

George M. Johnston, Esq.
Johnston & Brennan
Post Office Box 159
Statesboro, Georgia 30458

15 AUG 1980

Dear Mr. Johnston:

This is in reference to the annexation to the City of Statesboro, Bulloch County, Georgia, enacted by ordinance on February 5, 1980, and submitted pursuant to Section 5 of the Voting Rights Act of 1965, as amended on February 19, 1980. Your submission was completed on June 16, 1980.

We have carefully reviewed the information that you have provided us, as well as comments provided by other interested parties. We note that the land which is the subject of the annexation is currently uninhabited but is being annexed for the specific purpose of residential development. Your submission also indicates that the owner of the land desires to build multi-family apartment buildings on the land and intends to seek financial assistance from the Department of Housing and Urban Development under the Section 8 Program. If the HUD grant is obtained, a substantial number of black persons may reside in the new residential units. If the owner does not pursue his plan or if the grant is not obtained, the submission indicates that virtually all of the persons who will reside in the new residential units will be white.

Under Section 5 of the Voting Rights Act the submitting authority has the burden of proving that a submitted change has no discriminatory purpose or effect. See e.g., Georgia v. United States, 411 U.S. 526 (1973); 28 C.F.R. 51.19. In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must interpose an objection to the annexation.

cc: Public File

In interposing this objection, however, I wish to emphasize that the requirements of Section 5 should not hinder the City's plans to develop low-cost subsidized housing to be occupied by both black and white citizens. The objection is being interposed because the City has failed to carry its burden of demonstrating that the development will, in fact, be completed as planned. In the event that the owner pursues his plan and constructs an integrated development, you may wish to seek reconsideration of this objection. (See 28 C.F.R. 51.21(b) and (c), 51.23 and 51.24).

Also, as we explained to the City in our letter dated December 10, 1979:

the dilutive affects of the annexations in question could be removed by the adoption of an electoral system, such as single-member districts, which fairly recognizes the political potential of blacks in the city. However, because of the element of selectivity we find here in the annexation process, we believe that the city also has an obligation to give prompt consideration to the possible annexation of the Whitesville area. Should such steps be adopted by the city, the Attorney General will reconsider the matter upon receipt of such information.

To date, we are unaware of any consideration given by the City to the annexation of the Whitesville area.

As provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the annexation which is the subject of this Section 5 objection neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. However, until the objection is withdrawn or the judgment from the District of Columbia Court obtained, the effect of the objection by the Attorney General is to make the annexation of February 5, 1980, legally unenforceable.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us within twenty days of your receipt of this letter of the course of action the City of Statesboro plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Ms. Corliss Ibbott (202--724-7162) of our staff, who has been assigned to handle this submission.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division