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DEC 9 1977

Mr. Richard J. Rose
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Attorneys at Law
Peoples Bank Building
Rocky Mount, North Carolina 27801

Dear Mr. Rose:

This is in reference to the 67 annexations to the City of Rocky Mount, North Carolina, submitted to the Attorney General pursuant to Section 3 of the Voting Rights Act of 1965. Your submission was completed on October 20, 1977.

In examining annexations under Section 3 of the Voting Rights Act, it is incumbent on the Attorney General to determine whether the annexations, either in purpose or effect, result in racial discrimination in voting. In making this evaluation we apply the legal principles which the courts have developed in the same or analogous situations. Moreover, it is also significant that Section 3 only prohibits implementation of changes affecting voting and provides that such changes may not be enforced without receiving prior approval by the Attorney General or by the District Court for the District of Columbia. Our proper concern then is not with the validity of the annexations as such but with the changes in voting which proceed from them.

With the understanding of the Attorney General's role under Section 3 in mind, I can advise you that the Attorney General will not interpose an objection to 31 of the annexations submitted. 1/ Our analysis reveals that these 31 annexations involve either areas that are not populated or areas the population of which would have at most a de minimis effect on minority voting strength.

1/ These are annexations identified in your submission by numbers 39, 40, 46, 50, 52, 53, 54, 56, 58, 60, 63, 69, 72, 73, 74, 75, 78, 79, 82, 83, 87, 88, 91, 93, 97, 98, 99, 109, 101, 102, and 105.

With regard to the other 36 annexations we cannot reach a like conclusion. 2/ We have carefully examined these annexations in light of the information provided and Federal Court decisions which have involved questions of the racially dilutive effect of annexations where political subdivisions conduct elections on an at-large basis. City of Richmond v. United States, 422 U.S. 353 (1975), City of Petersburg v. United States, 336 F. Supp. 1021 (E.D.C. 1972), affirmed, 410 U.S. 902 (1973).

Although there are a number of uncertainties in the data you have provided, for example, concerning the monoracial nature of all annexed areas, the household size rate used in the estimates, and the locations of the previous residence of persons now residing in the annexed areas, the information you have provided leads to the conclusion that the annexations have decreased the black population of Rocky Mount by between 2.4 and 3.1 percentage points. Our information regarding elections in Rocky Mount indicates that the city council is elected on an at-large basis and that racial bloc voting exists generally.

Under these circumstances, commensurate with the decisions cited above, we cannot conclude that the 36 annexations in question will not have a racially dilutive effect on voting in Rocky Mount. Accordingly, I must on behalf of the Attorney General interpose an objection. However, the Attorney General will reconsider his objection if you can provide additional statistical information demonstrating that the dilution of the black population caused by these annexations is significantly less than what we have concluded or information demonstrating that racial bloc voting does not exist in Rocky Mount. See 28 C.F.R. Sections 51.21, 51.23, and 51.24. Furthermore, the Attorney General will withdraw the objection should the City undertake to elect its council under a system, such as fairly drawn single member districts, which minimizes to the extent possible the dilution involved.

2/ These are annexations identified by numbers 41, 42, 43, 44, 45, 47, 48, 49, 51, 55, 57, 59, 61, 62, 63, 64, 66, 67, 68, 70, 71, 76, 77, 80, 81, 84, 85, 86, 89, 90, 92, 93, 94, 96, 103, and 104.

Of course, as provided by Section 2 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that these annexations have neither the purpose nor effect of denying or abridging the right to vote on account of race or color. However, until such a judgment is rendered by that court, or until the objection has been withdrawn by the Attorney General, the legal effect of the objection by the Attorney General is to render the 36 annexations in question legally unenforceable insofar as they affect voting in the City of Rocky Mount.

Finally, the Attorney General's objection to the 36 annexations has the effect of removing the legal basis for the submitted ward lines. Therefore, the Attorney General will make no determination with respect to these ward lines at this time. A determination will be made once the matter of the annexations has been resolved.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division