the opportunity to join. This proposal was not acted upon by the Council.

²⁸ The candidates who joined the Program in these special elections were: in the 1st district, Annmarie Joseph and Ralph Molinari; in the 29th district, Angela Battaglia, Ted Glick, Lonnie Leavitt-Cacchione, Linda Minucci, and Irene Van Slyke; and in the 22nd district, Jack Chartier, Estelle Cooper, Karen Koslowitz (the only candidate who appeared on the ballot), and Winston Moxey.

PART II



**THE CAMPAIGN
FINANCE PROGRAM
AND THE
1991 ELECTIONS**

Chapter 2:

Effects of the Program

in 1991



he 1991 Council elections, the result of Charter-mandated redistricting that added 16 seats to the City Council, were extraordinarily competitive and included a broad spectrum of candidates. These elections for a special two-year term for Council members were atypical because they occurred in the middle of the usual four-year election cycle, and citywide and boroughwide offices were not up for election. (Elections for these offices and all the 51 new Council seats will be held again in 1993.)

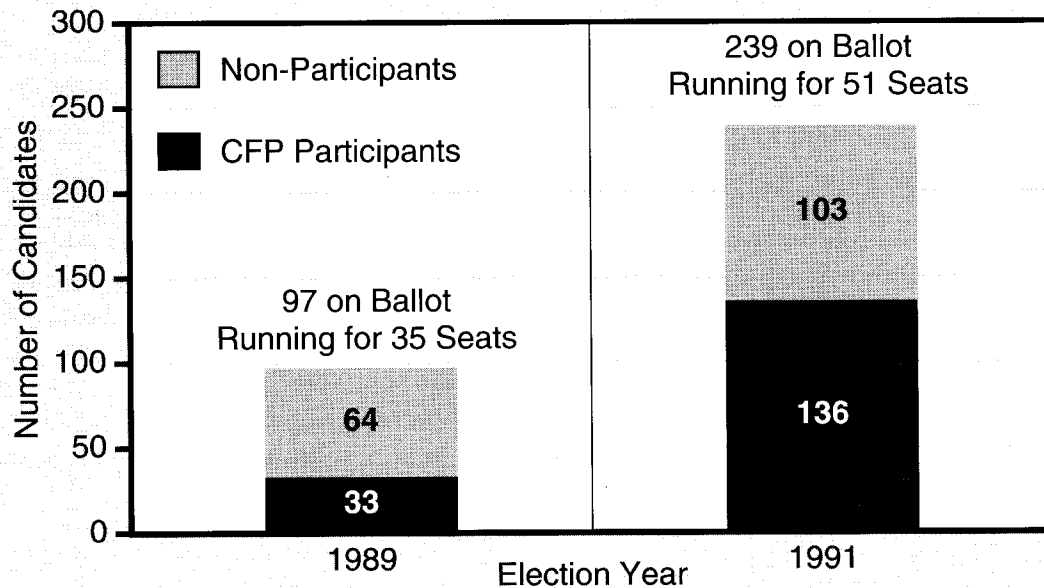
The 1991 City Council Elections

As the result of a successful lawsuit challenging the structure of New York City's government, the City abolished the Board of Estimate, a body composed of the mayor, City Council president, comptroller, and the five borough presidents. The United States Supreme Court ruled that the structure of the Board of Estimate violated the constitutional principle of one person, one vote, because borough presidents, who could each cast one vote on the Board of Estimate, represent geographic areas varying widely in size of population.¹

In 1989, the voters of New York City approved a proposed revision in the City Charter to redistribute the Board of Estimate's powers. As part of that Charter change, powers over land use and City budget approval were given to the City Council to make it a stronger legislative counter-balance to the mayor's executive powers. The Charter change also called for the expansion of the City Council from 35 members to 51 members in special off-year elections set for the fall of 1991. One of the purposes of the expansion was to give greater representation to racial and ethnic minorities who had in the past been under-represented in local government.

Thus, the most fundamental change shaping the 1991 City Council elections was redistricting and 16 new seats.² In addition to the 16 newly created districts in which there were no incumbents, there were three districts in which incumbents decided not to run. The large number of open seats set the stage for many competitive races. The Campaign Finance Program increased the level of competition in these elections by helping participants, including many first-time candidates, mount viable campaigns. The Program had a profound effect on many City Council races through the distribution of public funds to participants.

