



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

Jack W. Erter, Jr., Esq.
Lee, Wilson, Erter & Booth
P. O. Box 580
Sumter, South Carolina 29151

APR 10 1986

Dear Mr. Erter:

This refers to your request for reconsideration of the October 21, 1985, objection to 45 annexations; the increase from four to six councilmembers; the change in the method of electing councilmembers from at large to four single-member districts and two at-large seats with single-shot voting allowed; the districting plan; the procedures for conducting the April 8, 1986, referendum; and 53 additional annexations to the City of Sumter in Sumter County, South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission of 33 additional annexations on January 29, 1986. We received your submission of the April 8, 1986, referendum, the districting plan, and the changes in the method of electing the council, upon which is based your request for a reconsideration of the October 21, 1985, objection, on February 6, 1986. We received your submission of 20 other additional annexations on March 6th. Supplemental information regarding the 33 annexations was received on February 5th, and on March 6th. Supplemental information on all of the foregoing matters was received on March 10th.

We have considered carefully the information you have submitted, data obtained from the 1980 Census, and information provided by other interested parties. Based upon our review, the Attorney General does not interpose any objections to the procedures for conducting the April 8, 1986, referendum and the following 12 annexations: Ordinance Nos. 935, 940, 945, 949(a), and 963 (1984); Nos. 972, 993, 996, 998, 1012, 1014 (1985); and No. 1034 (1986)). However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. In addition, as authorized by

Section 5, the Attorney General reserves the right to reexamine these submissions if additional information that would otherwise require an objection comes to his attention during the remainder of the 60-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.42 and 51.48).

With regard to our reconsideration of our objection to the earlier 45 annexations, our review of the 41 remaining additional annexations, and our review of the method of election and districting plan, we note at the outset that the newly submitted annexations include many all-black residential areas and, therefore, alleviate in large measure our previously expressed concern about racial selectivity in annexations. Nevertheless, we must review cumulatively the effect of these annexations together with that of the 45 annexations to which we interposed an objection in October 1985. See City of Rome v. United States, 446 U.S. 156, 186 (1980). Accordingly, the effect of the 86 annexations taken as a whole still produces a 3.2 percentage point reduction in the black population in the City of Sumter, from 44.4 percent to 41.2 percent. This reduction, while smaller than the 4.98 percentage point reduction as of October 1985, is politically significant in light of the uncontroverted existence of racial bloc voting in the city. In these circumstances, the city bears the burden of demonstrating that its proposed method of election fairly reflects minority voting strength as it exists in the enlarged city and that the submitted plan is free of a discriminatory purpose and effect. See City of Richmond v. United States, 422 U.S. 358 (1975).

The plan increases the size of the city council from four to six members and maintains the full voting power of the mayor, thus effectively creating a seven-member council. Four councilmembers would be elected from single-member districts and two other councilmembers and the mayor would be elected at large. Two of the four single-member districts have black voting age majorities providing blacks a realistic opportunity, given existing racial polarization, to elect two of the seven voting members of the council. At the same time, because the proposed plan provides for the election of three members at large, the city's pattern of racial bloc voting effectively eliminates all prospects for minority representation in those positions. Our concern is that this proposal fails in its particulars to ameliorate the retrogressive effect of the annexations in a sufficient manner to permit preclearance of both.


In light of these considerations, I cannot conclude, as I must under the Act, that the city has sustained its burden with respect to a number of the changes involved in this submission. Therefore, on behalf of the Attorney General, I must object to the increase from four to six councilmembers, the proposed election method and districting plan, and the 41 annexations not precleared in the early part of this letter. Likewise, I must decline to withdraw the October 21, 1985, objection to the 45 annexations submitted previously.

In reaching this conclusion, I should readily acknowledge that the city's efforts to meet our earlier objection are commendable and demonstrate a good faith attempt to satisfy the Voting Rights Act. We understand that a number of alternative election methods and districting plans were considered by the city in evaluating its 4-2-1 plan, some of which (including some retaining an at-large feature) appeared preliminarily to us to fairly reflect minority voting strength throughout the city after all proposed areas are annexed. The city may therefore wish to reconsider those proposals.

Of course, as provided by Section 5 of the Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that these changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. Further, Section 51.44 of the guidelines permits you to request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objection interposed here and the failure to withdraw the previous objection is to render the election method changes and the 41 additional annexations legally unenforceable and to continue the legally unenforceable status of the 45 previously submitted annexations, insofar as voting rights are concerned. 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the City of Sumter plans to take with respect to this matter. If you have any questions, feel free to call Steven H. Rosenbaum (202-724-6718), Acting Director of the Section 5 Unit of the Voting Section.

Sincerely,


Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division