U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

March 15, 1988

David R. Boyd, Esq.
Balch & Bingham
P. O. Box 78
Montgomery, Alabama 36101

Dear Mr. Boyd:

This refers to the adoption of a multimember district method of election for the city council, the proposed districting plan, the September 22, 1987, annexation referendum and annexation pursuant to Act No. 87-772, the January 12, 1988, special election and the February 8, 1988, annexation (Ordinance No. 641) to the City of Roanoke in Randolph County, 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 the information to complete your submission on February 22, 1988.

We have given careful consideration to the information you have provided, as well as information and comments from other interested parties. At the outset, we note that the proposed election system and districting plan apparently are the outgrowth of the consent decree entered by the court in United States v. City of Roanoke, C.A. No. 87-V-97-E (M.D. Ala.) last July. That decree required the city to abandon the existing at-large election system and to adopt a districting system which was to be devised through a public process. We note further that prior to adopting the proposed election system, city officials in fact did conduct a series of meetings with members of the local black community on the structure and configuration of such a plan, that the focus at all times was on a plan of five single-member districts, and that a consensus actually was reached on a specific single-member plan denoted as Plan 6.

Despite these negotiations and public statements by a majority of the council favoring a single-member plan, the city unexplainedly adopted the instant multimember plan which essentially segregates the city into two parts by creating an overwhelmingly white three-member district, and a heavily black two-member district. Even though it creates a majority black district, the plan seems calculated to limit the effectiveness of the sizeable black constituency in that, while it allows for minority representation, the nature of the plan places them in a special category which would make it inherently difficult to

effectively represent their constituency." League of United Latin American Citizens v. Midland Independent School District, 648 F. Supp. 596, 608 (W.D. Tex. 1986). Thus, the 3-2 plan seems calculated to operate to minimize the political influence of the growing black population in Roanoke by limiting it to the election of representatives whose effectiveness on the council would necessarily be nullified by the cohesive white majority which the plan itself assures.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that submitted voting changes have 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. 51.52(a)). In view of the observations noted above, the long history of purposeful discrimination in Roanoke, the unusual procedural departures in adopting the system now under review, and the absence of an adequate explanation, I cannot conclude that the city has carried its burden with respect to the proposed method of election or the districting plan. Accordingly, I must, on behalf of the Attorney General, interpose objections to the adoption of the multimember system and the specific plan.

I also must interpose an objection to the proposed annexations. Based on the information available to us, it appears that areas with a substantial black population were excluded from the annexations even though they fully met the annexation criteria established by the city. At the same time, white-populated areas were annexed even though they appear significantly less desirable according to the stated criteria. Under the totality of circumstances, then, I cannot find that the city has met its burden of showing that Roanoke did not "annex adjacent white areas while applying a wholly different standard to black areas and failing to annex them based on that discriminatory standard." See City of Pleasant Grove v. United States, 55 U.S.L.W. 4133, 4135 (U.S. Jan. 21, 1987).

Finally, both the September 22, 1987, annexation referendum, which was limited to the racially restricted constituency, and the January 12, 1988, special election, in which residents of the annexed area were allowed to participate in violation of the Voting Rights Act, necessarily are infected by the discriminatory purpose on which the annexation itself appears to have been based. Accordingly, an objection under Section 5 must be interposed to those changes as well.

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 or color. In addition, Section 51.45 of the guidelines permits you to request that the Attorney General reconsider the objections. However, until the objections are withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objections by the Attorney General is to make the proposed election system, annexations and referenda legally unenforceable. 28 C.F.R. 51.10.

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 Roanoke plans to take with respect to this matter. If you have any questions, feel free to call 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