**Figure 2.1
COUNCIL CANDIDATE PARTICIPATION
IN THE CAMPAIGN FINANCE PROGRAM**



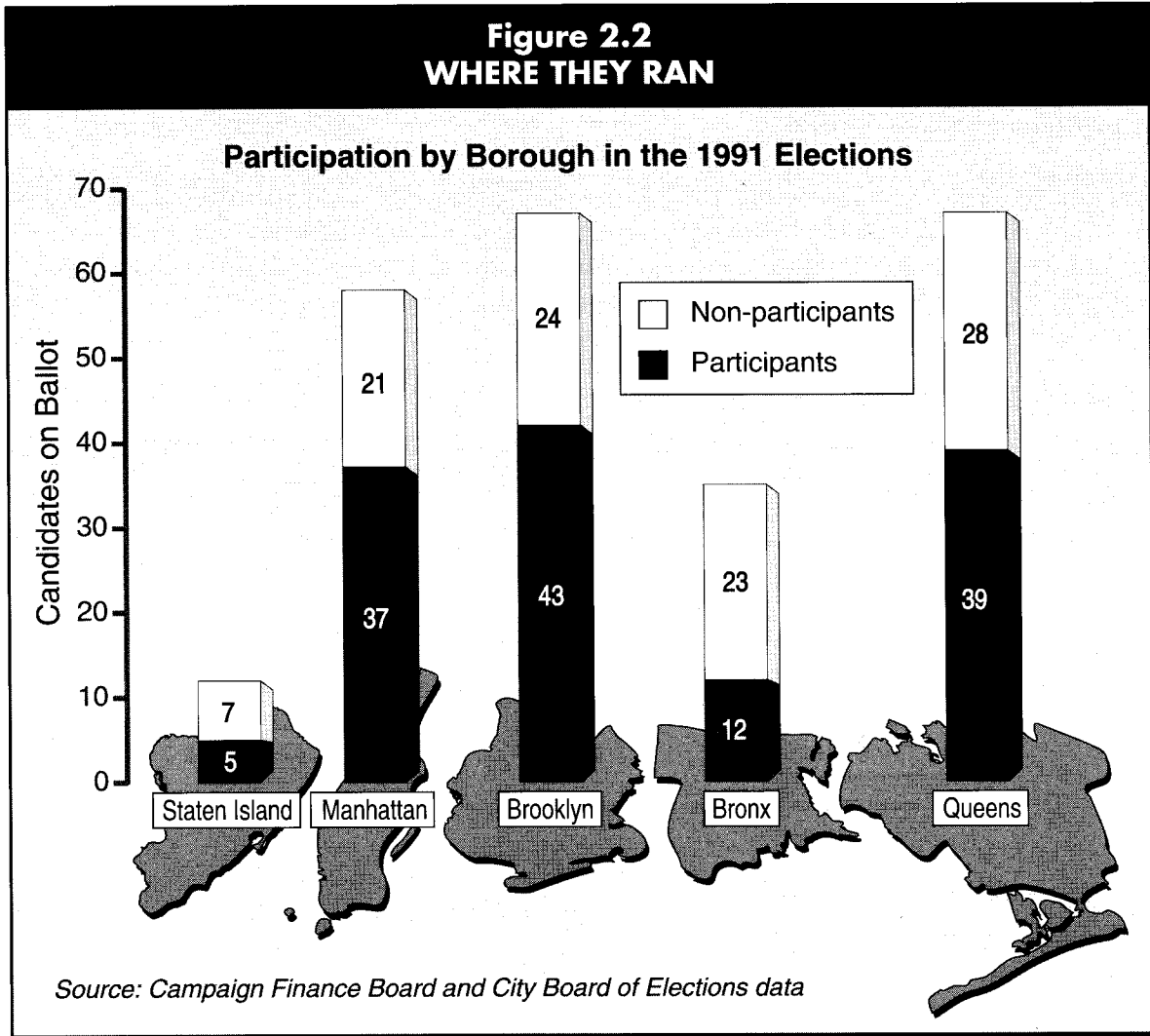
In 1991 there was a substantial increase in the total number of candidates running as well as the number of participants. In 1989, participants were only 34 percent of those on the ballot, whereas in 1991, they were 57 percent.

Increased Participation

Beginning in 1990, the Board mounted an aggressive education campaign designed to generate interest in the 1991 elections and encourage participation in the voluntary Campaign Finance Program. By the May 10, 1991 opt-in deadline, 256 people had joined the Campaign Finance Program, far exceeding the Board's most optimistic estimates. One hundred thirty-six of those who joined made it onto the ballot in the primary or general elections. The number of Council candidates on the ballot rose sharply from 1989 to 1991, as Figure 2.1 shows. Competition for Council seats increased dramatically. In 1989, a total of 97 candidates ran in the Council elections, an average of 2.8 candidates per seat, while in 1991, a total of 239 candidates were on the ballot, an average of 4.7 per seat.

Participation in the Campaign Finance Program also increased dramatically. In 1989, Program participants accounted for 34 percent of all Council candidates on the ballot, while in 1991 the Program captured fully 57 percent. One reason for the more than twofold increase in the number of candidates who ran for office was apparently the Campaign Finance Program itself. It gives an opportunity to candidates who might otherwise be excluded because they do

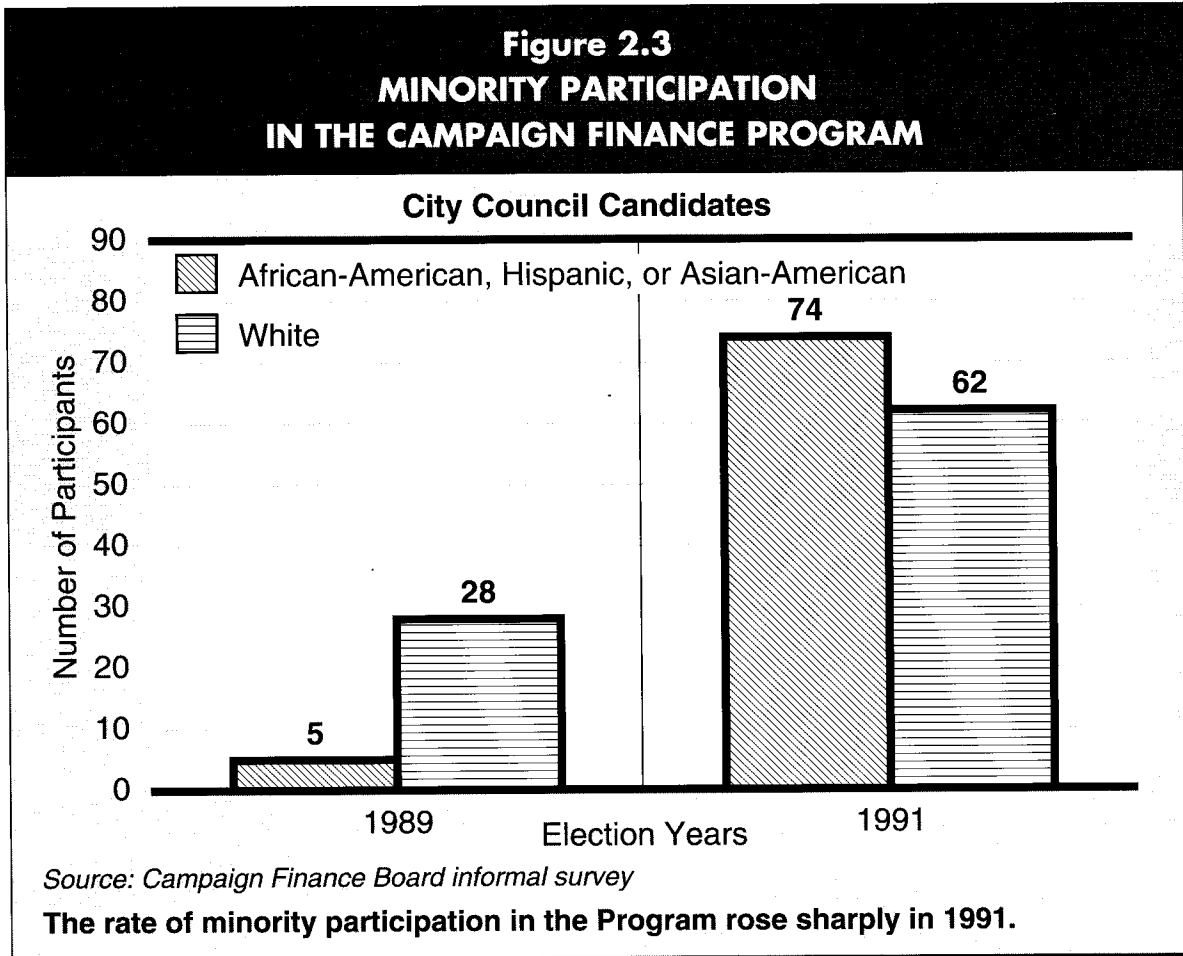
not have access to substantial financial resources. More than a third of the candidates who responded to the questionnaire sent by the Board after the elections stated that the existence of the Program was a factor in their decision to run for City Council. Frank J. Macchiarola, Chair of the Districting Commission, confirmed that “the large number of candidates who competed for seats in the City Council election was in no small part due to the Program.”³



