

Shareholders
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January 18, 2019

Certified Mail, Return Receipt Requested

City of Sunnyvale
City Clerk
603 All America Way
Sunnyvale, CA 94088-3707

Re: Notice of California Voting Rights Act Violation

Dear City Clerk:

By letter dated October 2, 2018 and sent by certified mail, we notified the City of Sunnyvale (“City”) on behalf of our client Samir Kalra that the City’s at-large method of electing members of the seven-seat City Council, in addition to the existence of racially polarized voting, violates the California Voting Rights Act (“CVRA”). We write again to notify the City that we represent three additional Sunnyvale residents and voters who join Mr. Kalra in his CVRA challenge to the City’s at-large election system: Galen Kim Davis, an active voice in the Sunnyvale community on this issue and involved parent in local youth sports; Kathy Higuchi, a long-time resident and civil rights advocate; and Bowman Ching, a long-time resident and civil rights advocate. This letter is sent on behalf of Mr. Davis, Ms. Higuchi, and Mr. Ching pursuant to Elections Code section 10010(e)(1).

The CVRA states, in pertinent part:

An at-large method of election may not be imposed or applied in a manner that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election, as a result of the dilution or abridgment of the rights of voters who are members of a protected class.

Cal. Elec. Code § 14027. Asian American voters are a “protected class” within the meaning of the CVRA. *See* Cal. Elec. Code § 14026; Office of Management & Budget, Revisions to the Standards for the Classification of Federal Data on Race & Ethnicity, 62 Fed. Reg. 58782, 58789 (Oct. 30, 1997).

Asians and Asian Americans are 44.84% of the City’s total population¹ and about 33% of the City’s eligible voters² (*i.e.* citizen voting age population), yet six of the seven current City

¹ 2013-2017 American Community Survey 5-year Estimates. The most recent ACS 5-year Estimate was released on December 6, 2018, so the cited statistics have been updated from our October 2, 2018 letter.

² 2013-2017 American Community Survey 5-year Estimates. Approximately 46.99% of the City’s eligible voters are White.

Councilmembers are White. In Sunnyvale's history, only three Asian American candidates have been elected onto the City Council.

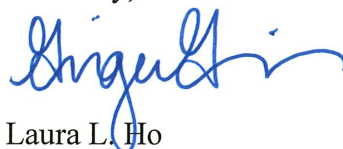
We believe that Asian American voters in Sunnyvale have been unable to elect the candidates of their choice to the City Council because of the City's use of at-large elections with numbered posts in combination with racially polarized voting patterns. We also believe that the existence of these racially polarized voting patterns can be demonstrated, based on election results for the City Council and other elections in which Sunnyvale residents voted. In order for Asian American voters to have a fair opportunity to elect their preferred candidates, the City must change its election system.

In our October 2 letter, we commended the City for initiating steps to change its election system. Today we commend the City on its efforts to do robust community education and outreach, and we will continue to work with the City and its consultant to ensure the City's outreach brings the widest possible range of Sunnyvale residents into the process. However, we have also been clear, and remain adamant, that the City's transition to district-based elections must happen in advance of the November 2020 election to prevent any further dilution of Asian American votes.

We remain concerned that the City's current transition and outreach plan does not provide a reliable timeline for the implementation of a new election system by November 2020. Members of our team, including Richard Konda of Asian Law Alliance, Ginger Grimes of Goldstein, Borgen, Dardarian & Ho, claimant Samir Kalra, and new claimant Galen Kim Davis, testified at the Council's December 11, 2018 meeting to voice our concerns about the City's public outreach plan and the City's refusal to commit to a transition ahead of the November 2020 election cycle. We reiterated our position in a letter to the City Council dated December 13, 2018. During the December 11 meeting, the City expressed interest in a follow-up special session related to its public outreach plan, tentatively scheduled around February 2019. This would be an opportune time for the City to resolve that the change to district elections will be implemented in time for the November 2020 election, whether approved by Sunnyvale voters or adopted through other means.

We look forward to continuing to work with the City and Sunnyvale's diverse communities on a timely transition that incorporates robust community participation and results in a new election system that empowers all Sunnyvale voters.

Sincerely,



Laura L. Ho
Ginger L. Grimes
GOLDSTEIN, BORGEN, DARDARIAN & HO

Richard Konda
ASIAN LAW ALLIANCE

January 18, 2019

Jonathan Stein
ASIAN AMERICANS ADVANCING JUSTICE –
ASIAN LAW CAUCUS

LLH/kbm

cc: Office of the City Clerk
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