

MAR 10 1976

Mr. Holmen Lilienstern  
City Attorney  
City of Texas City  
P. O. Drawer 2608  
Texas City, Texas 77590

Dear Mr. Lilienstern:

This is in reference to the numbered post provision governing the election of City Commissioners in Texas City, submitted to the Attorney General pursuant to Section 3 of the Voting Rights Act of 1965. Your submission was completed on February 2, 1976. In accordance with your request expedited consideration has been given to this submission pursuant to the procedural guidelines for the administration of Section 3 (28 C.F.R. 51.22).

After a careful examination of all the available facts and circumstances and an analysis of the relevant decisions of the federal courts, we are unable to conclude as we must under the Voting Rights Act that the numbered post provision will not have a racially discriminatory effect. In our analysis we have given great weight to the factors enunciated in White v. Regester, 412 U.S. 755 (1973), and the numerous cases to which it has given rise, including the history of governmental discrimination in the area, the electoral history of the minority groups involved, the presence of racial bloc-voting, the degree of responsiveness of the elected representatives to the needs of the minority groups, the history of the policy regarding the change in

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question, and the presence of aggravating factors, such as an at-large electoral scheme. See also Kinner v. McKittrick, 485 F.2d 1297 (5th Cir. 1973) and Graves v. Barnes, 375 F. Supp. 648 (W.D.Tex. 1974).

Under the totality of the circumstances I must on behalf of the Attorney General interpose an objection to the numbered post provision of the Texas City Charter.

Of course, the Voting Rights Act permits a jurisdiction to seek approval of changes subject to Section 5 by the United States District Court for the District of Columbia irrespective of whether the changes have been submitted to the Attorney General.

Sincerely,

J. Stanley Pottinger  
Assistant Attorney General  
Civil Rights Division