AUG 1 1975

Mr. Robert M. Brinson
City Attorney
P. O. Drawer N
Rome, Georgia 30161

Dear Mr. Brinson:

This is in reference to the 60 annexations to the City of Rome, Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965.

In examining annexations under Section 5 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. Moreover, under the procedural guidelines for the administration of Section 5, the burden of proving that such discriminatory purpose or effect does not exists lies with the submitting authority. Georgia v. United States, 411 U.S. 526 (1973); City of Richmond v. United States, 43 U.S.L.W. 4865 (June 24, 1975); City of Petersburg v. United States, 354 F. Supp. 1021 (D.D.C. 1972) aff'd 410 U.S. 962 (1973).

As part of our present examination, our analysis has revealed that during the period of time when these annexations took effect, the manner in which members were elected to the city commission and the city school board was substantially changed. Because these electoral

changes are indispensable to an evaluation of the voting effects of these annexations, we are unable to conclude that the annexations under review have no discriminatory effect absent a submission of those changes in the manner of electing commission and school board members. Accordingly, as is provided for in the Section 5 guidelines, 28 C.F.R. 51.19, and consistent with the above-described burden of proof requirements, I must on behalf of the Attorney General interpose an objection to the annexations submitted for review.

With respect to the above, the Attorney General will reconsider his determination, upon receipt of a submission of the changes undertaken in the election of the city commission and the city school board.

Of course, as provided by Section 5 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 However, until such a judgment is rendered by that court, or until the objection has been withdrawn by the Attorney General, the legal effect of the objection by the Attorney General is to render the annexations in question legally unenforceable insofar as they affect voting in the City of Rome.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

OCT 20 1975

Mr. Robert M. Brinson
City Attorney
P. O. Drawer H
Rome, Georgia 30161

Dear Mr. Brinson:

This is in reference to your request that this Department reconsider its August 1, 1975, objection under Section 5 of the Voting Rights Act, 42 U.S.C. 1973c, to sixty annexations to the City of Rome and your submission to the Attorney General of those changes in the manner in which individuals are elected to the City Commission and the Board of Education which have taken place since November 1, 1964. Your request for reconsideration and your submission of the municipal electoral changes were both received on August 21, 1975.

As I indicated in my letter of August 1, 1975, an examination of the changes which have been made in the manner of electing city commission and school board members in indispensable to an evaluation of voting effects of the annexations in question. We therefore find it appropriate to review those electoral changes before revisiting the annexation issues.

We have given careful consideration to the information supplied as well as the data compiled by the Bureau of the Census and information and comments from interested parties. In addition we have considered the information and data which you previously provided this office in connection with your earlier submission of sixty municipal annexations. After a careful

examination of all the facts available to us and an analysis of recent court decisions, we are unable to conclude, as we must under the Voting Rights Act, that the imposition of the majority-vote requirement, numbered posts, and staggered terms for commissioner and board of education elections and the residency requirement for board of education elections will not have a racially discriminatory effect in the context of the at-large elections that presently exist.

Recent Supreme Court decisions, to which we feel obligated to give great weight, indicate that the combination of the above features would have the effect of abridging minority voting rights in the City of Rome. The reasoning of these recent cases is illustrated by the Supreme Court's decision in June of 1973 which held that a multi-member election system, numerical posts and majority vote requirement of Dallas and Bexar Counties, Texas, tended to abridge minority voting power in contravention of the constitution. White v. Regester, 412 U.S. 755 (1973). See also, Whitcomb v. Chavis, 403 U.S. 124 (1971). That these features have a deleterious effect on the right of blacks in Rome, a majority white city, to elect a candidate of their choice is illustrated to some extent by the situation in 1970 when, according to our information, a black candidate for school board received the highest vote among 4 candidates in the primary but lost to a white opponent in the run-off.

On behalf of the Attorney General, therefore, I must interpose an objection to the imposition of the majority vote requirement, numbered posts, and staggered terms in commissioner and school board elections and the imposition of a residency requirement in board of education elections.

We turn now to a reconsideration of the sixty annexations to which an objection was interposed previously. As I indicated at the time of that objection, it is the Attorney General's responsibility in examining annexations under Section 5 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. Since Section 5 only relates to changes affecting voting our proper concern is not with the validity of the annexations as such but with the changes in voting which flow from them.

With this understanding of the Attorney General's role under Section 5 in mind, I can advise you that the Attorney General will withdraw the objection previously interposed to 47 of the annexations submitted. 1/ Our analysis reveals that these 47 annexations involve either areas that are not populated or areas the populations of which would have at most a de minimus effect on minority voting strength.