Participation by Borough. Ranked by the number of candidates running, Brooklyn and Queens tied for first place, each having a total of 67 candidates, as Figure 2.2 shows. Together they accounted for 56 percent of all candidates on the ballot. Manhattan placed next with a total of 58 candidates, and the Bronx and Staten Island followed with 35 and 12 candidates, respectively. The average district in Brooklyn and Queens had roughly four and five candidates, respectively, while the average district in Manhattan had nearly six candidates. By this measure, Manhattan races appeared to stimulate more interest among prospective candidates than races in other boroughs.

Chapter 2

Participants dominated the ballot in three boroughs, outnumbering non-participants by almost two-to-one in Brooklyn and Manhattan. Participation in the Bronx was, however, sharply lower. There, only about one in three candidates was in the Campaign Finance Program. The reasons behind this may be linked to generally lower participation in politics in the Bronx. Of those registered to vote in the Bronx, only about 15 percent went to the polls in the general election, the lowest percentage among the five boroughs.

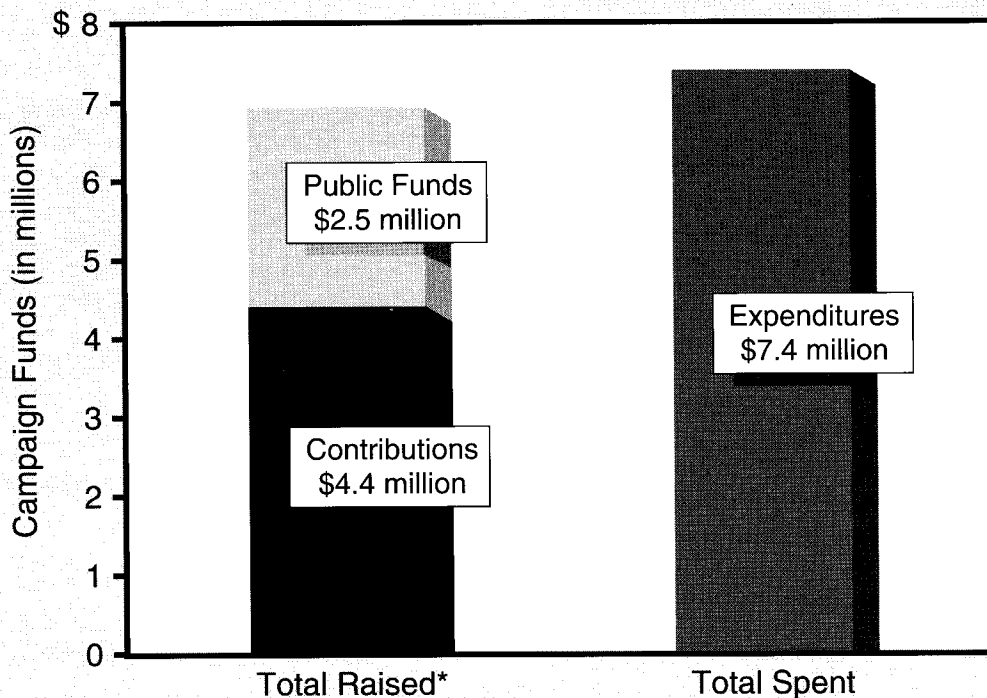


Minority Participation. As Figure 2.3 illustrates, there was a dramatic increase in the rate of minority participation in the Program among Council candidates on the ballot from 1989 to 1991, based on the results of an informal survey. In 1989, the 28 white participants made up 85 percent of all participants, while African-Americans and Hispanics accounted for only 9 percent and 6 percent, respectively. In 1991, 62 white participants accounted for only 46 percent of all participants, and the percentage of minorities was sharply higher: African-Americans made up 34 percent of participants on the ballot, and Hispanics made up 19 percent.

Of those candidates whose race and ethnicity were identified, seventy-four percent of all African-Americans and 59 percent of all Hispanics on the ballot were Program participants in

1991, a predominance which in part reflected the fact that participants outnumbered non-participants on the ballot as a whole. While there may have been minor differences in the rates of participation among some minorities, the racial and ethnic demographics of participants and non-participants were not substantially different. The proportion of African-Americans was 14 percent higher among participants than non-participants, but the proportion of Hispanics was 3 percent higher among non-participants than among participants. The greater number of participants in virtually each category, however, shows that the Program has a broad appeal that transcends racial or ethnic boundaries.

Figure 2.4
CONTRIBUTIONS, PUBLIC FUNDS, AND EXPENDITURES
FOR 1991 PARTICIPANTS



*Does not include loans and other receipts, which increase candidates' overall resources.

Source: Campaign Finance Board data

Public funds substantially increased participants' financial resources, giving them more money with which to wage their campaigns.

Public Funds Strengthen Campaigns

The greatest impact of the Program in the 1991 Council races can be seen in the effects of public funds on a typical campaign. As Figure 2.4 illustrates, public funds made up over a third of the total amount of funds available to participating candidates, giving the candidates

substantially more resources with which to make their bids for office. Candidates often credited public funds as having been a crucial factor in their ability to wage a competitive campaign. Council candidate Philip Shelly stated, “Good government is worth its price and even in our fiscal crisis, public campaign finance is money well spent. I . . . am one of many people that it has enabled to run who otherwise could not have run.”⁴ Three-fourths of the participants who responded to the Board’s post-election survey stated that public funds had a substantial effect on their campaigns, and the majority of respondents ranked the possibility of receiving public funds as the most important factor in their decision to join the Program.

