

Vanessa Hall

From: Vanessa Hall
Sent: Tuesday, June 05, 2018 2:58 PM
To: Vanessa Hall
Subject: FW: Carson Residents Opposing Single Member Districts
Attachments: IMG_2382.jpg; ATT00001.txt; IMG_2383.jpg; ATT00002.txt; IMG_2384.jpg; ATT00003.txt; IMG_2385.jpeg; ATT00004.txt

-----Original Message-----

From: Latrice Carter [<mailto:lac2767@yahoo.com>]
Sent: Tuesday, June 5, 2018 2:52 PM
To: City Clerk
Subject: Carson Residents Opposing Single Member Districts

Dear Mrs. Gause-Aldana, Honorable City Clerk:

Please find attached subject correspondence for today's City Council Meeting record.

Also, please provide copies to the Elected Officials listed, City Attorney, and City Manager.

The original letter will be presented tonight at the council meeting with additional signatures.

Thank you in advance for your immediate attention in this matter.

Sincerely,

Latrice Carter
Resident
19018 Belshaw Ave
Carson, CA 90746

RECEIVED
CITY CLERK
2018 JUN -5 PM 3:02
CITY OF CARSON

Carson Residents Opposing Single Member Districts

June 5, 2018

Albert Robles, Mayor
Donesia L. Gause-Aldana, City Clerk
Jawane Hilton, Mayor Pro Tempore
Elito Santarina, Councilman
Cedric L. Hicks, Sr., Councilman
Lula Davis-Holmes, Councilwoman
Carson City Hall
701 East Carson Street
Carson, CA 90745

To the Honorable Mayor and City Council:

We are a group of concerned citizens in the City of Carson. We are writing this letter to formally oppose any action of the City Council to pass an ordinance that will divide the City of Carson into single member districts for the purposes of electing its City Council without first submitting this to a vote of the public. We believe that implementing single member districts is bad public policy for the City of Carson. We firmly believe that not only is Carson not currently in violation of the California Voting Rights Act of 2001 (hereinafter the "CVRA") but that implementing single member districts through a vote of the Council would actually violate California Law.

I. Background of the Agenda Item

This agenda item was proposed by Mayor Albert Robles after a legal demand letter from Kevin Shenkman, Esq. of Malibu, dated May 22, 2018 was recently received by the City of Carson. The legal demand letter alleged that the current at-large method of electing City Councilmembers in Carson was discriminatory and violated the CVRA. The letter demanded that the City of Carson end its at-large method of electing city councilmembers and switch to single member district elections. The demand letter threatened legal action against the City of Carson if no switch from at-large elections was made.

II. Carson Does not Currently Violate the CVRA

We strongly dispute the allegation that Carson is in violation of the CVRA by holding at-large elections. While the CVRA is a powerful and effective tool to combatting racial discrimination and ensuring diversity on legislative bodies in California, it is not needed in Carson. As the very case cited in the demand letter actually stated, the CVRA "does not prohibit citywide council elections."¹ Instead, the California Court of Appeals has explained that the CVRA "applies only when there has been vote dilution."² The CVRA provides a judicial remedy of district elections only when there has actually been a finding of racial vote dilution.³ There is no current voter dilution present in Carson.

¹ *Jauregui v. City of Palmdale*, 226 Cal. App. 4th 781, 798 (Cal. Ct. App. 2014).

² *Id.*

³ CAL. GOV'T. CODE § 14029.

RECEIVED
CITY CLERK
2018 JUN -5 PM 3:21
CITY OF CARSON

Carson Residents Opposing Single Member Districts

The City of Carson is a racial polyglot. At the last census in 2010, the racial make-up of Carson was 7.7% non-Hispanic white, 23.8% African American, 25.6% Asian American, and 38.6% Hispanic or Latino.⁴ Although the demand letter discusses the large percentage of Hispanics and Latinos in Carson, it omits the fact that Hispanics or Latinos are in fact the largest group. With no racial majority of any race, theoretically, all of us in Carson are members of a "protected class" as defined by the CVRA.⁵

Under the CVRA, "racially polarized voting" is defined as "Voting in which there is a difference . . . in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate."⁶ The demand letter references a few instances of Hispanic/Latino candidates losing elections citywide in Carson. However, the United States Supreme Court has explained that the "loss of political power through vote dilution is distinct from the mere inability to win a particular election".⁷

The elections results in Carson demonstrate that while there is lingering racial bigotry and prejudice among some voters, in a citywide election, a candidate's race or ethnicity will not be a barrier to that candidate getting elected. Candidates belonging to a protected class are often preferred by voters in the rest of the electorate, who incidentally are also members of protected classes. In some cases, candidates from one protected class appear to do better among voters of another protected class than they do among voters from their own protected class.

Currently, the City Council is comprised of three African Americans, the honorable Jawane Hilton, Cedrie L. Hicks, Sr., and Lula Davis-Holmes, and one Asian American, the honorable Elito Santarina. The City's Mayor, the honorable Albert Robles, is Hispanic/Latino and had been previously elected as a member of the City Council. He was elected through an at-large system that according to the demand letter, should have made his repeated electoral victories impossible. In fact, he received some of his highest support in the most recent election in African American precincts.

Mayor Robles is not the only Hispanic/Latino candidate to be elected in Carson either. Carson voters have previously elected Karen Ayila, who is Hispanic/Latino, to the office of City Treasurer. Carson voters elected Julie Ruiz-Raber and Vera Robles DeWitt, both Hispanic/Latino, to the City Council. In addition to Councilman Santarina, Carson voters have previously elected other Asian Americans to citywide position including Helen Kawagoe as the City Clerk. Notwithstanding the fact that non-Hispanic whites comprise only 7.7% of the population, that has not prevented the election of Jim Dear and Mary Louise Custer, who are both non-Hispanic whites to citywide office.

