



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

June 28, 1988

Emil Wald, Esq.
Spencer & Spencer
P. O. Box 790
Rock Hill, South Carolina 29731

Dear Mr. Wald:

This refers to twenty-two annexations (identified in Attachments A and B) to the City of Rock Hill in York County, South Carolina, 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 April 29, 1988.

We have considered carefully the information you have provided, as well as information received from other interested parties. Based on our review, the Attorney General does not interpose any objections to the three annexations (set forth in Attachment A) which do not include any population and which we understand are intended for nonresidential use. 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 the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

With regard to the remaining nineteen annexations, we are unable to reach a similar conclusion. At the outset, we note that on December 12, 1978, the Attorney General interposed a Section 5 objection to a change submitted by the city to nonpartisan elections with a majority vote requirement. In interposing that objection, the Attorney General reviewed city election returns and found an apparent pattern of racially polarized voting. Subsequently, the city requested that the Attorney General reconsider the objection and, in its request, the city confirmed that racial bloc voting exists in Rock Hill. Our analysis of the returns for municipal elections held from 1979 to the present indicates that such polarized voting continues to play a significant role in municipal elections.

Under the current election system, three councilmembers are elected from districts and four (including the mayor) are elected at large. One of the districts is almost 90 percent black in population while the other two are approximately 90 percent white. Thus, the plan does offer black voters in the city some opportunity to elect candidates of their choice to the council. However, in the context of the pattern of polarized voting which appears to exist in the city, black voters have, at best, a very limited opportunity to elect any of the at-large councilmembers. Indeed, in the two three-seat, at-large elections held since the present election system was instituted, the lone black candidate in each primary was unable to attain any of the three available seats, despite receiving overwhelming black support. We are aware that one black was elected at large in the 1979/1980 elections; however, that candidate obtained the all-important Democratic nomination by a mere 17-vote majority in an election characterized by what appears to have been a disproportionately high turnout of black voters. Even this candidate subsequently was defeated for reelection in the 1981 Democratic primary for three at-large seats.

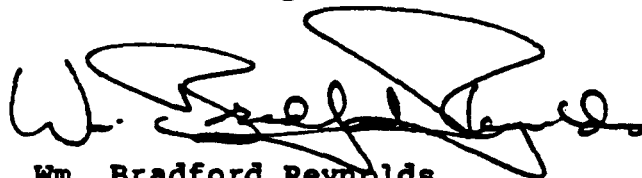
The effect of the nineteen annexations is to reduce the black population percentage of the city by 1.5 percentage points, a reduction that serves but to make it more difficult for blacks to elect a candidate of their choice to the at-large seats. We also understand that many of these annexed areas are slated for future residential development and that virtually all of the residents of these areas are expected to be white.

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 28 C.F.R. 51.52(c). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that the city has sustained its burden of showing that these annexations will not have a proscribed retrogressive effect. See Beer v. United States, 425 U.S. 130 (1976); City of Richmond v. United States, 422 U.S. 358, 370 (1975). Therefore, on behalf of the Attorney General, I must object to the nineteen annexations set forth in Attachment B.

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 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 nineteen annexations legally unenforceable to the extent they affect voting. 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 Rock Hill 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,

A handwritten signature in black ink, appearing to read "W. Bradford Reynolds". The signature is stylized and somewhat cursive, with a large loop at the end.

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

ATTACHMENT A

<u>Ordinance Number</u>	<u>Annexed Area</u>
6-83	York Technical College #2
19-86	Bryant Field Annexation Addendum
4-88	Firetower Road

ATTACHMENT B

<u>Ordinance Number</u>	<u>Annexed Area</u>
2-82	Greenfield Acres
6-84	Country Club
13-85	Hunter's Chase
2-86	Shiland and Sharonwood Area I
3-86	Shiland and Sharonwood Area II
9-86	Bagwell Circle I
16-86	Bryant Field
22-86	Riverchase
23-86	Marett Boulevard
28-86	Westgate I
29-86	Westgate II
30-86	Tools Fork
51-87	Quiet Acres I
53-87	Pearson Road
54-87	Constitution Boulevard
66-87	Robertson Road
74-87	South Herlong Avenue/ Waddell-Rubin & Associates
3-88	Dave Lyle Boulevard I
5-88	Mt. Gallant Road I



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OCT 18 1989

Dear Mr. Wald:

This refers to your request that the Attorney General withdraw the June 28, 1988, objection interposed under Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c, to 19 annexations to the City of Rock Hill in York County, South Carolina. This also refers to the following matters submitted under Section 5 by the City of Rock Hill: the change in the method of electing the city council from three councilmembers elected at large and three elected from single-member districts (with the mayor at large) to single-member districts (and the mayor at large); the districting plan; the adoption of nonpartisan elections with a majority vote requirement; the changes in the procedures for candidate qualifying; the candidate residency requirements; the change in the general election date and the specification of the date on which terms of office commence; the implementation schedule; and nine annexations (Ordinance Nos. 18-88, 34-88, 35-88, 36-88, 44-88, 46-88, 13-89, 28-89, and 29-89). We received your request for reconsideration on August 24, 1989. We received your submission of the change in method of election and related changes on July 25, 1989, and the submission of the nine additional annexations on August 24, 1989; supplemental information was received on September 15 and October 3, 1989.

We have considered carefully the information you have provided, as well as comments and information from other interested parties. Our analysis indicates that the proposed method of election, as implemented by the districting plan, "fairly reflects the strength of the [black] community as it

exists after the annexation." City of Richmond v. United States, 422 U.S. 358, 371 (1975). Accordingly, on behalf of the Attorney General, the objection interposed on June 28, 1988, to 19 annexations by the city is hereby withdrawn. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.48). In addition, the Attorney General does not interpose any objections to the other submitted changes. 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 changes which have received Section 5 preclearance.

Sincerely,

A handwritten signature in cursive script, appearing to read "James P. Turner".

James P. Turner
Acting Assistant Attorney General
Civil Rights Division