With regard to the other 13 annexations we cannot reach a like conclusion. 2/ We have carefully examined these annexations in light of the information initially provided, the electoral changes which have been submitted

1/Those annexations which, according to your letter dated May 28, 1975, bear parcel numbers 4, 5, 6, 7, 8, 10, 11, 12, 14, 15, 17, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 41, 42, 44, 45, 46, 47, 48, 49, 50, 51, 54, 55, 56, 57, 58, 59, and 60.

2/Those annexations which, according to your letter dated May 28, 1975, bear parcel numbers 1, 2, 3, 9, 13, 16, 18, 20, 39, 40, 43, 52 and 53.

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, 43 U.S.L.W. 4865 (June 24, 1975); City of Petersburg v. United States, 354 F. Supp. 1021 (D.D.C. 1972) aff'd 410 U.S. 962 (1973). According to the data received, virtually all of the individuals residing in the annexed areas are white. Our information regarding elections in Rome demonstrates that the city elects its commission and education officials on an at-large basis and that racial bloc voting exists generally. In addition, the City has sought to add to its election system the majority vote requirement and other features found here earlier to be objectionable by the Attorney General.

Under these circumstances, and commensurate with the decisions cited above, we cannot conclude that the 13 annexations in question do not have a racially dilutive effect on voting in Rome. Accordingly, the objection interposed on August 1, 1975, to these 13 annexations will not be withdrawn. In this connection, however, should the city undertake again to elect its councilmen and board of education members by a simple plurality - win system, which does not incorporate the limiting features herein objected to, or from fairly drawn single-member districts the Attorney General will again reconsider his determination of this matter.

Of course, Section 5 permits seeking approval of all changes affecting voting by the United States District Court for the District of Columbia irrespective of whether the changes have been objected to previously by the Attorney General.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

AUG 12 1976

DJ 166-012-3
X0101-0103, 0109, 0113, 0116, 0118, 0120, 0139-0140, 0143, 0152-0153

Mr. Robert M. Brinson
City Attorney
City of Rome
P. O. Drawer N
Rome, Georgia 30161

Dear Mr. Brinson:

This is in reference to your request that the Attorney General reconsider the October 20, 1975, decision not to withdraw the objection under Section 5 of the Voting Rights Act, 42 U.S.C. 1973c, to 13 of the 60 annexations originally submitted June 2, 1975, and the objection of October 20, 1975, to changes in the manner in which individuals are elected to the City Commission and the Board of Education. Your request for reconsideration was received on May 24, 1976, and further information supplementing the request was received on July 14, 1976.

After careful analysis of the request for reconsideration, including consideration of the affidavits submitted and the recent Supreme Court decision in Beer v. United States, ____ U.S. ____, 49 U.S.L.W. 4435 (March 30, 1976), we do not perceive a basis for the Attorney General to withdraw his objection to the changes in the manner in which individuals are elected to the City Commission and the Board of Education. While we have taken full note of the statements you submitted to the effect that racial bloc voting does not exist in the City of Rome, representations made to us by members of the black community in Rome are to the contrary and this is supported to some extent by the limited information we previously had with regard to the 1970 primary

election results (see my letter of October 20, 1975). Accordingly, the Attorney General will decline to withdraw the objection to the imposition of the majority vote requirement, numbered posts, and staggered terms in City Commission and Board of Education elections and the residency requirement in Board of Education elections.

With respect to the objection to the 13 annexations, we are mindful of the suggestion in my October 20, 1975, letter that the Attorney General would reconsider his determination should the city, inter alia, undertake again to elect its councilmen and Board of Education members by a simple plurality - win system which does not incorporate the limiting features objected to therein. Since the continued objection to those features renders the majority vote requirement, numbered posts and residency requirement for Board of Education elections legally unenforceable the necessary effect of that objection is a reversion to the previously existing simple plurality - win system. In view of that circumstance, therefore, the Attorney General withdraws his objection to the 13 annexations insofar as Board of Education elections are concerned.

We cannot, however, reach a similar conclusion relative to City Commission elections. The pre-existing residency requirement for commission elections (which the Attorney General's objection does not reach because it did not constitute a change) prevents that electoral system from being a simple plurality - win system. Consequently, in view of the limiting residency feature in the context of at-large voting and indications that racial bloc voting exists, the Attorney General is unable to withdraw his objection to the 13 annexations insofar as City Commission elections are concerned.

I note in your letter of May 21, 1976, the statement that the City is compelled to proceed with its scheduled primaries and elections. It is my understanding, however, that no one has qualified for either the Rome City Commission or the Rome School Board and that the scheduled August elections for these two bodies have been postponed. Accordingly, would you please advise me as soon as possible whether this understanding is correct and, if not, what steps you intend to take with respect to any primaries or elections in the City of Rome.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division