

OCT 27 1980

Carl R. Pigeon, Esq.
City Attorney
Hopewell, Virginia 23860

Dear Mr. Pigeon:

This is in reference to the referendum on a proposed amendment to the city charter that would decrease the number of councilmen from seven to five in the City of Hopewell, Virginia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Even though the referendum has not yet been held, we understand that you desire to have a determination on the merits of the proposed change at this time. Your submission was completed on August 29, 1980, and although we noted your request for expedited consideration, we have been unable to respond until this time.

We have given careful consideration to the information you have provided, as well as to comments and information provided by other interested parties. Our analysis reveals that blacks constitute about twenty percent of the population of the City of Hopewell. Although a black candidate has run for the city council on a number of occasions since 1964, no black has ever been elected to the city council. Analysis of precinct returns demonstrates that voting in the city generally follows racial lines. In the context of plurality-win, at-large elections, the decrease in the number of members of the Hopewell City Council will have the potential for decreasing the opportunity of blacks to elect representation of their choice to the city council. In fact, the information presently available to us shows that the black candidate who has run for council fared better under the seven-member council system than under the five-member council system.

Under these circumstances, I am unable to conclude, as I must under the Voting Rights Act, that the proposed change will not have a racially discriminatory effect. I must therefore, on behalf of the Attorney General, interpose an objection to the proposed decrease in the number of councilmen from seven to five, even though we do not interpose any objection to the holding of a referendum on the question.

We note, however, that the retrogressive effect upon black voters of a decrease in the number of councilmen could be compensated by a change in the method of electing city councilmen that might provide a more realistic possibility of access by blacks to the political process. For example, were the city to enact fairly drawn single-member districts in conjunction with the proposed decrease in the number of councilmen from seven to five, the Attorney General would be willing to reconsider the objection interposed today.

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, 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. 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 decrease in the number of councilmen from seven to five 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 the City of Hopewell plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Ms. Hallie Wright (202-724-7170) of our staff, who has been assigned to handle this submission.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division