

The Virgin Islands Consortium

Recount Suspended On St. Croix Until Provisions Made For Public Access

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Cynthia Graham **December 09, 2014**



Virgin Islands Superior Court Judge Harold W. L. Willocks Monday ruled to suspend the recount of votes cast for three candidates who ran in the Nov. 4 General Election until provisions are made to allow the public access to the recount proceedings.

Judge Willocks' ruling came just days after the St. Croix District Board of Elections ,on Dec. 4, voted to ban the public, including media outlets, from observing the recount process as it took place at the Elections System office in the Sunny Isle Annex.

On Monday afternoon following the morning court hearing, Supervisor of Elections Caroline Fawkes told *VI Consortium* that the recount process had been suspended as of



to find a way to accommodate the public.

Newly arranged furniture in Elections Board

conference room. White table in background and chairs along left wall replace original layout.

"We have to make sure that we have public access, so the Board recommends that we try to look into closed circuit, so that we can make sure that the public that may want to come by and visit can watch it on the TV from inside or outside," she explained.

When asked what prompted the Board's decision last week to suddenly revoke public access to the recount process, Fawkes, who was reluctant to speak on behalf of the Board, said Board members say their decision had something to do with "space restrictions."

She then offered a tour of the modest-sized room where the *VI Consortium*, other media outlets and members of the public are frequent observers at regularly scheduled Board meetings, and where the initial counting of the ballots took place, without restriction to the public.

The furniture in the room was arranged differently from its usual layout in order to accommodate ballot boxes, Fawkes said, allowing for less space for public viewing within the room.

"The folks that are bringing in the ballots are back here, so now you're doing a different counting, they're doing the whole ballots, so they have to come through with the different ballot boxes," she explained, pointing to the back of the room. "So now, [our administrative assistant] and someone else will be sitting back there with the boxes of ballots." She said the tallies and Board members will remain at the large conference table.

Fawkes went on to explain that with the room's new layout, "Some media, the candidate and the candidate's representative can be in here," but because of the limited space now available in the room, members of the public and media will be admitted on a "first-come, first-served basis."

When asked about her position on the public having access to the recount process, Fawkes said, "The public should have access. The Code says the public, media and everybody else should have access. So, that's my take on it, they should have access."



Community members at recent Board of Elections

meeting observe proceedings in gallery at back of conference room.

The V.I. Code Fawkes was referring to is Title 18 Chap. 23 Section 629 Subsection (b), which states: "The recount shall be held within 10 days after the filing of the petition and shall be public." It is on these grounds that one local media outlet took legal action against the Board of Elections in order for the Board to open recount proceedings to the public.

Fawkes said Judge Willocks is expected to issue his opinion on the matter on Tuesday, adding, "they're trying to work on it as quickly as we can."

Prior to Monday's suspension, two days of recounting had already taken place-- Thursday, Dec. 4 and Friday, Dec. 5.

When It Began

The Board's [decision to disallow public access](#) to the recount process came on Dec. 4 after Board members received information from longtime member, Rupert Ross, Jr., who cited Title 18 Chap. 23 Sect. 629 Subsection (d) of V.I. Code as grounds for barring the public's access: "The chairman of the board of elections shall designate the specific area of the place of the recount within which the recount will be conducted. Only the candidates whose names appeared on the ballot in the election district, or a specific designee who is to be present on behalf of any such candidate, may remain within the recount area."

A vote was taken and Ross's motion passed. And as members of the public and media later assembled inside the Elections Board conference room to observe the recount of ballots cast for Epiphane Joseph, unsuccessful Elections Board candidate, as well as Senators Alicia "Chucky" Hansen and Diane Capehart, who lost their seats by wide margins, they were ejected from the room. Lilliana Belardo de O'Neal, board vice-chairwoman, presided over the vote in the absence of Chairman Adelbert Bryan.

One local attorney said Ross's interpretation of the law is misguided.

"The place of the recount must be made available for the public to view the recount process," said attorney Kevin Rames. "This provision disallows a secret recount."

V.I. Code does, in fact, allow for the ejection of persons "from the recount area or from the place of recount, upon the determination by the chairman of the board or his designee that such person is disrupting the recount procedure." In this case, however, the public and members of the media were denied access to the room before the recount convened.

In a strongly worded letter to Attorney General Vincent Frazer on Dec. 5 urging him to stop the recount until the public could have access to it, Sen. Nereida "Nellie" Rivera-O'Reilly stated, "The board's decision is unconscionable and goes against the principles of transparency and fairness. The voters of this territory deserve an election process that complies with the law; anything else results in the disenfranchisement of voters."

Click [here](#) to view Rivera-O'Reilly's letter in its entirety.