

JAN 3 1978

Mr. Walter G. Symons  
Chairman, Pasquotank  
County Board of Elections  
Post Office Box 28  
Elizabeth City, North Carolina 27909

Dear Mr. Symons:

This is in reference to the change in polling place for Precinct 4-A in Elizabeth City, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on November 2, 1977.

We have given careful consideration to the materials which you provided, as well as information and comments from other interested parties. On the basis of our analysis, we are unable to conclude as we must under the Voting Rights Act, that the change in polling place for Precinct 4-A will not have a racially discriminatory effect.

Pertinent to our evaluation have been certain conflicts between information which you provided and that which we have received from members of the black community. For instance, in your letter of August 31, 1977 you stated that the reason the polling place was being changed was that the property had been sold. However, in your letter of November 2, 1977 you suggested that the building was unsafe and unsuitable for the voting machines owned by the County.

It has been indicated to us that the polling place in question was changed only after the property at the former location was sold to a black organization and that the county made no effort to determine whether the new owners of the property were willing to allow it to continue in use as a polling place. In light of your letter of August 31, 1977, in which you stated that the sale of the location was the primary reason for the change we are compelled to give substantial weight to this assertion.

In your letter of October 31 you further indicated that the change was made because the existing location is unsafe for voters and unsuitable for the use of voting machines. You also indicated that the distance between the old and new polling places is only one half mile. Each of these representations has been contradicted by members of the black community and, in addition, they have suggested that in choosing the new location, the county deliberately by-passed other suitable locations, such as the St. James Church site which would be more convenient to the black community in Elizabeth City.

The Attorney General's Procedures for the Administration of Section 5 of the Voting Rights Act provide that:

If the evidence as to the effect of the change is conflicting and the Attorney General is unable to resolve the conflict within the 60-day period, he shall, consistent with the above-described burden of proof applicable in the District Court, enter an objection and so notify the submitting authority. . .

(28 C.F.R. 51.19). Accordingly, under the circumstances involved, I must on behalf of the Attorney General interpose an objection to the change in polling place for Precinct 4-A in Elizabeth City.

Under the Procedures for the Administration of Section 5 of the Voting Rights Act (42 C.F.R. 51.21(b) and (c), 51.23, and 51.24) you may request the Attorney General to reconsider this objection. In addition, Section 5 permits you to seek a declaratory judgment from the United States District Court for the District of Columbia that this change does not have the purpose and will not have the 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, the legal effect of the objection by the Attorney General is to render the change unenforceable.

Sincerely, .

Drew S. Days III  
Assistant Attorney General  
Civil Rights Division

MAR 1 1978

Mr. H. T. Mullen, Jr.  
White, Hall, Mullen & Brumsey  
Attorneys at Law  
501 East Main Street  
Elizabeth City, North Carolina 27909

Dear Mr. Mullens

This is in reference to your letter of January 27, 1978, concerning the Attorney General's January 3, 1978 objection under Section 5 of the Voting Rights Act of 1965, as amended, to the change in polling place for Precinct 4-A in Elizabeth City, North Carolina.

On the basis of our analysis of this submission, and due to conflicting information supplied by the Chairman of the Pasquotank County Board of Elections and by members of the black community, we were unable to conclude that the polling place change for Precinct 4-A would not have a racially discriminatory effect. Pertinent to our evaluation of this submission were the facts that blacks represent approximately 55% of the registered voters in Precinct 4-A, representatives of the black community in that precinct contacted in regard to the change were uniformly opposed to the new location and we had received information that other available locations were more convenient to the black community than the one selected.

While the sole responsibility of the Department of Justice under Section 5 of the Voting Rights Act is to consider whether changes affecting voting have a racially discriminatory purpose or effect, we do understand that other factors must be considered when such changes are made. You stated in your letter that "One of the reasons for the change of polling places was because a resident tripped on the steps of the polling place." If you have information demonstrating that the Church of Christ location is unsafe and that the new polling place does not discriminate against minority citizens, or that it is the only available alternative, you may ask the Attorney General to reconsider his objection. See our Section 5 Guidelines, 28 C.F.R. Sections 51.21, 51.23 and 51.24. Such information might include, for example, comments from minority voters attesting to the unsafe conditions at the Church of Christ location, an explanation of the steps taken to determine the availability of other suitable locations for a polling place that would be acceptable to minority citizens, and evidence of input from black voters in Precinct 4-A in the selection of a polling place.

At the present time I do not believe it would serve any useful purpose to send a Department representative to conduct an on-site investigation of polling places in Precinct 4-A. However, we trust that this letter will be useful to you in determining what course of action to take in response to the Attorney General's objection. Of course, as we stated previously, Section 5 of the Voting Rights Act permits you to seek a declaratory judgment from the District Court for the District of Columbia that this change does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color. However, until such time as the objection may be withdrawn or a judgment from the District of Columbia Court obtained, the legal effect of the objection by the Attorney General is to make the change in question unenforceable.

Sincerely,

Drew S. Days III  
Assistant Attorney General  
Civil Rights Division