



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

October 6, 1997

George W. McHugh, Esq.
102 East Berard Street
St. Martinville, Louisiana 70582

Dear Mr. McHugh:

This refers to the 1997 councilmanic redistricting plan for the City of St. Martinville in St. Martin Parish, Louisiana, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your response to our May 19, 1997, request for additional information on August 5, 1997; supplemental information was received on September 16, 1997.

The 1997 redistricting plan represents the city's third effort following the 1990 Census to redistrict the five single-member districts from which city councilmembers are elected. Under the existing plan, three of the five districts have black population majorities of 70 percent or better and would seem to provide black voters an opportunity to elect their candidates of choice. As you know, on November 9, 1992, an objection was interposed to the city's 1991 redistricting plan primarily because, in the context of an apparent pattern of racially polarized voting in local elections, the plan would have lessened the ability of black voters to elect candidates of choice by reducing the black population percentage in District 3 from 73 to 61 percent, while maintaining two districts (Districts 4 and 5) with black population percentages of 99 and 84 percent black. Following our objection, the city submitted a second

redistricting plan for Section 5 review in 1993 that reduced the black population percentage in District 3 from 73 to 66 percent, while maintaining high concentrations of black population in Districts 4 and 5. After we sought additional information from the city regarding the 1993 plan, the city withdrew the plan from Section 5 review.

With regard to the instant plan, we have considered carefully the information provided in this submission, as well as information from the submissions of the 1991 and 1993 redistricting plans, Census data, and information and comments received from other interested persons. According to the 1990 Census, black persons represent 59 percent of the city's total population (7,137) and 56 percent of its voting age population (5,013). These figures represent significant growth from the 1980 black population and voting age population percentages (53 and 50 percent, respectively).

Prior to developing the 1997 redistricting plan, the city commissioned a recount of its population. The 1996 recount revealed a decline in the total number of residents, a slight increase in the city's overall black population percentage, and a decrease in the black population percentage in existing District 3 from 73 percent to 62 percent. The recount results were used in developing the proposed plan, which provides for three districts with black population percentages of 99, 84, and 64 percent.

The methodology used in conducting the 1996 recount, however, raises serious questions regarding the reliability of those results. For example, by assigning a single individual, rather than using a person per household multiplier for households that did not respond to the recount survey (but for which utility services were confirmed), the recount likely results in an undercount of the actual number of city residents. Furthermore, the impact of this approach of assigning a single person to non-responding households may well have been amplified in districts in which residents, in large part, work during the day because the recount appears to have been conducted primarily between the hours of 9:00 a.m. and 6:00 p.m. In this regard, we note the demographer's identification of several instances in which the recount results reported minor children as the only residents of a household.

Nor do the city's utility customer rolls appear to support the conclusion that the city's population has declined since the 1990 Census. A comparison of the 1990 and 1996 utility customer rolls indicates that the number of customers within the city has not declined during this period.

Because the city has not established that the results of the recount are reliable, the existing and proposed plans must be assessed using 1990 Census data. A review of the proposed plan under 1990 Census data indicates that it provides for two districts in which the black population percentage is 97 and 86 percent, and a third district (District 3) in which the black population is 59 percent of the total. Thus, the proposed plan appears to reduce the black population percentage in District 3 by approximately thirteen percentage points, and as a result, appears to lessen significantly the opportunity of black voters to elect candidates of choice in the district.

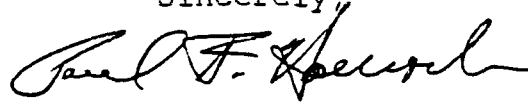
In addition, our analysis indicates that there are a variety of readily discernable redistricting options that would allow the city to correct the existing malapportionment while preserving black political opportunity in District 3, with no significant reduction in black voting strength in Districts 4 and 5. Thus it would seem that the proposed plan, like the 1991 objected-to plan, occasions a prohibited "retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise." Beer v. United States, 425 U.S. 130, 141 (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 nor a discriminatory effect. Georgia v. United States, 411 U.S. 526 (1973); 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 1997 redistricting plan.

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 a discriminatory purpose nor effect. 28 C.F.R. 51.44. In addition, you may request that the Attorney General reconsider the objection. See 28 C.F.R. 51.45. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the 1997 redistricting plan continues to be legally unenforceable. See Clark v. Roemer, 500 U.S. 646 (1991); 28 C.F.R. 51.10.

We also note that the city has not conducted elections for city council since 1990. To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the City of St. Martinville plans to take concerning these matters. If you have any questions, you should call Colleen Kane-Dabu (213-894-2931), an attorney in the Voting Section.

Sincerely,



for Isabelle Katz Pinzler
Acting Assistant Attorney General
Civil Rights Division