Public funds may also have a beneficial effect on the character of a campaign. Liz Abzug, a candidate in the 3rd Council district’s Democratic primary, felt that public funding “enables candidates to spend more time on issues and in the community and less time attending fund-raisers.”⁵ Council member C. Virginia Fields, elected in 1989, told people as she campaigned, “Your \$10, your \$20, or \$25 . . . will be helpful in terms of acquiring matching funds,” and this made them more willing to contribute.⁶

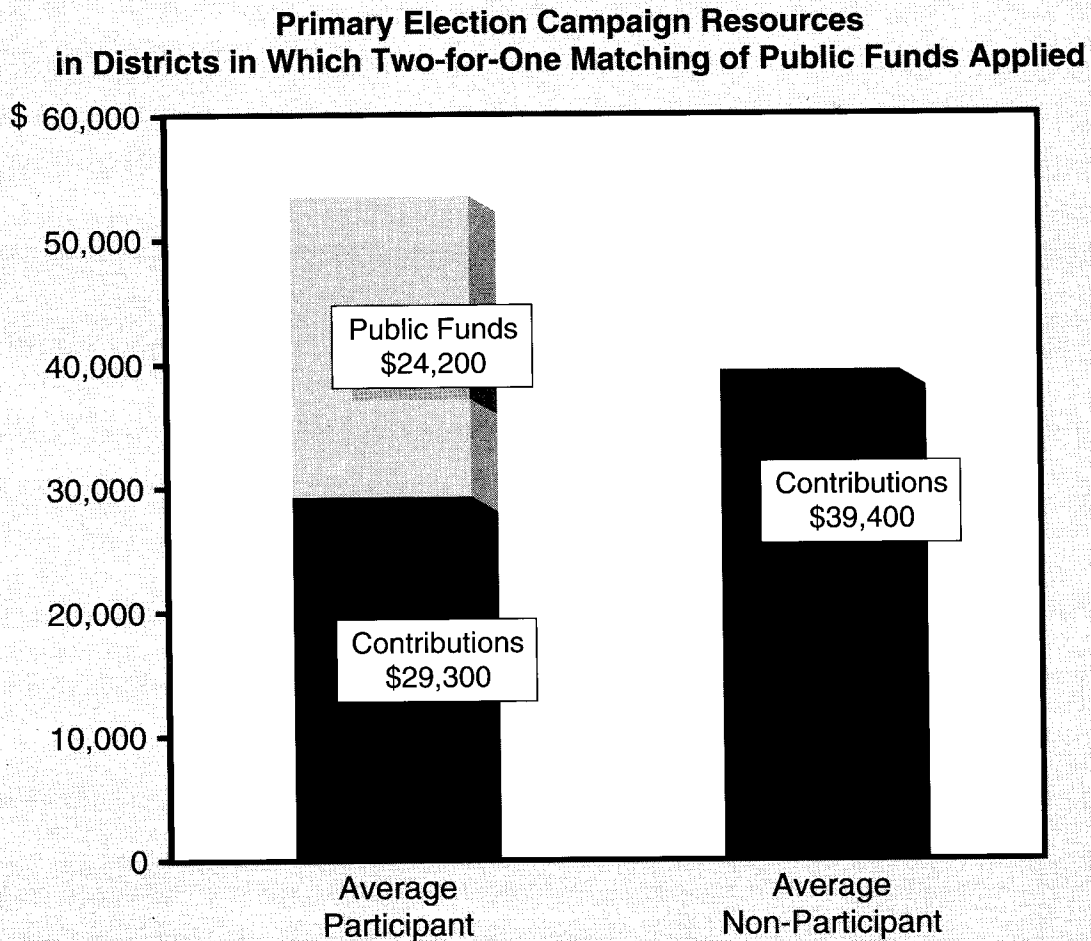
Public Funds “Bonus” Matching. Did public funds give participating Council candidates the financial resources needed to confront heavy-spending non-participants? Two-for-one matching of contributions in districts in which a non-participant raised or spent over \$30,000 did seem to give participants the extra resources needed to compete. While the participating candidate is still limited to the same \$40,000 maximum in public funds per election, the accelerated rate allows matching dollars to flow much more rapidly, and means more money if the candidate would not have been entitled to the maximum under one-for-one matching. As the treasurer for Council member Antonio Pagan’s campaign stated, “for us, the two-for-one matching provision was the most important and decisive provision of the Campaign Finance Program.”⁷

High-spending non-participants triggered bonus matching funds and removal of the spending limits for 39 participants in 16 districts in the 1991 primary elections and for 7 participants in five districts in the general elections.⁸ Figure 2.5 compares the amount of campaign contributions and bonus matching funds received by the average participant with the contributions received by the average non-participant in the primary elections for the districts in which the bonus was triggered. The figure shows how double matching funds increased the resources of participants facing high-spending non-participants in the 1991 Council primaries.



“[P]ublic funds are the cleanest source of campaign money.” — Julian Palmer, Executive Director of New York State Common Cause

Figure 2.5
BONUS MATCHING HELPS PARTICIPANTS COMPETE



Source: Campaign Finance Board and City Board of Elections data

Without public funds, participants in the 1991 primaries would have been considerably underfinanced compared with their non-participating competitors.

High spending non-participants can cost the Program a great deal of money by triggering bonus matching funds for participants. Average payments to a participant in the primary who was not eligible for two-for-one matching totalled only about \$12,000. By contrast, as Figure 2.5 shows, the average participant in a district in which two-for-one matching was in effect received twice that amount.

Approximately \$500,000 more in public funds was disbursed over the course of the primary and general elections than would otherwise have been paid because high-spending non-participants triggered the two-for-one matching bonus for participants.

Chapter 2

Public Funds Versus Special Interest Giving. Perhaps the greatest benefit to the public of a matching funds program is that it comes with no ideological or “special interest” strings attached. It therefore not only outpaces, but can effectively counterbalance, giving by special interests. The recipients of public funds are beholden to the electorate as a whole, not to a small group of large contributors. For example, two political action committees (“PACs”), the Council Political Action Committee and the Majority Coalition, each spent about \$200,000 in the 1991 elections. The \$2.5 million in public funds provided to candidates by the Program significantly dilutes the impact of PAC giving such as this. Julian Palmer, Executive Director of New York State Common Cause, stated at Council hearings that “public funds are the cleanest source of campaign money.”⁹

Table 2.1
TOP 15 CONTRIBUTORS TO 1991 PARTICIPANTS*

Contributor	Number of Participants To Whom Contributor Gave	Total Contributed
Council Political Action Committee	22	\$ 44,779
DC 37 AFSCME	25	31,630
Friends of Andrew Stein	17	30,389
Real Estate Board PAC	19	28,900
AFSCME Local 1549 NYC Clerical Admin.	16	20,463
Social Service Employees Union	17	18,448
Local 1180 NYC Admin. Employees	17	17,590
Uniformed Firefighters Association	18	17,515
Friends of Peter Vallone	9	17,500
Transport Workers Union	20	16,890
Neighborhood Preservation PAC	12	15,726
Rangel for Congress Committee	8	13,950
Leonard Litwin	17	12,700
Local 237 IBT PAC	21	12,380
Empire State Pride Agenda PAC	13	12,000

Source: Campaign Finance Board data

* Data for non-participants cannot be readily quantified.

