

DEC 27 1979

Knox W. Askins, Esq.  
City Attorney  
Post Office Box 1115  
La Porte, Texas 77571

Dear Mr. Askins:

This is in reference to the revisions of the Home Rule Charter for the City of La Porte, Harris County, Texas, to provide for a council elected to three-year staggered terms with a majority-vote requirement from four single-member districts and three designated at-large posts, and the apportionment plan for the four single-member districts, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission of the charter revisions was completed on November 1, 1979, and your submission of the apportionment plan was received on October 30, 1979.

Under Section 5, the City of La Porte has the burden of proving that the proposed electoral system does not represent a retrogression in the position of either the black or Spanish-language residents of the city, and that it does not transgress constitutional limits with respect to either group. See Beer v. United States, 425 U.S. 150 (1976). See also 28 C.F.R. 51.19. Under White v. Regester, 412 U.S. 755, 766 (1973), to prove the constitutionality of its system the city must prove that the electoral system is equally open to black, Spanish-language and white voters, and that each group has a fair opportunity to elect candidates of its choice.

We have given careful consideration to the information you have provided as well as to comments and information provided by other interested parties. In addition to other evidence of a general pattern of racially polarized voting in La Porte, we have noted particularly the fact that, in spite of a number of black candidacies, no black person has ever won election to the La Porte municipal governing body. We have been presented with and have considered information evidencing a lack

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of responsiveness on the part of elected officials to the needs of the black community; depressed socioeconomic conditions in the black community which make participation in the political process difficult; and the presence of majority-vote and designated-post requirements for municipal elections.

On the basis of our review, it does not appear that the system adopted by the city would offer black voters a fair opportunity to elect representatives of their choice. At the same time, the city has rejected alternative systems which would offer such an opportunity. For example, our analysis shows that an alteration of district lines under the proposed four single-member district system so as to avoid the combination of the widely separated and dissimilar Northside and Fairmont Park areas could produce a district in which the minority population would be substantially larger than that of any district in the submitted plan. Similarly, we note that a plan of six single-member districts was presented to the city which provided for one district in which black and Spanish-language voters would form a majority of 57 percent, and our own review has revealed that a significantly larger majority (over 62 percent) can be achieved under such a plan without any resort to maximization of minority voting strength. The selection by the City of La Porte of a system which would retain black voting strength at a minimum level, where alternative options would provide a fair chance for black representation, is relevant to the question of an impermissible racial purpose in its adoption. See Wilkes County v. United States, 450 F. Supp. 1171 (D. D.C. 1978).

Under the circumstances we are unable to conclude, as we must under Section 5, that the changes would not have a racially discriminatory purpose or effect. Accordingly, I must, on behalf of the Attorney General, interpose an objection to the charter revisions and to the proposed apportionment plan.

Of course, 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 these changes have neither 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. In addition, the Procedures for the Adminis-

tration of Section 5 (38 C.F.R. 51.21(b) and (c), 51.23, and 51.24) permit you to request the Attorney General to reconsider the objection. 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 charter revisions and apportionment plan 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 what course of action the City of LaForte plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Mr. John E. Tanner (202--724-7399) of our staff, who has been assigned to handle this submission. Please refer to File Nos. C5780-5784 and C7574 in any written response to this letter so that your correspondence will be properly channeled.

Sincerely,

Ernest S. Rys III  
Assistant Attorney General  
Civil Rights Division