

DSD:DHH:LBH:rjs  
DJ 166-012-3  
A6462

OCT 2 1978

Mr. Thomas C. Berry  
Attorney at Law  
304 Parler Avenue  
St. George, South Carolina 29477

Dear Mr. Berry:

This is in reference to the change to staggered terms for members of the Town Council of the Town of St. George (Berkeley County), South Carolina, submitted to the Attorney General pursuant to Section 3 of the Voting Rights Act of 1965, as amended. Your submission was completed on August 2, 1978.

We have given careful consideration to the information furnished by you as well as to comments from other interested parties. We note that the effect of this change will be to reduce the council positions available in each election from six to three. Although blacks constitute about 35 percent of the population of St. George, we have been informed that no blacks have been elected to the city council, and that white voters are generally reluctant to vote for black candidates. In these circumstances, in the context of at-large elections with a plurality sufficient for election and without numbered positions, the reduction in the field of candidates which would result from the imposition of staggered terms for the election of council members in St. George would have the effect of limiting the potential for black voters to elect a candidate of their choice and, thus, constitute a dilution of black voting strength.

Section 5 of the Voting Rights Act places upon the submitting authority the burden of proving that a submitted change in a voting practice or procedure does not have a racially discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973), 28 C.F.R. 51.15. Against the factual background described above, we are unable to conclude that the burden of proof has been sustained and that the imposition of staggered terms will not have a racially discriminatory effect. Accordingly, on behalf of the Attorney General, I must interpose an objection to the use of staggered terms by the Town of St. George.

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 this 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, the Procedures for the Administration of Section 5 (28 C.F.R. 51.21(b) and (c), 51.23, and 51.24) permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court obtained, the effect of the Attorney General's objection is to make the change to the use of staggered terms legally unenforceable.

Sincerely,

Draw S. Days III  
Assistant Attorney General  
Civil Rights Division