Only one of the 15 biggest contributors to participants during the 1991 elections was an individual, and the remaining 14 were political committees, including PACs and candidate committees, and employee organizations (unions), as Table 2.1 shows. This is markedly different from the pattern of contributors to participants in the 1989 citywide elections

(including citywide, borough president, and Council candidates). Then, the top 15 contributors included ten individuals, only one union, two political committees, and two law firms.¹⁰

The average contribution from the top contributors to 1991 participants was \$1,200, which, while much larger than the average individual contribution of \$117, is not near the Program's \$3,000 limit. In fact, none of the top 15 contributors gave average contributions per candidate over \$2,100. What distinguishes these contributors is not that they gave a great deal to any one candidate, but rather that they gave significant sums to a number of candidates.

Top contributors to non-participants cannot be easily ascertained because the campaign finance data for non-participants are not computerized. Nonetheless, a review of the non-participants' disclosure filings indicates, as expected, that the top 15 contributors listed in Table 2.1 were also substantial donors to non-participants, predominantly incumbents.

The Impact of Public Funds on Minority Candidates. Public financing appears to have been instrumental in giving participating minority candidates necessary resources. Julian Palmer, of Common Cause, noted during the Campaign Finance Board's public hearings that "ten of the twelve newly elected minority members used public funding, and public funding definitely contributed to the increased minority representation on the New York City Council."¹¹

Guillermo Linares, newly elected Council member from Manhattan's 10th district, and the City's first elected Dominican, stated during the hearings that "too often, immigrants feel excluded from the [political] process For this City to survive and thrive, we need to include all our people and reach out to all the talented people who live here I would not be sitting here as a Council member-elect had it not been for over \$30,000 that I was able to obtain through this Program"¹² Una Clarke, the Caribbean-American Council member representing Brooklyn's 40th district, echoed this sentiment: "The Campaign Finance Board . . . provides a conduit for a larger number and a more diversified group of persons, both economically and racially, to run an effective campaign and to win, and I am evidence of that."¹³



The Program "provides a conduit for a larger number and a more diversified group of persons, both economically and racially, to run an effective campaign and to win, and I am evidence of that." — Council member Una Clarke

More Competitive Races

Overall, the 1991 Council elections were much more competitive than the 1989 Council elections, in large part as a result of the high number of candidates who ran. "The Program unquestionably increased the number of viable office-seekers and evened the playing field in many contests," said Gene Russianoff, Senior Attorney with the New York Public Interest Research Group.¹⁴ In 1991, the percentage of votes going to the winning candidate was roughly 13 percent smaller in the primary election and 10 percent smaller in the general election than in 1989. In many cases, winners did not receive a sweeping electoral mandate from the voters. In the primary that unseated incumbent Miriam Friedlander, victory turned on just 121 votes. The legal challenges to the primary election results in ten districts and the resulting three rerun primaries attest to the close results in many 1991 Council races.

**"The Program unquestionably increased the number of viable office-seekers and evened the playing field in many contests."
— Gene Russianoff,
Senior Attorney with the
New York Public Interest
Research Group**

Generally, participating candidates appear to have been stronger competitors than non-participants. In percentage of votes received, the average participant was closer than the average non-participant to the participating and non-participating winners. Participants in a given district received an average of 11 percent more votes than non-participants in the primary elections, and 15 percent more votes than non-participants in the general elections.

The increased competitiveness in the 1991 elections was evident in both the open seats and the challenged seats.

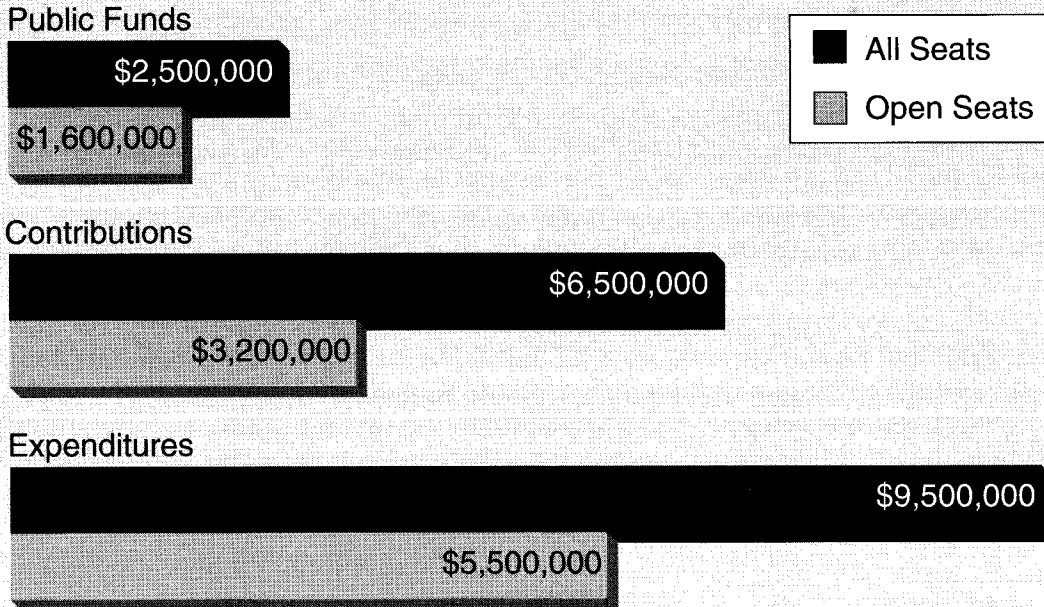
Open Seats. The 19 open seats were one of the most prominent features of the 1991 elections, and naturally, were a magnet for potential candidates. There were significantly more candidates in open seats than challenged seats. There were also significantly more participants than non-participants in open seats: open seats attracted an average of four participating and two non-participating candidates per seat.

