



Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

May 18, 1993

Honorable William D'Aquilla
Mayor
Drawer 400
St. Francisville, Louisiana 70775

Dear Mayor D'Aquilla:

This refers to the change in the method of election from at large to one single-member district and one four-member district, the districting plan therefor and the creation of one precinct for the Town of St. Francisville in West Feliciana Parish, Louisiana, 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 March 19, 1993.

We have carefully considered the information you have provided as well as comments and information from other interested parties. According to the 1990 Census, St. Francisville has a total population of 1,700, of whom 30.7 percent are black. Under the submitted changes, one member would be elected from a single-member district in which blacks comprise 62.7 percent of the population and four members would be elected from a multimember district in which blacks comprise 23.1 percent of the population. About 40 percent of the town's black population is placed in the single-member district while the remainder is placed in the multimember district.

Town officials appear to have decided early in the process that any new method of election would provide for only one black-majority district, and for no other district in which black voters would have even a significant influence on the outcome of the election. Thus, although the town considered at least eight alternative election plans, each provided for one majority-black single-member district and no other district in which black residents comprised more than 34 percent of the total population. In public hearings, representatives of the black community informed town officials of their opposition to a four-member multimember district because it would unnecessarily limit the opportunities for black citizens to elect their chosen

candidates. They also voiced concern about the configuration of the proposed single-member district on the grounds that demographic changes since the 1990 Census have reduced the black share of the population in that area.

Our analysis reveals that the proposed election plan is somewhat unusual in its combination of a single-member district and a large multi-member district, and that the plan would not only limit the opportunity for black voters to elect candidates of their choice to one district but would appear unnecessarily to deny that opportunity to a majority of the town's black voters. Yet, your submission fails adequately to identify the legitimate governmental interests that led the town to adopt the proposed plan. Indeed, the plan appears to have been selected because it would allow the incumbent board members who reside in the same neighborhood to continue to be elected under the new system. We recognize that the protection of incumbents may not in and of itself be an inappropriate consideration, but it may not be accomplished at the expense of minority voting potential. See Garza v. County of Los Angeles, 918 F.2d 763, 771 (9th Cir. 1990), cert. denied, 111 S. Ct. 681 (1991). While the town is not required under Section 5 to adopt a particular method of election or districting plan, it is not free to limit unnecessarily the opportunity for minority voters to elect candidates of their choice.

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 nor a discriminatory 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. 51.52). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that your burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the proposed new method of election and districting plan. Since the creation of a second precinct is related to the objected-to change in the town's method of election, no determination is appropriate with respect to that change. 28 C.F.R. 51.22.

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 change has 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 change in method of election and districting plan therefor continue to be legally unenforceable. Clark v. Roemer, 111 S. Ct. 2096 (1991); 28 C.F.R. 51.10 and 51.45.

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 St. Francisville plans to take with respect to this matter. If you have any questions, you should call Todd Cox (202-514-3023), an attorney in the Voting Section.

Sincerely,



James P. Turner
Acting Assistant Attorney General
Civil Rights Division