

D.J. 166-012-3
X1899-1901

MAR 29 1976

Mr. John L. Love
City Secretary
City of Luling
P. O. Box 630
Luling, Texas 78648

Dear Mr. Love:

This is in response to your letter of January 23, 1976, in which you submitted to the Attorney General three changes in voting procedures in Luling, Texas, pursuant to Section 5 of the Voting Rights Act of 1965. Your letter and the attached materials were received on January 28, 1976.

The Attorney General does not interpose any objection to the following changes:

Change from commission to aldermanic form of government adopted November 13, 1975;

Change of polling place from fire station to Luling Senior High School Library adopted February 11, 1975.

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.

With respect to the numbered post provision adopted November 12, 1974, we have considered carefully all of the information presented by you along with pertinent Census data and information and comments received from other interested parties. On the basis of our analysis we are unable to conclude, as we must under the Voting Rights Act, that the use of numbered posts, in the context of at-large elections for the Luling City Council, will not have a discriminatory effect on blacks and Mexican-Americans.

Our analysis reveals that minority groups constitute approximately 41% of the population of Luling (25% Mexican-American; 16% black). While our information is that one black has been elected to the city council under both the prior system and the numbered post system since its inception, our analysis also has revealed significant evidence that bloc voting along racial and ethnic lines exists in Luling. Under these circumstances, recent court decisions, to which we feel obligated to give great weight, suggest that the combination of such features as designated posts and at-large elections may have the effect of abridging minority voting rights. See White v. Regester, 412 U.S. 755 (1973); Whitcomb v. Chavis, 403 U.S. 124 (1971).

Accordingly, on behalf of the Attorney General I must interpose an objection to the numbered post feature of electing city councilpersons adopted on November 12, 1974. 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 provision neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race. However, until and unless such a judgment is obtained, the provision objected to is legally unenforceable.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division