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Letter to Mr. Earnest Nijem from Wm. Bradford Reynolds and Gerald W. Jones, 1983 July 22

Houseal, Willie H.

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WBR:SSC:JAC:vsb:pdk
DJ 166-012-3
H2033-2034
H2911-2912

July 22, 1983

Honorable Ernest Nijem
Mayor
P. O. Box 1125
Valdosta, Georgia 31601

Dear Mayor Nijem:

This is in reference to the four annexations (Ordinance Nos. 83-9, 83-10, 83-13 and 83-14) to the City of Valdosta in Lowndes County, Georgia, 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 submissions on May 23 and June 30, 1983.

The Attorney General does not interpose any objection to the annexation effected by Ordinance No. 83-9. 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 change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.48).

After a careful examination of the initial submission of the other three annexations, we have determined that the information sent is insufficient to enable the Attorney General to determine that the proposed changes do not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color.

To enable us to evaluate these changes properly, please provide the following information:

1. Names of representatives of the owners who may be contacted concerning the annexed properties and the daytime telephone numbers of those individuals.
2. Names of the developers, if any, of the properties and the daytime telephone numbers of those individuals.

3. Reasons for the annexations and copies of any reports or studies concerning the annexations of this property

4. A description of the proposed development for the annexed property. This should include copies of any construction plans or proposals submitted to or filed with the City of Valdosta, Lowndes County, or any board or commission of the city or county (including joint city/county agencies); the types of development permitted on the property as presently zoned; maximum and minimum development per acre permitted under the current zoning; the probable purchase cost and/or rental cost of homes and/or apartments to be built on the property; the probable completion date or dates of any proposed development; and an estimate, by race, of the number of persons expected to move into the homes and/or apartments when development is completed.

5. Whether there is any pending application for rezoning of the property; if so, specify how the information requested in paragraph 4 would be different if the rezoning is granted.

6. For every annexation to the City of Valdosta since January 1, 1970, where the property annexed was vacant or nearly so (i.e., fewer than ten persons resided on the property at the time of annexation), provide the following information:

- a. date of the annexation;
- b. number of acres annexed;
- c. the precise geographic boundaries of each separately annexed parcel indicated on a 1980 Census map;
- d. a description of the present zoning and use of the property, including the approximate number of single-family and multifamily units presently located on the property;
- e. 1980 Census population, by race, for each parcel of property annexed prior to April 1, 1980;

f. for each parcel annexed subsequent to April 1, 1980, provide the number of individuals, by race, currently residing on the property;

g. for each parcel annexed prior to April 1, 1980, but first occupied after that date, the number of persons, by race, currently residing on the property;

With respect to the population information requested in subparagraphs "f" and "g", above, if exact figures are not available, provide your best estimates and the source and basis for such estimates.

7. The total number of persons, by race, according to the 1980 Census, living on property annexed by the City of Valdosta after January 1, 1970, and prior to April 1, 1980. For property annexed after April 1, 1980, state the total number of persons, by race, currently residing on the property. If exact figures are not available, please give your best estimates and the source and basis for such estimates.

8. A list of all pending applications for annexation to the City of Valdosta. For each such parcel provide its population, by race (exact figures or best estimates), the number of acres, its location on a map and a description of the present and proposed development for the parcel.

9. A list of all parcels for which annexation has been sought unsuccessfully. For each such parcel, provide its population, by race (exact figures or best estimates), the number of acres, its location, and a description of the present development for the parcel, and the reasons for the lack of annexation.

Note: If any areas annexed prior to April 1, 1980, were not included in the 1980 Census count, please so indicate and provide current population statistics, by race.

The Attorney General has sixty days in which to consider a completed submission pursuant to Section 5. This sixty-day review period will begin when this Department receives the information necessary for the proper evaluation of the changes you have submitted. See also 28 C.F.R. 51.35(a). Further, you should be aware that if no response is received within

sixty days of this request, the Attorney General may object to the proposed changes consistent with the burden of proof placed upon the submitting authority. 28 C.F.R. 51.38. Therefore, please inform us of the course of action the City of Valdosta plans to take to comply with this request.

If you have any questions concerning the matters discussed in this letter or if we can aid you in any way to obtain the additional information we have requested, feel free to call Ms. JoeAnn Countee (202-724-8423) of our staff. Refer to File Nos. H2034 and H2911-2912 in any response to this letter so that your correspondence will be channeled properly.

Submissions under Section 5 should be addressed to the Assistant Attorney General, Civil Rights Division, Department of Justice, Washington, D.C. 20530. The envelope and first page should be marked: Submission under Section 5 of the Voting Rights Act. 28 C.F.R. 51.22.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Chief, Voting Section

LEGAL CLAIMS

Our clients feel that the present system of electing the Valdosta City Council is violative of the United States Constitution and the Voting Rights Act of 1965 as amended. Specifically, our clients believe that minority voting strength will continue to be unconstitutionally and illegally diluted until the present system of elections is replaced with a single member district plan drawn in conformity with the Constitution and the Voting Rights Act of 1965.

The modified at-large plan instituted in 1963 in effect violates at least the First, Thirteenth, Fourteenth and Fifteenth Amendments of the Constitution of the United States in that it was created and is maintained for invidious racial purposes. The intent requirement as recently established by the United States Supreme Court in Rogers v. Lodge, U.S., 102 S. Ct. 3272 (1982) is clearly met by the facts we have examined. City government has been unresponsive, Blacks suffer from a depressed socio-economic status, voting problems persist and history indicates a case of intentional creation and maintenance.

Even more clear is the Black community's right to prevail under Section 2 of the Voting Rights Act of 1965 as amended in 1982 which establishes a pure results test. While the test does not require proportional representation, the historic underrepresentation of Blacks is more than enough to meet the results test established by the Voting Rights Act of 1965 as amended.

Our clients have instructed us to file suit in the United States District Court seeking relief under the First, Thirteenth, Fourteenth and Fifteenth Amendments of the Constitution of the United States, Section 2 of the Voting Rights Act of 1965 as amended and such other laws as may be appropriate, including Section 5 of the Voting Rights Act of 1965 as amended seeking declaratory and injunctive relief. The litigation will be filed as a class action seeking relief on behalf of the named Plaintiff and all other past, present and future Black residents of the City of Valdosta, Georgia.