Racism still unfortunately exists in 2018 and one outlet of racism can be seen in election results in numerous cities across California where city councilmembers are elected through at-large elections. These at-large elections produce city councils that do not look like their city and members of a protected class are unable to get elected to office. The CVRA exists to ensure that voters in a

⁴ <https://www.census.gov/2010census/popmap/ipmtxt.php?fl=06:0611530>

⁵ See CAL. GOV'T. CODE § 14026(d) (providing that a "'Protected class" means a class of voters who are members of a race, color, or language minority group, as this class is referenced and defined in the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.)").

⁶ CAL. GOV'T. CODE § 14026(e).

⁷ *Thornburg v. Gingles*, 478 U.S. 30, 57 (1986).

Carson Residents Opposing Single Member Districts

protected class can elect candidates of their choice.⁸ Districts are created in order to allow voters to elect the candidate of their choice. Mr. Shenkman, who authored the demand letter to the City, has done excellent work to help remedy this situation in cities suffering from racially polarized voting across California.

However, Carson is not one of those cities. Members belonging to protected classes are frequently elected to office by voters who do not belong to that same protected class. The election results demonstrate that candidates who are members of protected classes can get elected to citywide office notwithstanding their race and ethnicity. In some instances, candidates of one race have performed better among voters of other races than their own. There is no pattern of racially polarized voting. Thus, the City of Carson is not in violation of the CVRA.

III. The City of Carson Lacks the Legal Authority to Enact Single Member Districts Without Voter Approval

Without a violation of the CVRA, we believe the Carson City Council has no legal authority to pass an ordinance on its own to create single member districts. Carson is a general law city.⁹ In a general law city like Carson, the election rules are governed strictly by statute enacted by the California State Legislature.¹⁰ As explained by the California Attorney General's Office, "Governmental structure of general law cities is a matter strictly regulated by statute. Cities organized under the general laws are controlled by the provisions of the general laws."¹¹ Accordingly, "local legislation that conflicts with state law is void."¹²

California law does not allow for the City of Carson to simply enact single member district elections through a mere City Council vote. Instead, in a long, complex, and specialized process with numerous public hearings, a city council must submit this proposal to the voters first for approval.¹³ The proposal must be vetted through a city planning commission.¹⁴ Alternatively, this ordinance may be proposed through the initiative process.¹⁵ It is true that the California State Legislature recently created a narrow exception to this rule where a city council may do without going to the voters but only in furtherance of the purpose of the CVRA.¹⁶ However, because this change in Carson would not further the purposes of the CVRA, this ordinance would be invalid.¹⁷

There is good reason for having at-large elections in a small city like Carson. First, it creates great expense to the City to draw individual districts. They must be exactly even in population to be legal and comply with the federal Voting Rights Act of 1965.¹⁸ Ensuring that requires hiring extra staff professionals and demographers and spending money on software programs. While this

⁸ See CAL. GOV'T. CODE § 14027.

⁹ CAL. GOV'T. CODE § 34102.

¹⁰ CAL. CONST. Art. XI, § 2(a).

¹¹ 56 Ops. Cal. Atty. Gen. 327 (holding that Garden Grove could not change its City Council system in violation of state laws).

¹² *City of Riverside v. Inland Empire Patients Health & Wellness Center, Inc.*, 56 Cal. 4th 729, 743 (Cal. 2013).

¹³ CAL. GOV'T. CODE § 34871.

¹⁴ CAL. GOV'T. CODE § 34874.

¹⁵ CAL. GOV'T. CODE § 34871(d).

¹⁶ CAL. GOV'T. CODE § 34886.

¹⁷ See *Amwest Sur. Ins. Co. v. Wilson*, 11 Cal. 4th 1243, 1247 (Cal. 1995) (holding that a legislative amendment to a voter initiative was invalid because it failed to further the purposes of the initiative).

¹⁸ CAL. GOV'T. CODE § 34884(a)(1).

Carson Residents Opposing Single Member Districts

expenditure is often necessary to advance racial equality and diversity, here it does not advance racial equality and diversity. And it is money that Carson really does not have available to spend.

Second, single member districts can create unnecessary geographic divides and divisiveness. A councilmember elected for a single member district is not as likely to care about issues affecting residents who he or she does not actually represent. Creating single member districts jeopardizes this and creates the potential for poor governance overall. While these concerns are outweighed by the need for racial diversity in our representatives, Carson has racial diversity. Today, a problem in one neighborhood in Carson is a problem for every single councilmember.

In opposition to this ordinance, we raise two final points. First, while the CVRA is clearly not violated by the City of Carson, a switch to district elections may violate the federal Voting Rights Act. To dilute the votes of African Americans in order to create fewer districts where an African American could be elected have been repeatedly held to be unconstitutional. To the extent that we would reduce the ability of candidates of a protected class to be elected to the City Council, this would raise concerns that Carson was violating federal law.

Next, some may advocate for this switch to single member districts in order to avoid legal fees that could be generated by litigation over this notwithstanding a successful outcome. However, the author of this demand letter will be entitled to legal fees from Carson even if we switch from at-large voting.¹⁹ We greatly respect the work that Mr. Shenkman does across California. But we do not believe he is correct in this instance. Carson is not violating the CVRA.

IV. Conclusion

We oppose any ordinance that would divide Carson into single member districts. Carson is not violating the CVRA. Thus, the enactment of single member districts by the City Council is not permitted under state law, may violate federal law, and is bad public policy. Should the City Council pass an ordinance that divides Carson into single member districts, we will consider all of our options including taking legal action against the City in order to stop it.

Yours truly,



The Concerned Citizens of Carson Opposing Districts

¹⁹ CAL. ELEC. CODE § 10010(f)(1).