

RESPONSE TO COUNCIL QUESTIONS RE: 9/5/18 CITY COUNCIL AGENDA

Agenda Item #: 1

Title: Direction Regarding Public Outreach and Submitting a Charter Amendment to Voters Regarding Changing At-large with Numbered Seats to District-Based Elections

Council Question: Where would one find an enumeration of what a protected class is and who is a member?

Staff Response: California Elections Code section 14026 provides the definition for a protected class under the California Voting Rights Act. It states:

(d) "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 1065 (52 U.S.C. Sec. 10301 et seq.). (emphasis added.)

In the Santa Clara lawsuit, there were multiple plaintiffs and City staff does not know the race or ethnicity of the individual plaintiffs. In the Court's Statement of Decision for the liability phase of the trial, issued on June 6, 2018, the Court did find that the Plaintiff's "have proven by a preponderance of the evidence that the at-large method of election used by the City impairs the ability of Asians to elect candidates as a result of the dilution and abridgment of their rights as voters." (p.at 26:6-9)

Council Question: Also, in the Santa Clara case, the judge mentioned "Asians" as a protected class. It looks like a Asians were not the only plaintiffs, but were called out specifically in the ruling. Is it the case that all protected classes be accommodated in the remedy or those members of a protected class who have the majority of the protected classes within a jurisdiction seeking remedy?

Staff Response: California Election section 14029 affords a court broad discretion in fashioning a remedy once it has found a city is in violation of the Act; it states:

Upon a finding of a violation of Section 14027 and Section 14028, the court shall implement appropriate remedies, including the imposition of district-based elections, that are tailored to remedy the violation.

In the Court's Amended Statement of Decision for the remedies phase of the trial, issued on July 24, 2018, the Court found that "...the adoption of district-based elections will adequately remediate the City's violations of the CVRA **and best serve its residents.**" (emphasis added.) (p. at 7:3-5.). In explaining its reasoning for adopting the district lines shown in Draft Plan 3, the Court stated that it "will remedy the dilution and abridgment of voting rights of Asians who reside in the City.... [and that it will] ...also enhance the voting power of Latino voters." (p. at 7:10-13.) In making this finding, the Court directly remediated the violation of the Act with regards to Asians, while simultaneously enhancing the ability of Latino voters to participate effectively in the political process, which is consistent with the purpose of the Act.