

DEC 12 1978

Mr. C. W. F. Spencer, Jr.
Spencer & Spencer
Attorneys & Counselors at Law
P. O. Box 790 C.S.S.
Rock Hill, South Carolina 29730

Dear Mr. Spencer:

This is in reference to the change in the number and method of election of city council members in the City of Rock Hill, York County, South Carolina, the change from partisan to non-partisan elections with a majority vote requirement for city council members, and the special city election held on May 25, 1978, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on October 10, 1978.

We have given careful consideration to the changes involved and the supporting materials, as well as information and comments from other interested parties. The Attorney General does not interpose any objections to the change in number and method of electing the council nor to the special election held in May. 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 these changes.

In regard to the change to non-partisan general elections with a majority vote requirement, on the basis of our analysis, we are unable to conclude, as we must under the Voting Rights Act, that this change will not have a racially discriminatory effect on black voters in the City of Rock Hill.

Our analysis reveals that blacks constitute a substantial proportion of the population of the City of Rock Hill and that three seats on the city council will be elected at-large. A major factor in our consideration of election changes of this kind is whether voting along racial lines exists. A review of election returns from the City of Rock Hill indicates that, in general, heavily black precincts support and vote for black candidates and white precincts for white candidates. Consequently, it appears that no black candidate in Rock Hill has ever received a majority of the votes cast in any election. On the other hand, we note that general elections heretofore in Rock Hill, even though they were conducted on an at-large basis, were subject to a plurality requirement and thus provided the minority group the potential for electing a candidate of their choice with a plurality of the vote. Under these circumstances, recent court decisions, to which we feel obligated to give great weight, indicate that a majority vote requirement would have the potential for abridging minority voting rights. See White v. Regester, 412 U.S. 755, 766-67 (1973); Zimmer v. McKeithen, 485 F.2d 1297, 1305 (5th Cir. 1973), aff'd sub nom. East Carroll Parish School Board v. Marshall, 424 U.S. 636 (1976); Nevitt v. Sides, 571 F.2d 209 (5th Cir. 1978).

In view of the above, we are unable to conclude that the imposition of the majority vote requirement will not adversely affect the opportunity of blacks to elect representation of their choice with respect to the three at-large council members. Accordingly, on behalf of the Attorney General, I must interpose an objection to the change to non-partisan elections insofar as it incorporates the majority vote requirement.

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 objection by the Attorney General is to make the change to non-partisan elections with majority vote legally unenforceable.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us within thirty days of your receipt of this letter of the course of action the city plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Ms. Elizabeth Dunigan at 202/633-3811.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division