U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

Ms. Gladys D. Prentice
City Clerk
P. O. Box 126
Leeds, Alabama 35094

MAY 4 1987

Dear Ms. Prentice:

This refers to the 29 annexations (November 5, 1985; January 14, 1986; Ordinance Nos. 501-510, 512, 516, 517, 522 (1985); 523-529, 533, 535-536, 540, 542, 544 (1986)); the deannexation (Ordinance No. 539 (1986)); and the procedures for conducting the November 5, 1985, and January 14, 1986, referendum elections for the City of Leeds in Jefferson, St. Clair, and Shelby Counties, Alabama, 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 initial submissions on February 26, 1987; supplemental information was received on March 3, 1987.

With regard to the deannexation and the procedures for conducting the two specified elections, the Attorney General does not interpose any objections. 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. See Section 51.41 of the Procedures for the Administration of Section 5 (52 Fed. Reg. 496 (1987)).

With regard to the 29 annexations, we have considered carefully the information you have provided, data from the 1970 and 1980 Censuses, and information from other interested parties. At the outset, we note that black voters appear to support black candidates but have been unable, with one exception, to elect a candidate of their choice to the city council even though a number of such candidates have sought council positions over the years. This appears in substantial part to be the result of a general pattern of racially polarized voting occurring in the context of the city's electoral system which is characterized by at-large voting, numbered positions, and a

majority vote requirement. With regard to the one successful black candidate, we note that, apparently as a result of that same bloc voting phenomenon, he was defeated for reelection in 1980 but that he was again successful in the 1984 election which, we understand, occurred after black residents indicated that they were considering a court challenge to the city's at-large election system. Thus, the success of candidates preferred by black voters appears to be completely at the sufferance of the white majority.

The effect of the 29 annexations is to reduce the total black population of the city from 18.5 to 15.2 percent, a reduction that serves to make it even more difficult for blacks to elect a candidate of their choice and to enhance the ability of the white majority to exclude blacks totally from participation in the governing of the city through membership on the council. Absent an electoral system, not here existent, which fairly reflects the strength of the minority community as it exists after the annexations, such an effect is not permissible under the Voting Rights Act. See Beer v. United States, 425 U.S. 130 (1976); City of Richmond v. United States, 422 U.S. 358, 370 (1975).

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 Section 51.52(a) (52 Fed. Reg. 497-498 (1987)). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that the city's burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the 29 annexations insofar as they affect voting rights.

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 none of these changes has either the purpose or will have the effect of denying or abridging the right to vote on account of race or color. In addition, Section 51.45 of the guidelines (52 Fed. Reg. 496-497 (1987)) 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 29 annexations legally unenforceable with regard to voting. See Section 51.10 (52 Fed. Reg. 492 (1987)).

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 Leeds plans to take with respect to this matter. If you have any questions, feel free to call Mark A. Posner (202-724-8388), Deputy Director of the 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*

May 23, 1988

Ms. Gladys D. Prentice
City Clerk
P. O. Box 126
Leeds, Alabama 35094

Dear Ms. Prentice:

This refers to the change in the method of election from at large to single-member districts, the districting plan, and the implementation schedule, adopted pursuant to the consent decree in Dillard v. Crenshaw County, C.A. No. 85-T-1332-N (M.D. Ala.), and the reconsideration of the May 4, 1987, objection to twenty-nine annexations to the City of Leeds in Jefferson, St. Clair, and Shelby Counties, Alabama, 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 initial submission on March 4, 1988; supplemental information was received on March 24, 1988.

The Attorney General does not interpose any objections to the change in the method of election, the districting plan, or the implementation schedule. In addition, because the changes being precleared at this time provide a method of election which affords the minority group "representation reasonably equivalent to their political strength in the enlarged community" (City of Richmond v. United States, 422 U.S. 358, 370 (1975)), the objection interposed on May 4, 1987, to twenty-nine annexations to the city is hereby withdrawn. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.46). 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. See also 28 C.F.R. 51.41.

Sincerely,

James P. Turner
Acting Assistant Attorney General
Civil Rights Division