

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

CHAMBERS OF
PAUL W. GRIMM
UNITED STATES DISTRICT JUDGE

6500 CHERRYWOOD LANE
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January 7, 2019

RE: NAACP v. Bureau of the Census
PWG-18-891

LETTER ORDER

Dear Counsel:

Defendants have filed a Motion to Continue Hearing Due to Lapse in Appropriations, ECF No. 52, and Plaintiffs have filed an Opposition, ECF No. 54. Defendants assert that they cannot work on cases “even on a voluntary basis, except in very limited circumstances, including ‘emergencies involving the safety of human life or the protection of property.’” Defs.’ Mot. ¶ 2 (quoting 31 U.S.C. § 1342). Given the undisputed economic consequences of the 2020 Census in terms of appropriation of federal funds, I find that this case, and specifically the hearing set for January 14, 2019, does impact property. Indeed, as Plaintiffs assert, the current shutdown—which the President publicly stated may extend for “months or even years”¹—supports Plaintiffs’ argument that Defendants will not be prepared to conduct the 2020 Census to ensure an actual enumeration. Additionally, I note that the 2020 Census is only fifteen months way, and therefore the issues must be addressed promptly if any effective relief is to be available to the Plaintiffs in the event that they prevail in the litigation. *See* Order Denying Mot. to Stay 2, ECF No. 95 in *La Unión del Pueblo Entero v. Ross*, No. 18-1570-GJH, (D. Md. Dec. 28, 2018) (“[T]he issuance of a stay would substantially prejudice the Plaintiffs who seek efficient resolution of their claims so that their sought after relief—an injunction denying the addition of a citizenship question to the 2020 Census—does not become unattainable as the 2020 Census nears.”). As Plaintiffs observed, “Defendants have requested similar delays in other ongoing census litigation and, due to similar concerns, all of the courts to have considered the issue have denied defendants’ request.” Pls.’ Opp’n 1 (citing Order Denying Mot. to Stay 2, ECF No. 95 in *La Unión del Pueblo*; Order Denying Stay Due to Lapse of Appropriations, ECF No. 122 in *California v. Ross*, No. 18-1865-RS (N.D. Cal. Dec. 26, 2018); Order re: 569 Standing Order M10-468, ECF No. 570 in *State of New York v. U.S. Dep’t of Commerce*, No. 18-2921-JMF (S.D.N.Y. Jan. 2, 2019)).

I understand that this places the Government’s attorneys in a difficult position, and I am respectful of it. I will not require them to appear for the January 14, 2019 hearing, if they believe

¹ Madeleine Carlisle, Olivia Paschal, & Elaine Godfrey, *The Atlantic Politics & Policy Daily: My Shutdown Will Go On* (Jan. 4, 2019), <https://www.theatlantic.com/politics/archive/2019/01/shutdown-for-months-or-even-years-the-atlantic-politics-policy-daily/579514/>.

