



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MAR 5 1980

George Wikoff, Esq.
City Attorney
City of Port Arthur
Post Office Box 1089
Port Arthur, Texas 77640 .

Dear Mr. Wikoff:

This is in reference to the consolidation of Lakeview, Pear Ridge and Port Arthur, the annexations of the Sabine Pass area (Ordinance Nos. 78-43, 78-44, 78-47, 79-33, 79-34 and 79-67) and Gulf of Mexico tracts (Ordinance Nos. 79-79, 79-103 and 79-116), and the revised council district plan (Ordinance No. 80-02), submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on February 5, 1980. In accordance with your request expedited consideration has been given this submission pursuant to the Procedural Guidelines for the Administration of Section 5 (28 C.F.R. 51.22). I am also writing to discuss more fully the overall compliance by the City of Port Arthur, the City of Pear Ridge and the Town of Lakeview with Section 5 of the Voting Rights Act, 42 U.S.C. 1973c.

As you know, on March 24, 1978, a Section 5 objection was interposed to the consolidation of Pear Ridge and Lakeview into Port Arthur. The letter of objection notified the City that "the Attorney General will reconsider his objection to the consolidation should the City of Port Arthur undertake to elect members of its city council from fairly-drawn single-member districts." Since that time our staff has met with representatives of the City on several occasions in an effort to resolve this matter. Your latest proposal to obtain compliance with Section 5 was received on February 5, 1980, as indicated above. We have determined, after analysis, that the expansion of the Port Arthur City Council to eight members elected on an at-large basis from residency districts, instead of the seven previously provided for, does not meet the concerns that led to the objection. Therefore, on behalf of the Attorney General and for the reasons previously stated I must decline to withdraw the objection of March 24, 1978.

We have also examined the voting changes occasioned by the City's annexation of the area known as Sabine Pass. Our analysis shows that these voting changes serve to further exacerbate the dilution of minority voting strength caused by the earlier consolidation of Pear Ridge and Lakeview into the City of Port Arthur. For that reason, therefore, I must, on behalf of the Attorney General, interpose an objection to the annexation. Of course, as with our previous objection, the Attorney General will reconsider this objection should the City of Port Arthur undertake to elect members of its city council from fairly-drawn single-member districts. Also you have the right, as provided by Section 5, to seek a declaratory judgment from the United States District Court for the District of Columbia that these changes have neither the purpose nor the effect of denying or abridging the right to vote on account of race, color or membership in a language minority group.

Absent a declaratory judgment from the District Court for the District of Columbia, of course, the legal effect of the objections is to render the voting changes legally unenforceable. See, e.g., Allen v. State Board of Elections, 393 U.S. 544 (1969); Heggins v. City of Dallas, 469 F. Supp. 739 (N.D. Tex. 1979); Leroy and United States v. City of Houston, C.A. H78-2174 and C.A. H78-2407 (S.D. Tex., July 19, 1979). Notwithstanding the objection of March 24, 1978, the City's failure to obtain a withdrawal of that objection and the objection interposed today, we are aware that most of the voting changes occasioned by the consolidation and annexation have been implemented. Although city-wide councilmanic elections in the expanded Port Arthur have not been conducted, regularly scheduled elections in "old" Port Arthur have been cancelled as have elections in Pear Ridge and Lakeview. The Port Arthur City Council's responsibilities now include governing the former areas of Pear Ridge, Lakeview and Sabine Pass. The City of Port Arthur has provided representation for the Pear Ridge and Lakeview areas by appointing the mayors and councils of the respective municipalities to advisory councils and by establishing procedures for electing successors to these councils. Our staff has requested that the City submit the ordinances establishing these advisory councils for Section 5 review but the City has refused to make the necessary submission.

Under these circumstances, we believe that prompt action must be taken by the City to obtain a withdrawal of the March 24, 1978 objection, the objection interposed today and preclearance of the voting changes occasioned by provisions for the advisory councils, or Port Arthur, Pear Ridge, Lakeview and Sabine Pass must revert to the method of governance and election which existed prior to the consolidation and annexation. Almost two years have passed since the date of the initial objection and we perceive no basis for continued delay. Our experience in enforcing Section 5 in other Texas municipalities, such as Houston, Dallas, and San Antonio, demonstrates that these matters are capable of resolution without the delay that has resulted in the Port Arthur matter.

Thus, I request that you notify us within seven days of receipt of this letter as to what steps the City is willing to take either to obtain a withdrawal of the March 24, 1978 objection and the objection interposed today and to obtain preclearance of the ordinances establishing advisory councils or to revert back to the prior method of governance and election. Our staff remains willing to work with you and the appropriate officials during this time to resolve the matter. However, if we do not receive a firm commitment for a prompt resolution we will institute legal proceedings and request the court to order the necessary relief.

You have also submitted for preclearance, pursuant to Section 5, three ordinances which annexed tracts in the Gulf of Mexico. Since these annexations do not have a dilutive effect on the electorate of Port Arthur, the Attorney General interposes no objection to the annexations contained in Ordinances No. 79-79, 79-103 and 79-116.

If you have any questions regarding these matters please feel free to contact Mr. Robert S. Berman of our Voting Section at 202/724-6680. Mr. Berman is the attorney who is responsible for this matter and he will be available during the next seven days to work with you and the city officials to resolve this matter.

We appreciate your cooperation and it is our hope that this matter can be resolved without the necessity of litigation.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division

cc: George W. Strake, Jr.
Texas Secretary of State

Bernis W. Sadler,
Mayor, City of Port Arthur

George Dibrell,
City Manager of Port Arthur

Robert Q. Keith, Esq.