

JSP:SKD:KB:YL:LRSH:sdj
DJ 166-012-3

SEP 3 1974

Honorable George D. Zuckerman
Assistant Attorney General in
Charge of Civil Rights Bureau
State of New York
Department of Law
Two World Trade Center
New York, New York 10047

Dear Mr. Zuckerman:

This is in reference to the application by the State of New York for approval of 624 polling place changes (1964-1973) which were submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. The submission was completed on July 2, 1974.

The Attorney General does not interpose an objection to 621 changes which were made in New York, Bronx and Kings Counties. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such provisions.

However, on the basis of our analysis of the other three polling place changes, the facts available to us, and the court's decision in Coalition for Education in District One v. Board of Elections of the City of New York, 370 F. Supp. 42, (S.D. N.Y., 1974) aff'd

___ F.2d ___ (2nd Cir., 1974), to which we feel obligated to give great weight, we cannot conclude that those changes will not have a racially discriminatory effect. These changes, in the 63rd Assembly District, involve relocations of polling places to large, predominantly white, middle income housing projects as follows:

1. Two polling places, P.S. 63 and P.S. 82, were moved to Village View Cooperative Housing at 175 E. 4th Street, one of the six projects held to have had a racially discriminatory impact on minority voters in Coalition, supra.
2. The polling place at P.S. 134 was moved to Seward Park Cooperative Apartments at 264 E. Broadway, a large, predominantly white, moderate income project of similar character to those projects found objectionable in Coalition, supra.

The Court held in the Coalition case that the location of polling places in such large, predominantly white, middle income housing projects had a racially discriminatory impact on minority voters in the 1973 School Board election because these locations greatly facilitated the turnout of white voters while no comparable advantage was extended to minority voters 370 F. Supp. 42, at 34.

Based on the above analysis we are unable to conclude, as we must under the Voting Rights Act, that these changes will not have the effect of denying or abridging

the right to vote on account of race or color. I must, therefore, on behalf of the Attorney General, interpose an objection to the implementation of the changes set forth above.

Of course, Section 5 permits you to seek a declaratory judgment from the 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. Until such judgment is rendered by that Court, however, the legal effect is to make unenforceable the changes in question.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

NOV 14 1977

Mrs. Betty Dolen
Executive Director
Board of Elections in the
City of New York
80 Varick Street
New York, New York 10013

Dear Mrs. Dolen:

This is in reference to your request that the Attorney General reconsider his September 3, 1974 objection under Section 5 of the Voting Rights Act of 1965, as amended, to polling place changes in the 41st and 42nd Election Districts of the 63rd Assembly District, New York County, New York. Your request for reconsideration was received on September 13, 1977.

We have stated in previous correspondence and meetings on this matter that the Department would be willing to reconsider the objection if the Board of Elections took positive steps to locate polling places in the 63rd Assembly District in large minority housing projects or explained why it was not possible to do so. On the basis of our most recent inquiry we understand that the Board of Elections does use a community room and a school in the Baruch Project and schools located in the Lillian Wald and Vladeck Projects as polling places, and that negotiations are proceeding to locate a polling place in the community center for the Jacob Riis Project at 80 Avenue D. Furthermore, Ms. Dora Collazo-Levy, the District Leader for Part C of the 63rd Assembly District, has advised that the Board of Elections has tentatively agreed to other polling place changes in minority areas of the 63rd Assembly District.

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In light of these factors, and in consideration of the difficulty the Board has experienced locating polling places in this area, I will, on behalf of the Attorney General, withdraw the objection to the polling place changes in the 41st and 42nd Election Districts of the 63rd Assembly District.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division

T/ 12/8/76
Re. T. 12/13/76
JSP:ED:rjs
DJ 166-012-3
X8602

DEC 13 1976

Ms. Betty Solen
Executive Director
Board of Elections
In the City of New York
20 Varick Street
New York, New York 10013

Dear Ms. Solen:

This is in reference to the polling place changes in the 41st, 42nd and 47th Election Districts of the 63rd Assembly District, New York County, New York, submitted to the Attorney General pursuant to Section 3 of the Voting Rights Act of 1965, as amended. Your submission was received on October 13, 1976.

In regard to the polling place change for the 47th Election District, the Attorney General does not interpose any objection to the change in question. However, we feel a responsibility to point out 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 change.

In regard to the polling place changes for the 41st and 42nd Election Districts, based upon your letter, it is our understanding that the Board of Elections would like to have the objection to the change from P.S. 63 to the Village View Cooperative Housing Project withdrawn.

Your letter indicates that following a telephone conversation with David Hunter of my staff, the polling places for the 41st and 42nd Election Districts were located at the Village View Cooperative Housing Project for the November 2, 1976, election. Given the circumstances described in your letter, including the closing of P.S. 122 and the inadequacy of the Uranian Hall, the Attorney General does not object to this relocation of these polling places for the November 2, 1976, election. However, with respect to the permanent use of the Village View Cooperative Housing Project as the site for these polling places, further considerations are involved.

As we indicated in our previous letters of July 15, 1975, and January 30, 1976, the Attorney General may, if he deems it appropriate, withdraw an objection where there has been a substantial change in fact or law. Although we recognize the problems encountered by the New York City Board of Elections in locating polling places, in our opinion, the Board has not demonstrated that a substantial change in fact or law has occurred which would warrant the withdrawal of our objection to locating the polling place for the 41st and 42nd Election Districts at the Village View Housing Corporation. Consequently, the Attorney General is unable to withdraw the objection at this time.

As you will recall, our objection to these polling place changes was based upon the fact that the Board of Elections had made a practice of locating polling places in the 63rd Assembly District in large, predominately white housing projects but had failed to locate polling places in minority housing projects of comparable size. The effect of this practice was to extend an advantage to white voters which has not been extended to minority voters, an effect proscribed by the Voting Rights Act. See Coalition for Education in District One v. Board of Elections of the City of New York, 170 F. Supp. 42 (S.D. N.Y. 1974) aff'd 435 F.2d 1496 (2nd Cir. 1974).

In the course of our review of this matter, we have been advised by Ms. Sara Collazo-Levy, the District Leader for Part 2 of the 63rd Assembly District that she has submitted to the Democratic County Leader a plan for alternate sites for polling places in minority areas of the 63rd Assembly District and that she will be working with you to identify satisfactory locations. As we indicated in our letter of January 30, 1976, should the Board decide to establish polling places in large, predominately minority, housing projects, or other sites readily accessible thereto, we will be willing to reconsider the matter upon presentation of such facts.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division