

DJ 166-012-3
D1992-1995

SEP 3 1980

Roland Carlson, Esq.
City Attorney
Post Office Box 1758
Victoria, Texas 77981

Dear Mr. Carlson:

This is in reference to the annexations (Ordinances No. 78-12a (1979), No. 79-34a (1979), No. 80-9a (1980), and No. 80-18a (1980)), to the City of Victoria in Victoria County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on July 10, 1980.

To determine that a change in the composition of a city's population resulting from annexations does not have the effect of abridging the right to vote on account of race, color, or membership in a language minority group, the Attorney General must be satisfied either that the percentage of members of a racial or language minority group has not been appreciably reduced and that voting is not polarized between racial or language groups, or that, nevertheless, the city's electoral system will afford minority groups representation reasonably equivalent to their political strength in the enlarged community. See City of Richmond v. United States, 422 U.S. 356 (1975). See also 25 C.F.R. §1.15.

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 evidence of a general pattern of racially polarized voting in City of Victoria elections, we have noted that no black or Mexican American has ever won election to the Victoria City Council under the at-large, majority vote, and designated place features of its electoral system. We have been presented with and have considered geographic information indicating

that it is most likely that the proportion of minority residents of the submitted annexations like their recent predecessors will be significantly smaller than that for the existing City of Victoria, and that the annexations will therefore dilute minority voting strength. The most reliable data before us indicates that the submitted annexations would decrease the combined minority percentage population by at least one percent and that, taken cumulatively with all annexations since 1973, they would decrease the population percentage by over three percent. In the context of Victoria's at-large election system, with its majority vote and designated post requirements, this dilution will not be counterbalanced by an ability on the part of the minority community to elect representation reasonably equivalent to its strength in the enlarged community. See City of Richmond, supra.

Under the circumstances we are, therefore, unable to conclude, as we must under Section 5, that the submitted annexation will not have the proscribed discriminatory purpose or effect. Accordingly, I must, on behalf of the Attorney General, interpose an objection to the submitted annexations.

Should the City of Victoria adopt an electoral system that would afford minority voters an opportunity to elect candidates of their choice, the Attorney General will consider withdrawing this objection. Our analysis has indicated that a plan incorporating single-member districts could offer such a fair opportunity.

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 neither have 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 Administration of Section 5 (25 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 annexations 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 Victoria plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Andrew Karon (202-724-7403), of our staff, who has been assigned to handle this submission.

Sincerely,

James P. Turner
Acting Assistant Attorney General
Civil Rights Division

DS 186-012-3

D1992-1995; D5041;

D5327-5330; D5367; D5326

Charles Bluntzer, Esq.

City Attorney

Post Office Box 1758

Victoria, Texas 77901

MAR 12 1981

Dear Mr. Bluntzer:

This is in reference to your request that the Attorney General reconsider his September 3, 1980, objection under Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c, to four annexations (Ordinance Nos. 79-32a, 79-34a, 80-9a, and 80-10a), and also in reference to your submission of five charter amendments and a three district and four at-large apportionment plan for the City of Victoria in Victoria County, Texas. Because our reconsideration of the outstanding objection is inextricably linked with, and directly affected by, the subsequently submitted charter changes, we have followed our usual practice, described in Section 51.37 of the Procedures for the Administration of Section 5 (46 Fed. Reg. 878) and undertaken our reconsideration of the outstanding objection in conjunction with our review of the charter changes. Accordingly, both the submission and the request for reconsideration were considered completed on January 22, 1981, the date on which the submission of the charter changes and the reapportionment plan was completed.

The submitted charter changes include: an extension of councilmembers' terms from two to three years; the expansion of the city council from five to seven members; the adoption of a 3:4 mixed single-member district-at-large election method; the 2:2:3 staggering of terms so that an election will be held each year for one single-member district representative and one at-large representative; and a change in the runoff primary date. The Attorney General does not interpose any objections to any of these charter amendments or to the three district and four at-large plan. 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.

With regard to your request that the Attorney General reconsider his objection to the four annexations, in our view the dilution occasioned by these annexations is adequately remedied by the 3:4 method of election adopted by the City and to which we interpose no objection as indicated above. Accordingly, on behalf of the Attorney General, I am withdrawing the objection to the four annexations.

Sincerely,

James P. Turner
Acting Assistant Attorney General
Civil Rights Division