Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

February 21, 1984

Richard J. Rose, Esq.
Spruill, Lane, Carlton, McCotter
& Jolly
P. O. Drawer 353
Rocky Mount, North Carolina 27802-0353

Dear Mr. Rose:

This is in reference to the eleven annexations to the City of Rocky Mount in Edgecombe and Nash Counties, North Carolina, 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 the information to complete your submission on December 20, 1983.

We have considered carefully the information you have provided, data obtained from the 1980 Census, as well as information provided by other interested parties. At the outset, we note that, even though blacks constitute over 42 percent of the city's population, at no time has more than one black been elected to the city council, which appears to be the result of a general pattern of racially polarized voting occurring in the context of Rocky Mount's at-large election system with its residency and majority vote requirements. While our analysis of available data indicates that the proposed annexations will initially reduce the city's minority population by only 1.1 percent, the planned development of the areas to be annexed would over time most likely result in a substantially larger percentage dilution. In the context of the at-large election system that exists in Rocky Mount, we view this prospect as significantly enhancing the ability of the white majority to control the election of all councilmembers. The city must, in such circumstances, provide significant and credible nonracial justifications for these proposed annexations sufficient to offset the apparent discriminatory effect. This the city has failed to do, notwithstanding our request for further information.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). In light of

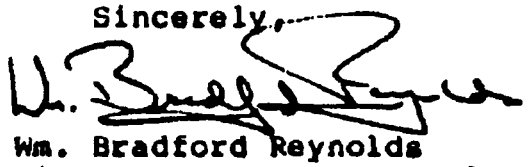
the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to these annexations.

Our analysis of these annexations, along with the past history of annexations to the City of Rocky Mount, lead us to note, also, that annexing additional areas to the city in the future likely will be problematic when the projected population of such annexations will have an additional adverse impact on minority voting strength. However, should the city adopt an electoral system that would afford minorities a realistic opportunity to elect candidates of their choice in the expanded city (see City of Richmond v. United States, 486 U.S. 156 (1980)), such a change would enhance the city's ability to obtain the required Section 5 preclearance of future annexations.

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 these changes 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, Section 51.44 of the guidelines permits 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 is obtained, the effect of the objection by the Attorney General is to make the annexations legally unenforceable. 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the City of Rocky Mount plans to take with respect to this matter. If you have any questions, feel free to call Sandra S. Coleman (202/724-6718), Deputy Director of the Section 5 Unit of the Voting Section.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

May 9, 1985

Richard J. Rose, Esq.
Spruill and Spruill
P. O. Box 353
Rocky Mount, North Carolina 27802-00353

Dear Mr. Rose:

This refers to Ordinance No. 0-85-11 which provides for seven single-member districts and to No. R-85-15, which provides for the districting plan for those districts, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. This also refers to our reconsideration of the February 21, 1984, objection to eleven annexations to the City of Rocky Mount in Edgecombe and Nash Counties, North Carolina. We received your submission on March 27, 1985.

The Attorney General does not interpose any objections to the changes contained in Ordinance Nos. 0-85-11 and R-85-15. In addition, because the districting plan and related changes being precleared at this time provide a method of election which affords the minority group "representation reasonably equivalent to their political strength in the enlarged community" (City of Richmond v. United States, 422 U.S. 358, 370 (1975)), the objection interposed on February 21, 1984, to eleven annexations to the City of Rocky Mount is hereby withdrawn. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.45). However, we feel a responsibility to point out with respect to both the districting changes and the annexations that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. See also 28 C.F.R. 51.48.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division