

1 FEB 1980

J. C. Reagan, Esq.
Bartram, Reagan,
Burrus & Dierksen
Post Office Box 69
205 North Seguin Avenue
New Braunfels, Texas 78130

Dear Mr. Reagan:

This is in reference to the redistricting of commissioner precincts and the change in the boundaries of Voting Precincts 10 and 14 in Comal County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on May 7, 1979. On July 6, 1979, we sent a letter requesting additional information necessary to complete our review of this submission. A copy of that letter is attached.

Our records indicate that, to date, we have received no response to our request. We have obtained answers to some of our questions from other sources; however, we still need the following previously requested information to evaluate properly the changes in question:

1. Maps of the county and of the City of New Braunfels' showing the existing boundaries and boundaries after the change with areas of minority population concentrations so indicated; it would be most helpful to have these areas of concentration shown as portions of census enumeration districts if possible.

2. Reasons for selecting the plan that was adopted. (We understand that the Mexican American Legal Defense and Education Fund (MALDEF) submitted two other plans for your consideration.)

3. A description of any verification of the accuracy of the methodology of determining the population and racial composition of split enumeration districts.

4. Any estimates that have been made of the change in the total population or racial or language minority group composition of the county since the 1970 Census.

5. The number of registered voters by race or language minority group for each voting precinct in the county. If exact statistics are not available, please provide your best estimates and the basis for those estimates.

6. Primary and general election results, by precinct, of all contests in which a Mexican American has competed for the position of County Commissioner, Justice of the Peace, Constable, Sheriff, Tax Assessor/Collector, or School Trustee or for any other county office since November 1, 1972. We understand that there was a Mexican American candidate for constable in 1976 and that there is some discrepancy in the election results. Therefore, please provide both unofficial newspaper tallies and official results, by precinct, for this election.

Under Section 5 of the Voting Rights Act the submitting authority has the burden of proving that a submitted change has no discriminatory purpose or effect. See, e.g. Georgia v. United States, 411 U.S. 526 (1973); 26 C.F.R. 51.19. In failing to provide the Attorney General with the information necessary for the proper evaluation of your submission, you have failed to sustain your burden of proof. Therefore, on behalf of the Attorney General, I must object to the submitted changes.

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 those changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color or membership in a language minority group. 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 and, in this instance, we will reconsider the matter upon receipt of the additional information we previously requested. 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 redistricting of commissioner precincts and the changes in Voting Precincts 10 and 14 of Comal County, Texas, legally unenforceable.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us within twenty days of your receipt of this letter what course of action Comal County plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Ms. Donna Clarke (202--724-7440) of our staff, who has been assigned to handle this submission.

Sincerely,

DREW S. DAYS III
Assistant Attorney General
Civil Rights Division

SEP 22 1980

J. C. Reagan, Esq.
Bartram, Reagan, Burrus & Dierkson
P. O. Box 69
New Braunfels, Texas 78130

Dear Mr. Reagan:

This is in reference to your request that the Attorney General reconsider his February 1, 1980, objection under Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c, to the redistricting of commissioner precincts and the change in boundaries of Voting Precincts No. 10 and No. 14 in Comal County, Texas. Your request was completed on February 27, 1980.

The Attorney General objected to these changes because the county had failed to provide sufficient information to enable us to make a determination on the merits of the changes involved and, thereby, had not sustained its burden of proving that these voting changes had neither the purpose nor the effect of discriminating on the basis of race, color, or membership in a language minority group. The information subsequently received from you and from other interested parties leads us to conclude at this time that the county has met that burden and that no objection to those changes is warranted. Therefore, pursuant to the reconsideration guidelines promulgated for the administration of Section 5, 28 C.F.R. 51.23 through 51.25, the objection interposed to the redistricting of Comal County commissioner precincts and the changes in Voting Precincts No. 10 and No. 14 is hereby withdrawn. 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.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division