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DJ 166-012-3
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92-4776
92-5270

February 16, 1993

Wales F. Barksdale, Esq.
Barksdale, Irwin, Talley & Sharp
P.O. Drawer 410
Conyers, Georgia 30207

Dear Mr. Barksdale:

This refers to sixty-four annexations as identified in Attachments A and B to the City of Conyers in Rockdale County, Georgia, 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 your responses to our August 24, 1992, request for additional information on October 23 and 26 and November 24, 1992; supplemental information was received on December 8, 1992; a related submission under Section 5 was received on December 18, 1992.

This also refers to the change from a majority-vote to a plurality-vote requirement for the election of mayor for the city, submitted to the Attorney General pursuant to Section 5. We received your submission on December 18, 1992.

With regard to the annexations identified in Attachment B, each of which you have identified as commercial/industrial, and to the change to a plurality-vote requirement for mayor, the Attorney General does not interpose any objection to the specified changes. However, we note that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28. C.F.R. 51.41).

We cannot reach the same conclusion with regard to the annexations identified in Attachment A, each of which is residential. We have considered carefully the information you have provided, as well as Census data and comments and information from other interested persons. Because the city failed to seek preclearance of the annexations identified in Attachment A in a timely manner upon their adoption, we must review the cumulative effect of the annexations at this time, based on the most current available population data. In addition, it appears that the persons who reside in the annexed areas became city residents from areas outside the city and are not, for the most part, persons who moved from the pre-annexation city to the annexed areas. See City of Rome v. United States, 446 U.S. 156, 186-87 (1980); City of Pleasant Grove v. United States, C.A. No. 80-2589 (D. D.C. Oct. 7, 1981). Based on the data available to us, the city's population, excluding the persons residing in the annexed areas identified in Attachment A is 5,205, of whom 1,465 (28.2%) are black. The annexations identified in Attachment A add approximately 2,175 persons as city residents, only 133 of whom (6.1%) are black. Thus, the effect of these annexations is to decrease the black proportion of the city's pre-annexation population by approximately 6.6 percentage points, from 28.2 percent to 21.6 percent.

The city now has an at-large election system for mayor and council, with staggered terms and a plurality-win requirement. Information provided to us suggests that voting has been racially polarized and that black voters have been discouraged from fully participating in the political process and in particular from seeking city office since 1976. In these circumstances, the reduction in the black share of the city's population, as effected by the proposed residential annexations, would appear to limit further the opportunity that would exist for black voters in the pre-annexation city to elect representatives of their choice to the city council.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that submitted changes have neither a discriminatory purpose nor a discriminatory effect. Georgia v. United States, 411 U.S. 526 (1973); see also 28 C.F.R. 51.52. Annexations that result, as here, in a significant decrease in the minority proportion of a city's population have such a proscribed effect, and, therefore, may satisfy Section 5 only if the method used for electing the city's governing body "fairly reflects the strength of the [minority] community as it

exists after the annexation." City of Richmond v. United States, 422 U.S. 358, 370-71 (1975); see also City of Rome, supra at 187. In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that the city's burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the proposed annexations identified in Attachment A.

We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed annexations identified in Attachment A have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, you may request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the proposed annexations identified in Attachment A continue to be legally unenforceable insofar as they affect voting. See Dotson v. City of Indianola, 514 F. Supp. 397, 403 (N.D. Miss. 1981 (three-judge court) (municipal residents of areas annexed after Section 5 coverage date may not participate in municipal elections unless and until the annexations receive Section 5 preclearance). See also Clark v. Roemer, 111 S.Ct. 2096 (1991); 28 C.F.R. 51.10 and 51.45.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the City of Conyers plans to take concerning these matters. If you have any questions, you should call Ms. Lora Tredway (202-307-2290), an attorney in the Voting Section.

Sincerely,

James P. Turner
Acting Assistant Attorney General
Civil Rights Division

ATTACHMENT A

Submission Map Parcel Number	Annexation Date Adopted	Annexation Ordinance No. (if available)
2	April 4, 1972	
5	October 3, 1972	
6	October 3, 1972	
8	February 8, 1973	
7	March 6, 1973	
7	March 6, 1973 (as amended April 3, 1973)	
8	March 6, 1973	
8	April 3, 1973	
37	April 24, 1973	
9	July 3, 1973	
11	February 14, 1974	
14	March 3, 1981 (readopted April 5, 1977)	
15	August 4, 1981	Ord. No. 11-2003
15	August 4, 1981	Ord. No. 11-2002
15	August 4, 1981	Ord. No. 11-2004
15	August 4, 1981	Ord. No. 11-2001
16	November 16, 1981	Ord. No. 281 (11-2)
16	November 16, 1981	Ord. No. 280 (11-2)
16	November 16, 1981	Ord. No. 279 (11-2)
16	November 16, 1981	Ord. No. 282 (11-2)
17	July 6, 1982	Ord. No. 11-293
26	October 4, 1983	Ord. No. 327
18	January 17, 1984	Ord. No. 336
27	November 6, 1984	Ord. No. 350
28	November 6, 1984	Ord. No. 349
31	September 3, 1985	Ord. No. 364
32	December 3, 1985	Ord. No. 365
33	August 5, 1986	Ord. No. 381
	October 2, 1990	Ord. No. 467
	October 2, 1990	Ord. No. 468
	October 2, 1990	Ord. No. 469
	October 2, 1990	Ord. No. 470

ATTACHMENT B

Submission Map Parcel Number	Annexation Date Adopted	Annexation Ordinance No. (if available)
1	April 4, 1972	
3	July 6, 1972	
4	July 6, 1972	
10	September 11, 1973	
12	May 14, 1974	
13	April 10, 1975	
19	February 20, 1984	Ord. No. 338
20	April 3, 1984	Ord. No. 340
21	July 16, 1984	Ord. No. 345
22	July 16, 1984	Ord. No. 346
23	July 16, 1984	Ord. No. 344
24	September 19, 1983	Ord. No. 325
25	October 4, 1983	Ord. No. 326
29	February 5, 1985	Ord. No. 353
30	July 15, 1985	Ord. No. 360
34	December 2, 1986	Ord. No. 385
35	March 3, 1987	Ord. No. 390
36	April 7, 1987	Ord. No. 394
	October 2, 1990	Ord. No. 471
	October 2, 1990	Ord. No. 472
	October 2, 1990	Ord. No. 473
	November 13, 1990	Ord. No. 475
	December 17, 1990	Ord. No. 478
	December 17, 1990	Ord. No. 479
	December 17, 1990	Ord. No. 480
	December 17, 1990	Ord. No. 481
	December 17, 1990	Ord. No. 482
	December 17, 1990	Ord. No. 483
	December 17, 1990	Ord. No. 484
	December 17, 1990	Ord. No. 485
	December 17, 1990	Ord. No. 486
	December 17, 1990	Ord. No. 487