



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

July 16, 1985

Mr. Buddy Womick
Director, Public Information
P. O. Drawer 1749
Spartanburg, South Carolina 29304-1749

Dear Mr. Womick:

This refers to 105 annexations to the City of Spartanburg in Spartanburg County, South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received the information to complete your submissions on May 17, 1985.

The Attorney General will make no determination with regard to four of these annexations (Nos. A-4, A-14, A-27 and A-28) since they were made prior to November 1, 1964, and, thus, are not subject to the preclearance requirements of Section 5. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.4(b)). Further, our records indicate that three of these annexations (Nos. A-91, A-97 and A-100) received preclearance under Section 5 on September 3, 1974, and January 30, 1979. Therefore, no further determination with regard to these annexations is necessary or appropriate under Section 5. See 28 C.F.R. 51.33.

The Attorney General does not interpose any objections to the following 46 annexations (Nos. A-31, A-55, A-61, A-62, A-63, A-67, A-77, A-78, A-79, A-81, A-82, A-83, A-86, A-87, A-95, A-101, A-103, A-105, A-106, A-108, A-109, A-111, A-112, A-113, A-116, A-117, A-118, A-120, A-121, A-123, A-124, A-125, A-126, A-127, A-129, A-130, A-131, A-132, A-133, A-136, A-137, A-139, A-141, A-142, A-143, and A-144). 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 changes. 28 C.F.R. 51.48.

In regard to annexation No. A-147, we understand from your conversations with Ms. Lina Bader of our staff, that the city is not seeking preclearance of that annexation at this time since the ordinance for that annexation is being prepared for submission, along with other recent annexations, in the near future. Therefore, the Attorney General has not considered that annexation as part of this submission and makes no determination relative to it at this time.

However, with regard to the remaining 52 annexations (Nos. A-29, A-30, A-33, A-34, A-35, A-36, A-37, A-38, A-40, A-41, A-45, A-46, A-48, A-49, A-50, A-51, A-53, A-57, A-58, A-59, A-60, A-64, A-69, A-72, A-73, A-74, A-75, A-76, A-80, A-84, A-89, A-90, A-92, A-93, A-94, A-96, A-98, A-102, A-104, A-107, A-110, A-114, A-115, A-119, A-122, A-128, A-134, A-135, A-138, A-140, A-145 and A-146), we are unable to reach a similar result on the information provided. We have considered carefully the information you have submitted, data obtained from the 1980 Census, and information provided by other interested parties. At the outset, we note that even though blacks constitute over 40 percent of the city's population, and although there have been many minority candidacies, only one black ever has been elected to the city council. This appears in substantial part to be the result of a general pattern of racially polarized voting occurring in the context of Spartanburg's at-large election system with its staggered terms and majority vote requirement.

The proposed annexations seem to exacerbate the difficulty that minorities have participating equally in the electoral process. While the City suggests that the added residential areas produce only a minimal reduction of the minority population, we are unable to verify this assertion on the available data, and in fact we are concerned that the dilution may be substantially greater than indicated.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also 28 C.F.R. 51.39(e). In

light of the considerations discussed above, I cannot conclude, as I must under the Act, that the City has provided sufficient information to sustain its burden in this instance. Therefore, on behalf of the Attorney General, I must object to the 52 annexations listed above.

Of course, as provided by Section 5 of the Act, you have the right to seek a declaratory judgment from the United States 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 or color. Further, Section 51.44 of the guidelines permits you to request that the Attorney General reconsider the objection. In this regard, we note the Supreme Court's observation in City of Richmond v. United States, supra, at 378, that a dilution such as that involved here nevertheless may pass Section 5 muster "as long as the post-annexation electoral system fairly recognizes the minority's political potential." However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the 52 annexations legally unenforceable insofar as voting rights are concerned. 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the City of Spartanburg plans to take with respect to this matter. If you have any questions, feel free to call Poli A. Marmolejos (202-724-8388), Attorney Supervisor in our Section 5 Unit of the Voting Section.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division



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Office of the Assistant Attorney General

Washington, D.C. 20530

OCT 6 1987

Richard K. Walker, Esq.
Bishop, Cook, Purcell
& Reynolds
1200 Seventeenth Street, N. W.
Washington, D.C. 20036-3006

Dear Mr. Walker:

This refers to your request that the Attorney General reconsider the July 16, 1985, objection under Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c, to fifty-two annexations by the City of Spartanburg in Spartanburg County, South Carolina. We received your request on July 1, 1987; supplemental information supporting the request was received on August 19, 1987.

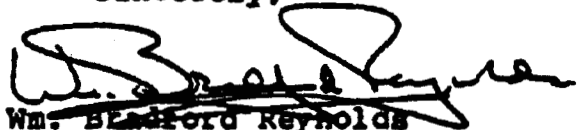
In our letter of objection, we noted the city's contention "that the added residential areas produce only a minimal reduction of the minority population." However, the information available at the time did not support that assertion and we, therefore, were unable to conclude that the city had carried its burden of showing the absence of a proscribed effect.

In response to your request for reconsideration we have reviewed the population data recently developed by the city through its special census, and it now appears that these annexed areas indeed have had a *de minimus* effect on the black population percentage in the city and do not significantly affect black voting strength. Accordingly, on behalf of the Attorney General, I am withdrawing the objection to the fifty-two annexations. See City of Richmond v. United States, 422 U.S. 358 (1975). Even so, 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 changes. See Section 51.41 of the Procedures for the Administration of Section 5 (52 Fed. Reg. 496 (1987)).

In that regard, it should be noted that the decision to withdraw the Section 5 objection to the annexations does not affect in any manner our pending lawsuit which challenges, under Section 2 of the Act, the at-large method of electing the Spartanburg city council.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Bradford Reynolds", written over a printed name.

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division