U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General *Washington, D.C. 20530*

July 18, 1986

Richard B. Collin, Esq.
City Attorney
P. O. Box 829
El Campo, Texas 77437

Dear Mr. Collin:

This refers to the two alternative districting proposals for implementing the city's proposed 4-3 election system, the four proposed polling places for those districts, and your request for reconsideration to the Attorney General's November 8, 1985, objection to the city's proposed election of councilmembers from four single-member districts and three at large, with a majority vote requirement and staggered terms for the City of El Campo in Wharton County, Texas, 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 the information to complete your submission on May 19, 1986.

We have considered carefully the information you have provided, relevant 1980 Census data, information in our files as well as comments and information from other interested parties. Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). As noted in our previous letter, under Beer v. United States, 425 U.S. 130 (1976), the absence of such an effect is shown only when it is demonstrated that there has been no retrogression in the political strength already attained by minorities in the electoral system.

We note that during the April 5, 1986, elections under the existing system which allows for the at-large election of councilmembers with a plurality of the vote, the city's first minority councilmember was elected by being one of the three top vote-getters for the three council seats that were up for election during this year's contest. From all that presently appears, minorities in the city will have an equal or greater opportunity for similarly electing a candidate of their choice to at least one of the four seats up for election during the city's next election, thus giving them the potential for having at least two members on the council should the present system continue.

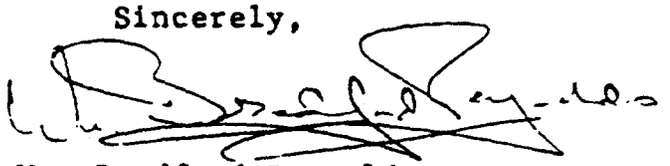
In comparison to the existing plan the proposed 4-3 election plans with a majority vote requirement and the staggering of the three at-large positions (one at-large position to be filled each year) appear to offer less opportunity for effective political participation by minority citizens. The staggering of the at-large seats and the majority vote requirement will make it more difficult for minority citizens to elect candidates of their choice to these positions and the alternate districting plans, by themselves, fail to offer minority citizens an opportunity for effective political participation comparable to that offered by the current election plan. For these reasons, I am unable to conclude that the city has carried the burden imposed by Section 5. Accordingly, on behalf of the Attorney General, I must object to the proposed districting plans and continue the Attorney General's November 8, 1985, objection to the 4-3 method of election with a majority vote requirement and staggered terms.

Of course, as noted in our prior objection letter, under 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 or color. In addition, 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 by the Attorney General is to make the changes legally unenforceable. 28 C.F.R. 51.9.

Although the submitted election plan requires us to interpose this Section 5 objection, our action should not be interpreted as indicating that an electoral option including at-large positions, filled concurrently and without majority vote requirements, would fail the Section 5 test. In light of the objection to the proposed districting plans, however, we need not make a determination at this time concerning the four polling places under Section 5. 28 C.F.R. 51.20.

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 El Campo plans to take with respect to these matters. If you have any questions, feel free to call Poli A. Marmolejos (202-724-8388), Attorney/Reviewer in our Section 5 Unit of the Voting Section.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General *Washington, D.C. 20530*

December 15, 1986

Richard B. Collins, Esq.
City Attorney
P. O. Box 829
El Campo, Texas 77437

Dear Mr. Collins:

This refers to your request that the Attorney General reconsider the November 8, 1985, and July 18, 1986, objections under Section 5 of the Voting Rights Act of 1965, as amended, to changes in the method of electing councilmembers, and districting plans for implementing those changes, in the City of El Campo in Wharton County, Texas. We received your initial letter on August 18, 1986; supplemental information was received on October 17, 1986.

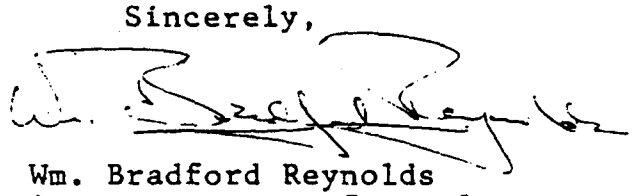
You request that we withdraw the objections to the proposed system of election which requires the election of four members from single-member districts and three members at large with a majority vote requirement for staggered (1-1-1) terms. However, because you provide no new factual or legal grounds for a change in the conclusions previously reached, we find no basis for withdrawing the Attorney General's objections. While we do note that under the existing at-large system the terms of office are staggered on a 3-2-2 basis as opposed to the 4-3 staggering which we had earlier understood to exist, it would still appear to us that the proposed system, with its majority vote requirement and 1-1-1 staggering for the at-large seats, is retrogressive for minorities who have an opportunity to win with a plurality vote in multiple seat contests under the existing system. Accordingly, on behalf of the Attorney General, I must decline to withdraw the objections.

We iterate, however, that our continuation of the objection to the 4-3 system of election should not be interpreted as indicating that the 4-3 system of election would fail the Section 5 test if, in conjunction with fairly drawn single-member districts (Alternate Plan 4 or 5), the three at-large positions were elected concurrently every two years with a plurality vote requirement.

Again we point out that Section 5 permits you 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, irrespective of whether the changes previously have been submitted to the Attorney General. However, as also previously noted, until such a judgment is rendered by that court, the legal effect of the objection by the Attorney General is to render the changes in question unenforceable. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.9).

If you have any further questions regarding these matters, feel free to contact Sandra S. Coleman (202-724-6718), Director of the Section 5 Unit of the Voting Section.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division