



Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

AUG 12 1988

Honorable Frank H. Lindsey, Jr.
Mayor
P. O. Box 1170
Jasper, Texas 75951

Dear Mayor Lindsey:

This refers to the annexation, reflected in Ordinance No. 3-88-1, to the City of Jasper in Jasper County, Texas, 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 June 13, 1988.

We have considered carefully the information you have provided, information obtained from Census data, and information from other informed sources. At the outset, we note that the city elects its mayor and council at large by numbered posts. Analysis of election returns establishes that candidates who appear to have the support of black voters essentially have been unsuccessful in city elections and this result appears to be due, at least in part, to the existence of a pattern of racial bloc voting in the local electoral process. In this context, the proposed annexation, which will have the immediate effect of reducing the black population of the city by 2.3 percentage points (from 42.4 percent to 40.1 percent) is retrogressive and, if precleared, would dilute the position of black voters.

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 the Procedures for the Administration of Section 5 (28 C.F.R. 51.52). 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. See City of Rome v. United States, 446 U.S. 156, 184 & n.19 (1980); City of Richmond v. United States, 422 U.S. 358, 370 (1975). Therefore, on behalf of the Attorney General, I must object to the proposed annexation.

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 this change has 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, Section 51.45 of the guidelines permits you to request that the Attorney General reconsider the objection and, in this regard, it should be noted that normally annexations of this nature may be found to meet Section 5 standards if the city's election system is modified in a way which fairly reflects minority voting strength in the expanded city. See, e.g., City of Richmond v. United States, supra, 422 U.S. at 370. 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 voting changes occasioned by the proposed annexation 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 Jasper plans to take with respect to this matter. If you have any questions, feel free to call Ms. Lora L. Tredway (202-724-8290), Attorney Reviewer in 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

DEC 24 1991

Richard C. Hile, Esq.
Tonahill, Hile, Leister
& Jacobellis
P.O. Box 670
Jasper, Texas 75951

Dear Mr. Hile:

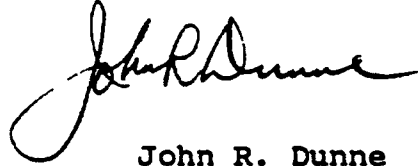
This refers to your request that the Attorney General reconsider the August 12, 1988, objection under Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c, to the annexation (Ordinance No. 3-88-1) to the City of Jasper in Jasper County, Texas. We received your letter on October 30, 1991; supplemental information was received on November 5, 1991.

This also refers to the change in method of election for the city council from five members and a mayor elected at large to four members elected from single-member districts and the mayor and one member elected at large; the implementation schedule; the districting plan; the limit on number of consecutive terms for mayor and council; changes in candidate qualifications; the realignment of voting precincts; the establishment of three additional voting precincts and polling places; and the procedures for conducting the August 10, 1991, special election for the city, submitted to the Attorney General pursuant to Section 5. We received your initial submission on October 30, 1991; supplemental information was received on November 5, 1991.

The Attorney General does not interpose any objection to the specified changes in the city's electoral system, including the term limits, candidate qualifications, and implementation schedule; the districting plan; the precinct and polling place changes; and the special election. With regard to the 1988 annexation, we note that the new electoral system appears fairly to reflect minority voting strength in the city as it is expanded by the annexation. Accordingly, pursuant to Section 51.48(b) of the Procedures for the Administration of Section 5 (28 C.F.R.),

the objection interposed to the annexation by Ordinance No. 3-88-1 is hereby withdrawn. We note that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of these changes. See also 28 C.F.R. 51.41.

Sincerely,

A handwritten signature in cursive script, appearing to read "John R. Dunne".

John R. Dunne
Assistant Attorney General
Civil Rights Division



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

April 30, 1990

Richard C. Hile, Esq.
Tonahill, Hile, Leister
& Jacobellis
P. O. Box 670
Jasper, Texas 75951

Dear Mr. Hile:

This refers to your request that the Attorney General reconsider the August 12, 1988, objection under Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c, to the annexation (Ordinance No. 3-88-1) to the City of Jasper in Jasper County, Texas. We received your letter on January 24, 1990; supplemental information was received on February 27, 1990.

In our August 12, 1988, objection letter we identified the considerations underlying our objection to the proposed annexation. We noted our concerns about the immediate reduction of 2.3 percentage points in the city's black population and the resulting dilution of the position of black voters in the context of the city's at-large election method and evidence of racial bloc voting.

We have considered carefully the information in your letters and your submittal of a report of the Deep East Texas Council of Governments (DETCOG) special population survey of Jasper. Your request for reconsideration claims that these new data show that the proposed annexation will result in no diminution in minority voting strength.

According to the special DETCOG survey, the city's 1988 base population (not including the annexed area) is 7,296, of whom 3,079 (42.2%) are black. The annexed area has a population of 865, of whom 191 are black. Inclusion of the annexed area into the 1988 survey count results in a total population of 8,161, of whom 3,270 (40.1%) are black. Thus, on the basis of

cc: Public File


the city's new figures, the proposed annexation results in a black population reduction of 2.1 percentage points (from 42.2% to 40.1%). Therefore, it appears that the new statistical data submitted for reconsideration support our initial conclusions, and, on behalf of the Attorney General, I must decline to withdraw the objection to the annexation.

Of course, Section 5 permits you to seek a declaratory judgment from the United States District Court for the District of Columbia that this change has 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, irrespective of whether the change previously has been submitted to the Attorney General. As previously noted, until such a judgment is rendered by that court, the legal effect of the objection by the Attorney General is that the change in question remains legally unenforceable. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.10).

Furthermore, as mentioned in our August 12, 1988, letter, the Attorney General would consider withdrawing his objection if the city's election method is modified in a way which fairly reflects minority voting strength in the expanded city. See City of Richmond v. United States, 422 U.S. 358, 370 (1975); see also 28 C.F.R. 51.61(c)(3).

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 Jasper plans to take with respect to this matter. If you have any questions, feel free to call Lora L. Tredway (202-724-8290), an attorney in the Voting Section. Refer to File No. T7878 in any response to this letter so that your correspondence will be channeled properly.

Sincerely,


John R. Dunne
Assistant Attorney General
Civil Rights Division