Although open seats represented only 37 percent of Council districts, those running in open seats accounted for 52 percent of all candidates on the ballot, roughly half of all contributions and expenditures, and over 60 percent of all public funds disbursed, as Figure 2.6 shows. The typical candidate in an open seat tended to spend somewhat more than the typical candidate facing an incumbent, but candidates in both types of seats raised on average about the same amount in contributions.

Voting patterns in open seats tended to confirm conventional wisdom about New York politics: the competitive race in the City's Democratically dominated elections comes in the primary, after which, with notable exceptions in 1991, the outcome of the general election is a foregone conclusion. Open seats were accordingly the source of the most competitive primary

Figure 2.6
WHAT OPEN SEATS COST

**Total Public Funds, Contributions, and Spending
for Open Seats Versus All Seats
in the 1991 Primary and General Elections**



Source: Campaign Finance Board and City Board of Elections data

The high number of candidates in open seats accounted for about 50 percent of all contributions and expenditures, and over 60 percent of all public funds disbursed.

contests. While in the general election, average vote spreads (the margin between the winner and losing candidates in a given district) were very similar in open and challenged seats, in the primary, vote spreads were much closer for the open seats.

Challenged Seats. Redistricting and the Program generated more competition in the challenged seats as well. There was, on average, one more challenger running against each incumbent in the 1991 elections than in 1989: the average number of candidates running in challenged seats in the 1989 primary and general elections was 2.6, whereas the average number of candidates running in challenged seats in the 1991 elections was 3.6. In addition, the number of Council incumbents facing primary contests rose in 1991. In 1989, only 11 (or about one-third) of the 34 incumbents running had primaries, while in 1991, 19 (or well over half) of the 32 incumbents running faced primaries. Two incumbents were upset in the 1991 elections: Miriam Friedlander in Manhattan's 2nd district in the primary, and Carol Greitzer in the 5th district in the general election, compared with one in 1989 and none in 1985.

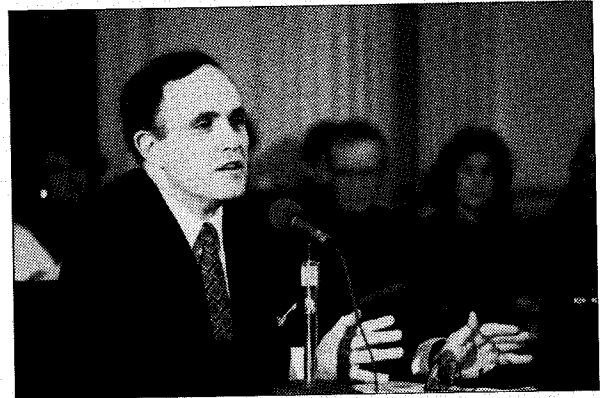
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Participants appear to have mounted more effective challenges to incumbents (both participating and non-participating) than non-participants. The margin of votes was, on average, five percent closer between incumbents and participants than between incumbents and non-participants in the primary election, and fully 11 percent closer between incumbents and participants in the general election. Incumbents did retain strong vote-getting power, however, and incumbency remains the strongest predictor of a candidate's electoral success, far outweighing other factors such as campaign fund raising, spending, or Program participation.

The distinction between open and challenged seats was somewhat blurred in the 1991 elections because redistricting changed incumbents' historical constituencies. In 1989, for example, only two candidates challenged Carol Greitzer, the incumbent Council member from lower Manhattan's former 3rd district, for her seat. As a result of redistricting, she opted to leave her redrawn district and ran instead in the new 5th district on the Upper East Side, where incumbent Robert Dryfoos ultimately bowed out of the race. There she faced competition from five other candidates in the primary and general elections. Susan Alter, the incumbent in Brooklyn's old 25th district, had a similar experience. Because of redistricting, she decided to run in a field of seven other candidates in a close Democratic primary race in the 45th district in 1991. In 1989, Alter faced no primary opposition and was confronted by a single candidate in the general election, when she took an overwhelming 97 percent of the vote. In the 1991 general election, she defeated two other candidates with 85 percent of the vote. But the effects of redistricting on incumbents were uneven. If some incumbents faced the political fight of their careers, others continued to mount campaigns that overcame opposition with seemingly little effort.

Full Disclosure

Among the Board's most visible achievements in the 1991 elections was publication of extensive and detailed information about participating candidates' campaign finances for scrutiny during the election. Former U.S. Attorney and mayoral candidate Rudolph Giuliani observed: "the single most important thing [the Board has] contributed is that there is a tremendous amount more known now about how a candidate gets elected, and that information is available to the press, to opponents, to the public."¹⁵ The public and press showed intense interest in the campaign finance information furnished to them by the Campaign Finance Board in both the 1991 and 1989 elections. In the 1991 elections, the Board received



**"[T]here is a tremendous amount more known now about how a candidate gets elected, and that information is available to the press, to opponents, to the public."
— Rudolph Giuliani**

approximately 1,000 requests from the public and press for information about participants' campaign finances. The Board issued 20 press releases during and after the 1991 elections analyzing candidates' financial information and announcing the payment of public matching funds to eligible participants. In covering the Council elections, all the major New York City newspapers frequently ran articles using information provided by the Campaign Finance Board. It is one measure of the success of the Program that information provided by the Board has become part of the media's standard coverage of elections. By facilitating more in-depth press coverage of local elections, the Board is helping to increase the level of the public's knowledge and awareness of candidates' campaign finances, and of Council campaigns generally.

**TABLE 2.2
CAMPAIGN FINANCE ACT'S DISCLOSURE REQUIREMENTS
VERSUS NEW YORK STATE LAW REQUIREMENTS**

Campaign Finance Act	New York State Law
Contributors' Employers	Not available
Intermediary ("Bundler") Information	Not available
Contributors' Business Affiliates	Not available
Four-Day Pre-Election Disclosure Filings	Not available
Computerized, Sorted, and Published in Computerized Form	Not Computerized, Sorted, or Published in Computerized Form
Monitoring and Comprehensive Publication of Timeliness and Status of Participants' Filings	Not available
Close Scrutiny by the Agency Resulting in Published Audits for all Participants	Not available

More Extensive Disclosure. The Campaign Finance Board provides more timely, detailed, and accurate information about candidates' campaign finances than has ever been available before in New York City. All candidates running for local office are subject to financial disclosure requirements under state law, but those who join the Program are subject to the far more rigorous requirements of the City's Campaign Finance Act, as Table 2.2 shows. The New York State Commission on Government Integrity, headed by Fordham Law



School Dean John D. Feerick, found that under state law "disclosure mechanisms are so ineffective that the contribution process is hidden from the public and press."¹⁶ As discussed in Chapter 1, the Campaign Finance Act was enacted in part to address the inadequacies of New York State's campaign finance disclosure laws.

