



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

Jesse L. Warren, Esq.  
City Attorney  
Drawer W-2  
Greensboro, North Carolina 27402

JUN 21 1982

Dear Mr. Warren:

This is in reference to the three annexations (November 16, 1981), to the City of Greensboro in Guilford County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was completed on April 20, 1982.

We have given careful consideration to the information which you have provided, as well as information and comments from other interested parties. In the course of our analysis, we have noted particularly the existence of racially polarized voting in Greensboro's municipal elections. We also have taken note of the margin of victory for successful black candidates in those elections. Our analysis reveals that the decrease in Greensboro's black population percentage as a consequence of the proposed annexations diminishes black voting strength in the enlarged city. The resultant impact of the annexation, i.e., the addition of approximately 11,000 white citizens and only about 1,000 black citizens, given the existence of racially polarized voting, could easily eliminate the limited success black candidates have enjoyed in past city council elections, and most certainly would lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise. See Beer v. United States, 425 U.S. 130, 140-141 (1975).

We also note that, in 1980, the city held a referendum on whether to retain the at-large method of election or switch to a ward system. Black voters overwhelmingly supported a change to ward-type elections, but voters chose the at-large system by only 304 votes in a referendum election marked by

racially polarized voting. The proposed expansion to the city would adversely impact on the potential ability black voters have to participate in Greensboro's municipal affairs on an equal footing with white voters by further diluting the voting strength of the black electorate.

In City of Richmond v. United States, 422 U.S. 358, (1975), the Supreme Court "held that an annexation reducing the relative political strength of the minority race in the enlarged city as compared with what it was before the annexation is not a statutory [Section 5] violation as long as the past annexation election system fairly recognizes the minority's political potential". We are unable to conclude that the at-large election system recognizes the political potential of black voters in Greensboro, as a fairly drawn ward-type plan would do.

Under Section 5 of the Voting Rights Act the submitting authority has the burden of proving that a submitted change has no discriminatory purpose or effect. See, e.g., Georgia v. United States, 411 U.S. 526 (1973); see also Section 51.39(e) of the Procedures for the Administration of Section 5 (46 Fed. Reg. 878). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance. Accordingly, I must interpose an objection to the three annexations on behalf of the Attorney General. The annexations are therefore legally unenforceable insofar as they affect voting.

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, color or membership in a language minority group. In addition, the Procedures for the Administration of Section 5 (Section 51.44, 46 Fed. Reg. 878) 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 is obtained, the effect of the objection by the Attorney General is to make the annexations in Guilford County, North Carolina, legally unenforceable.

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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 of the course of action the City of Greensboro plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Carl W. Gabel (202-724-8388), Director of the Section 5 Unit of the Voting Section.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. Bradford Reynolds". The signature is fluid and cursive, with a long horizontal stroke at the end.

Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division



Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

8 APR 1983

Jesse L. Warren, Esq.  
City Attorney  
Drawer W-2  
Greensboro, North Carolina 27402


Dear Mr. Warren:

This is in reference to the change in the method of electing members of the city council from six at-large to five elected from single-member districts and three at-large; the increase in the size of the council from six to eight; and alternative districting plans for the City of Greensboro in Guilford County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. This also acknowledges your request that the Attorney General reconsider his June 21, 1982, objection to the three annexations of November 16, 1981. Your submission and your request were received on February 9, 1983, and supplemented on March 30, 1983.

On March 29, 1983, we were advised by Mr. Charles S. Rhyne, Special Counsel to the City of Greensboro, that the General Court of Justice, Superior Court Division, Guilford County, North Carolina, had decided that the annexation ordinances and the procedures followed by the City of Greensboro in enacting the annexation ordinances are legal under state law. Thus, it is our understanding that, even though you initially sought preclearance of alternative plans for the districting of the city, the only districting plan which now is capable of being implemented is the one which encompasses the annexations which were the subject of the litigation. Accordingly, the Attorney General will make no determination with respect to the districting plan which is based on the preannexation boundaries of the city. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.20(a)).

With respect to the districting plan which includes the annexed areas; the change in the method of electing members of the city council from six at-large to five elected from single-member districts and three at-large; and the increase in the size of the council from six to eight, the Attorney General does not interpose any objections. In addition, in view of these changes in the system for electing the city's governing body and pursuant to the reconsideration guidelines (28 C.F.R. 51.47), the objection interposed on June 21, 1982, is hereby withdrawn. 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 any of these changes. See also 28 C.F.R. 51.48.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Bradford Reynolds", written over a horizontal line.

W. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division