

D.J. 166-012-3
V9074

FEB 10 1976

Mr. Ben B. Ross
City Attorney
City of Sharon
P. O. Box 245
Lincolnton, Georgia 30817

Dear Mr. Ross:

This is in reference to Act No. 409 (H.B. 1078) of the 1975 Session of the Georgia General Assembly, which was submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. Your submission was completed on December 12, 1975.

We have considered carefully the information provided along with Census data and other information available to us relative to the legislation in question. As a result, the Attorney General does not interpose an objection except insofar as that legislation would require the imposition of a residency post requirement for the at-large, plurality system for electing members to the city council. With respect to that feature, namely, the post requirement, we are unable to conclude that that change will not have a racially discriminatory effect. Consequently, on behalf of the Attorney General I must object to the implementation of that provision.

Under recent court decisions, to which we feel obliged to give great weight, the use of designated posts in the context of at-large voting systems has the potential for impermissibly diluting minority voting strength. See, e.g., White v. Regester, 412 U.S. 755 (1973); Whitcomb v. Chavis, 405 U.S. 124 (1971). Under

the Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, a copy of which is enclosed for your convenience, the submitting authority has the burden of showing that the submitted change does not have the purpose or effect of discriminating on account of race or color. 51 C.F.R. 51.19. Because of the potential dilution of black voting strength involved in the use of designated posts in Sharon and because the city has advanced no compelling reason for its use, we have concluded that this burden of proof has not been sustained.

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 neither has the purpose nor 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 that provision unenforceable.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division