In addition to basic information about contributions and expenditures, participants must provide disclosure about their contributors' employers, as well as affiliated contributors and any intermediaries or "bundlers" who solicit and deliver campaign contributions, none of which is required under state law. These disclosure requirements are especially important for large-scale citywide campaigns. To make sure that as much information as possible is available to the public before the elections, and to assist in monitoring participants' compliance, the Campaign Finance Board requires two additional disclosure filings, four days before the primary and the general elections, that are not required under state law.

Most candidates who responded to the post-election survey found the Program's reporting requirements to be reasonable and found the assistance provided by the Board's Candidate Services Unit to be extremely valuable. Fred Teng, a first-time Republican candidate for Manhattan's 1st district concluded, "It is tedious reporting, but I think for good government, it is worth the time."¹⁷ Ray Trotman, the treasurer for Council member Una Clarke's campaign, found the Program's disclosure requirements and paperwork to be reasonable and the staff to have been "exceptionally responsive and cooperative to our campaign."¹⁸

Computerized, "Easy-to-Use" Information. The Board presents campaign finance information in a clear, summarized form. All financial information filed by participating candidates is entered onto the Board's computerized Campaign Finance Information System. This makes it possible for the Board to produce detailed public disclosure reports analyzing the data, and it significantly enhances the Board's enforcement efforts. The Campaign Finance Information System is vital to the Board's mandate to educate the public. The roughly 10,000 pages of information the Board received during the 1991 elections is raw data. The data themselves have limited value unless they can be aggregated, analyzed, and presented to the public in an understandable format.

In 1991, the Board issued public disclosure reports for all Council candidates prior to the primary and general elections and once afterwards. The Board also makes campaign finance data available on computer diskettes for those who wish to perform their own

analyses. In contrast, information filed by non-participants with the City Board of Elections is not computerized and is often incomplete, making it more difficult to review. Because campaign finance information for non-participants is not computerized, many of the Board's analyses of candidates' campaign finances and many of the tables and graphs in this report can provide meaningful information only about participants.

Audits Increase Accountability. Unlike the campaigns of non-participants, the campaigns of all Program participants are subjected to ongoing audit by the Board. Through active auditing, withholding of public funds, and the imposition of fines, the Board enforces the Act's disclosure provisions. Audits help to ensure that participants' disclosure statements are filed accurately and that public funds are disbursed to candidates with assurance that they are maintaining adequate records to show their eligibility.

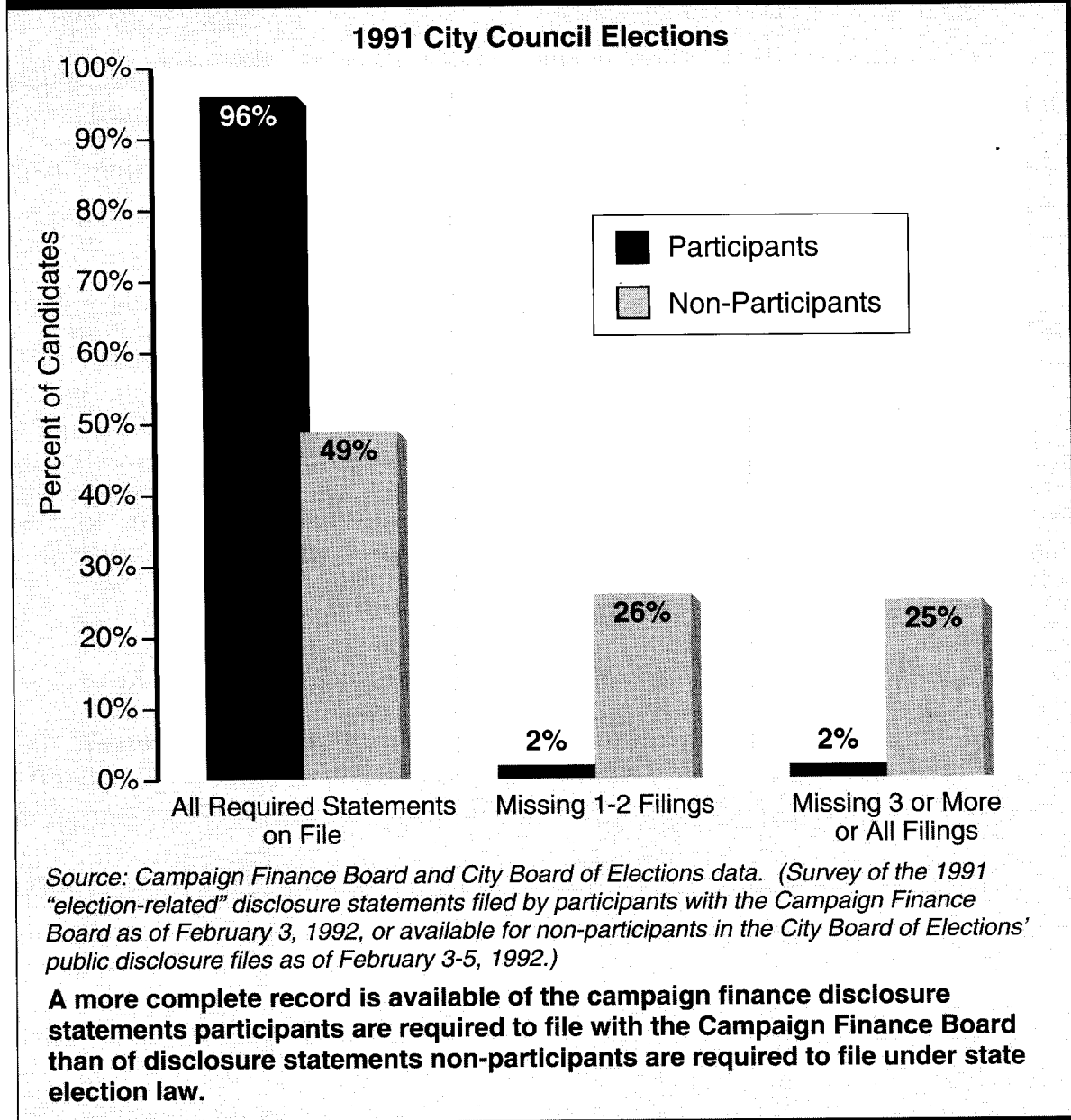
Rate of Filing. In addition to the more detailed disclosure requirements, computerization, and audits, which enhance the quality of disclosure that the Campaign Finance Board provides, the filings by participants available at the Campaign Finance Board are far more complete than the reports available at the City Board of Elections for non-participants.¹⁹ Disclosure requirements themselves are meaningless if the candidates fail to file the required reports or if these reports are otherwise unavailable. As Figure 2.7 shows, 96 percent of the 136 Program participants filed all the required disclosure statements with the Campaign Finance Board. In contrast, fewer than half of the 103 non-participants had all the required statements on file at the City Board of Elections, and three or more statements were missing for one-fourth of the non-participants. For 13 non-participants, no filings at all were available at the time of the survey, whereas only one Program participant had failed to make any required filings by that time.

