

MAY 24 1974

Mr. Tuck McConnell  
City Manager  
Post Office Box 717  
Walterboro, South Carolina 29485

Dear Mr. McConnell:

This is in reference to an Ordinance dated March 19, 1974, amending Section 2-19 of the Code of Walterboro to establish a residency requirement for councilmanic elections for the City of Walterboro, and, to the adoption of a council-manager form of government for the City submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. Your submission of the residency requirement was received March 28, 1974, and your submission of the council-manager form of government was received on April 18, 1974.

We have given careful consideration to the submitted changes and the supporting information. Our analysis indicates that the imposition of a residency requirement for 4 of the 6 councilmanic seats, in the context of a majority requirement for the primary election, staggered terms, the recent invalidation of the prohibition against single-shot voting in Stephenson v. West, Civil Action No. 72-45 (D.C.S.C., 1972), and at-large elections reduces the potential voting strength of racial minorities. Therefore, we are unable to conclude, as we must under the Voting Rights Act of 1965, that the implementation of such a residency requirement does

not have the purpose or 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 submitted residency requirement.

Of course, Section 5 permits you to seek a declaratory judgment from the United States District Court for the District of Columbia that this plan neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. However, until such a judgment is rendered by that court, the legal effect of the objection by the Attorney General is to render unenforceable the residency requirement plan.

The Attorney General, however, does not interpose any objection to the change to a council-manager form of government. 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 a change.

In considering the system for conducting future elections in your city, you may wish to obtain legal advice on the possible constitutional infirmities involved in at-large elections under comparable situations. See White v. Regester, 412 U.S. 755 (1973); Turner v. McKeithen, 483 F.2d 1297 (5th Cir. 1973); Turner v. McKeithen, C. A. No. 71-2221 (5th Cir. 1973). See also,

Beer v. United States, U. S. No. 1495-73 (D.C. March 14, 1974). Should you conclude that at-large elections in Walterboro fall within the rule of such cases, you may wish to consider alternative election systems such as fairly drawn single member districts which the courts have approved. We would be pleased to discuss this or other appropriate questions with you or your representatives. Mr. Gerald S. Jones (202--739-2167) or Mr. Michael S. Johnson (202--739-3779) is available for this purpose.

Sincerely,

J. STANLEY POTTINGER  
Assistant Attorney General  
Civil Rights Division