



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

Mr. R. Powell Black
Town Advisor
P. O. Box 306
Jefferson, South Carolina 29718

26 MAR 1984

Dear Mr. Black:

This refers to the increase in the length of terms of office for the mayor and councilmembers from two to four years, and the adoption of staggered terms for the councilmembers of the Town of Jefferson in Chesterfield County, South 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 January 27, 1984.

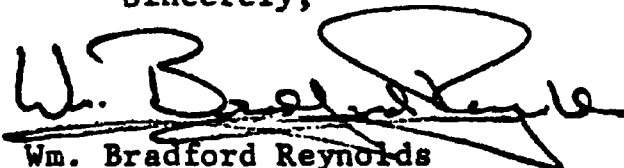
We have considered carefully the information provided by you as well as that provided by other interested parties. Our analysis of election returns and other relevant data for the Town of Jefferson and vicinity shows that black candidates do not place higher than third or fourth in an at-large election. For example, the one black candidate who has been successful in city council elections came in third out of eleven candidates in 1976, fourth out of seven in 1980, and third out of eight in 1982. The present system, where the candidates who receive the four highest vote totals are elected to the town council, has enabled that candidate to be elected to office. However, under the submitted system, once the staggered terms are fully in place, only the candidates who place first or second will be elected; this likely would eliminate the black representation that has existed. Such a situation would be retrogressive to the gains already achieved in minority political participation and therefore would have the effect of diluting the right to vote on account of race. Beer v. United States, 425 U.S. 130 (1976).

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a 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 the implementation of Ordinance No. 8 (1983), which provides that councilmembers be elected to four-year, staggered terms.

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 a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the four-year, staggered terms 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 Town of Jefferson plans to take with respect to this matter. If you have any questions, feel free to call Carl W. Gabel (202-724-8388), Director of the Section 5 Unit of the Voting Section.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division