To improve the quality of campaign finance disclosure and make it uniform for all candidates running for the same local offices, the Campaign Finance Board has proposed state legislation that would require all candidates for the offices of mayor, City Council president, comptroller, and borough president to provide the detailed financial disclosure mandated by the Campaign Finance Act, to file disclosure statements with the Campaign Finance Board, and to be subject to audit and scrutiny by the Board. Expressing his support for the proposed legislation, Neal Rosenstein of the New York Public Interest Research Group stated: "All candidates should be providing the same kind of basic disclosure which is required by the City Campaign Finance Program The problem of adequate disclosure is severely compounded in New York City by the often incomplete, inaccurate, and sometimes even missing financial disclosure forms maintained by the City Board of Elections" ²⁰ A majority of candidates who answered the post-election survey thought that participants and non-participants should be subject to the same contribution limits and disclosure requirements. The state legislative reforms proposed by the Board are discussed more fully in Chapter 7.

* * *

Redistricting and the 19 open seats guaranteed that there would be many heated contests in the 1991 elections. The Campaign Finance Program enabled more candidates to run in these elections and increased the competitiveness of the races by providing public

**Figure 2.7
PERCENT OF PARTICIPANT AND NON-PARTICIPANT
STATEMENTS ON FILE**



matching funds to participants. The Program also made full and accurate disclosure available to New York City voters about participants' campaign finances. The contributors to Council participants' campaigns and how the campaigns spent their money are discussed in the next chapter.

NOTES

¹ *Board of Estimate v. Morris*, 489 U.S. 688 (1989).

² To redraw Council districts, the New York City Districting Commission was created and, after months of public hearings and debate, proposed district lines on June 3, 1991. The Commission sent the proposed lines to the Justice Department for pre-clearance as required by the federal Voting Rights Act. On July 19, the Justice Department rejected three of the proposed districts on the ground that the plan tended to minimize Hispanic voting strength in violation of the Voting Rights Act. Revised district lines were approved by the Justice Department in late July, and the City asked a federal court for election law changes so that the elections could go forward. A three-judge federal panel moved the July 22nd deadline for filing petitions back to August 7 and reduced the number of signatures required to get on the ballot from 900 to 180, thus re-opening the petitioning process for additional candidates to qualify to appear on the ballot. Several candidates who had joined the Program but did not initially file petitions were able to get onto the primary election ballot as a result of the liberalization of the petitioning rules.

³ *Campaign Finance Board 1991 Hearings*, at 95 (testimony of Frank J. Macchiarola).

⁴ *Ibid.*, at 140 (testimony of Philip Shelly).

⁵ *Ibid.*, at 30 (testimony of Liz Abzug).

⁶ *Hearings before the New York City Campaign Finance Board*, December 13-14, 1989, at 481-82 (testimony of Council member C. Virginia Fields).

⁷ Response from Council member Antonio Pagan's campaign treasurer to post-election survey, on file with the Campaign Finance Board.

⁸ The Council districts in which the bonus was triggered are noted in Appendices B and C.

⁹ *Hearings before the City Council Governmental Operations Committee on Intro. 441A*, October 24, 1990 (testimony of Julian Palmer).

¹⁰ New York City Campaign Finance Board, *Dollars and Disclosure: Campaign Finance Reform in New York City*, September 1990, (hereafter "*Dollars and Disclosure*"), 66-67.

¹¹ *Campaign Finance Board 1991 Hearings*, at 132 (testimony of Julian Palmer).

¹² *Ibid.*, at 337 (testimony of Council member Guillermo Linares).

¹³ *Ibid.*, at 347 (testimony of Council member Una Clarke).

¹⁴ Written testimony dated December 11, 1991 of Gene Russianoff of the New York Public Interest Research Group for the Campaign Finance Board 1991 hearings.

¹⁵ *Campaign Finance Board 1991 Hearings*, at 75 (testimony of Rudolph Giuliani).

¹⁶ New York State Commission on Government Integrity, *The Midas Touch: Campaign Finance Practices of Statewide Officeholders*, June 1989, 1.

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¹⁷ *Campaign Finance Board 1991 Hearings*, at 306 (testimony of Fred Teng).

¹⁸ *Ibid.*, at 383 (testimony of Ray Trotman).

¹⁹ Campaign Finance Board staff surveyed non-participants' 1991 "election-related" disclosure statements available in the City Board of Elections public disclosure files as of February 3-5, 1992. This information was compared with "election-related" disclosure statements submitted by participants to the Campaign Finance Board as of February 3, 1992. (Candidates may have submitted additional disclosure statements after these dates.) For non-participants, the election-related filings include the 32-day pre-primary, 11-day pre-primary, 10-day post-primary, 32-day pre-general, 11-day pre-general, and 27-day post-general disclosure statements. For Campaign Finance Program participants, in addition to the above filings, the four-day pre-primary and four-day pre-general election disclosure statements (required under the Campaign Finance Act but not under state election law), were included in the survey. The total number of disclosure statements a candidate is required to file varies, depending on whether the candidate is in the primary election or general election only, or both, and this was accounted for in conducting the survey.

²⁰ *Campaign Finance Board 1991 Hearings*, at 157 (testimony of Neal Rosenstein).