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DJ 166-012-3  
C4120 •

10 DEC 1979

George H. Johnston  
General Counsel  
Post Office Box 349  
Statesboro, Georgia 30458

Dear Mr. Johnston:

This is in reference to the annexation to the City of Statesboro enacted by ordinance on May 1, 1979, and submitted pursuant to Section 5 of the Voting Rights Act on August 13, 1979. The submission was completed on October 11, 1979.

Under Section 5 the submitting authority has the burden of proving that a submitted change has no discriminatory purpose or effect. See, e.g., Georgia v. United States, 411 U.S. 526 (1973); 23 C.F.R. 51.19. In regard to an annexation submission, the covered jurisdiction must prove that the annexation is not part of a racially selective pattern and that no dilution of minority voting strength has been intended or effected. See City of Rome v. United States, 472 F. Supp. 221 (D. D.C. 1979).

Accordingly, the annexation now before us has been reviewed against the background of the 1967 annexation which preceded it. At the outset we note that, in spite of our letter of July 23, 1979, indicating no objection to the 1967 annexation, our present review and analysis reveal that our conclusion at that time not to object was wrong.

Prior to the 1967 annexation the population of Statesboro consisted of 5,223 whites and 5,454 blacks (51%). Substantial evidence has been adduced that the predominantly black Whitesville community on the edge of the city limits voiced its desire to be included in the general expansion of the city boundaries in 1967. Nonetheless, the extended city limits were carefully drawn to fence out the Whitesville area.

The instant annexation would further reduce the black proportion of the city. You have estimated that about 305 whites and no blacks may inhabit this annexed area within five to fifteen years. This would increment the dilution of minority voting power by another 0.9%, resulting in a cumulative dilution of 11.0% within five to fifteen years (10.4% currently).

Our analysis reveals, therefore, that the present annexation is part of a series of racially selective annexations and also has a dilutive effect on black voting strength in the context of the city's at-large voting system. In addition, our review of information received from minority contacts and past election returns reveals that blacks have been excluded from meaningful access to the political process in Statesboro. No black has ever been elected to city office, although black candidates have run on several occasions. Furthermore, blacks have made un rebutted claims that the city has not been responsive to their needs, including their requests for enhanced voter registration opportunities.

Under these circumstances, I am unable to conclude that the city has carried its burden of proving the absence of both discriminatory purpose and effect with regard to the submitted change. Therefore, on behalf of the Attorney General, I must object to the annexation.

The city is not without remedy, however, under Section 5. As the Supreme Court has indicated, annexations, although dilutive of minority voting strength, may be pre-cleared under Section 5 if "the post-annexation electoral system fairly recognizes the minority's political strength." City of Richmond v. United States, 422 U.S. 353, 378 (1975). Put more explicitly by the District Court for the District of Columbia, such

. . . annexations can be approved only on the condition that modifications calculated to neutralize to the extent possible any adverse effect upon the political participation of black voters are adopted.

City of Petersburg v. United States, 344 F. Supp. 1021, 1031 (D. D.C. 1972), affirmed, 410 U.S. 962 (1973). Accordingly, the dilutive effects of the annexations in question could be removed by the adoption of an electoral system, such as single-member districts, which fairly recognizes the political potential of blacks in the city. However, because of the element of selectivity we find here in the annexation process, we believe that the city also has an obligation to give prompt consideration to the possible annexation of the Whitesville area. Should such steps be adopted by the city, the Attorney General will reconsider the matter upon receipt of such information.

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, the Procedures for the Administration of Section 5 (28 C.F.R. 51.21(b) and (c), 51.23, and 51.24) permit you to request that the Attorney General reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court obtained, the effect of the objection by the Attorney General is to make the annexation legally unenforceable.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us within twenty days of your receipt of this letter what course of action the City of Statesboro plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Ms. Corliss Ibbett (202--724-7162) of our staff, who has been assigned to handle this submission.

Sincerely,

DREW S. DAYS III  
Assistant Attorney General  
Civil Rights Division