



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MAR 11 1986

Carter Glass, IV, Esq.  
Mays, Valentine, Davenport & Moore  
Sovran Center  
1111 East Main Street  
Richmond, Virginia 23208

Dear Mr. Glass:

This refers to the three annexations (Phase I) to the City of Franklin, Virginia, 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 your submission on January 10, 1986. Although we noted your request to complete our evaluation by March 1, we have been unable to respond until this time.


We have considered carefully the information you have provided, data obtained from the Census, and information provided by other interested parties. At the outset, we note that the proposed annexations will reduce the city's black population by 3.7 percentage points from 55.4 percent to 51.7 percent. More significantly, the city's voting age population would shift from a black majority (51.9%) to a white majority (51.7%). Under the city's at-large election system black candidates have had only limited success and our analysis of city elections involving black candidates suggests that a pattern of racial bloc voting exists. In these circumstances, the annexations would appear to perpetuate and enhance the existing restrictions on the ability of blacks to realize their voting potential. See City of Richmond v. United States 422 U.S. 358 (1975).

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 the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the voting changes occasioned by the three Phase I annexations.

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 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. In addition, 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, 422 U.S. 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 voting changes occasioned by the annexations legally unenforceable. 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 Franklin plans to take with respect to this matter. If you have any questions, feel free to call Steven H. Rosenbaum (202-724-8388), Attorney/Reviewer of the Section 5 Unit of the Voting Section.

Sincerely,



Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division

May 18, 1987

Carter Glass IV, Esq.  
Special Counsel  
City of Franklin  
P. O. Box 1122  
Richmond, Virginia 23208

Dear Mr. Glass:

This refers to Chapter 64 (1987) which provides for an increase in the size of the city council from five to seven with six members elected from single-member districts and the mayor/councilmember elected at large, the method of filling a vacancy in the office of mayor/councilmember, a two-year term for the mayor/councilmember and an implementation schedule; and the March 23, 1987, ordinance which provides for a districting plan, six voting precincts, and four additional polling places for the City of Franklin, Virginia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. This also refers to your request that the Attorney General reconsider the March 11, 1986, objection under Section 5 to three annexations to the City of Franklin. We received your submission and your request for reconsideration on March 30, 1987.

The Attorney General does not interpose any objections to the changes occasioned by Chapter 64 and the March 23, 1987, city ordinance. In addition, because the proposed method of election and districting plan afford minority citizens "representation reasonably equivalent to their political strength in the enlarged community," City of Richmond v. United States, 422 U.S. 358, 370 (1975), the objection interposed on March 11, 1986, to the city's three annexations is hereby withdrawn. However, we feel a responsibility to point out that Section 5

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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)).

Sincerely,

Mr. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division