

February 16, 2022

Sent Via Email

Corona City Council
c/o City Clerk
400 S. Vicentia Avenue
Corona, CA 92882
CityClerk@coronaca.gov

Re: City Council Redistricting and Compliance with State and Federal Law

Dear Members of the Corona City Council:

As part of your redistricting process, we urge you to work with counsel and consultants to determine whether the federal Voting Rights Act of 1965 (VRA) requires the City to draw an additional Section 2 compliant council district. We further urge you to adopt a map that follows mandatory state redistricting criteria that were only discretionary when the City transitioned to district elections in 2016. Finally, we request that you include citizen voting age population (CVAP) data as percentages of each district with any draft map that you release. Recent presentations from counsel erroneously list current district 2 as a majority-Latino district, state that the City can simply balance the population and readopt a near-exact version of the existing map, and do not list CVAP data in an accessible format.¹ To ensure that you adopt a fair map that complies with federal and state law, you must engage in a transparent process and adopt a map that does not dilute the Latino vote and that takes into account communities of interest and other important, mandatory criteria.

I. The Federal Voting Rights Act

The City must comply with Section 2 of the VRA to ensure that the final district map does not dilute the voting power of any protected communities. 52 U.S.C. § 10301. Under certain circumstances, Section 2 requires the City to draw districts that provide minority voters with an effective opportunity to elect candidates of choice. To determine whether the Council must create such districts, the Council must first examine the three *Gingles* preconditions: (1) whether the Latino community in Corona is sufficiently large and geographically compact to constitute a majority in an additional single-member district; (2) whether Latino voters are politically cohesive; and (3) whether bloc voting by the majority of voters usually prevents Latino voters from electing their preferred candidates. *Thornburg v. Gingles*, 478 U.S. 30, 50-51 (1986). Together, the second and third factors describe racially polarized voting (“RPV”). Once

¹ Presentation by Best Best & Krieger LLP re City of Corona Redistricting 2021-2022, Second Public Hearing at 8, 9, 14, <https://remapcorona.org/wp-content/uploads/2022/02/Second-hearing-PPT.pdf> [hereinafter “February 2 Presentation”]; see also Video of February 2, 2022 Redistricting Hearing, http://corona.granicus.com/player/clip/892?view_id=1&redirect=true [hereinafter “Video of February 2 Hearing”] (presentation starts at 47:12).

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these preconditions are established, you must “consider[] whether ‘on the totality of circumstances,’ minorities have been denied an ‘equal opportunity’ to ‘participate in the political process and to elect representatives of their choice.’” *Abrams v. Johnson*, 521 U.S. 74, 91 (1997) (quoting 52 U.S.C. § 10301(b)).

The first *Gingles* precondition requires the City to look at CVAP. *Cano v. Davis*, 211 F. Supp. 2d 1208, 1233 (C.D. Cal. 2002). Latino voters make up 37.5% of the City’s CVAP,² and our analysis shows that it is possible to draw two compact districts with Latino CVAP well over 50%, meeting *Gingles* factor I. It is thus incumbent on the City to assess the level of voter polarization in the City and whether community testimony, socioeconomic data, and data on political participation rates confirm that it is possible and necessary to draw an additional Latino-majority district that complies with Section 2.

Neither the current map nor Map Option 1 create a second Latino-majority district. Instead, both maps have just one Latino-majority district, district 3, with Latino CVAP at 57%.³ During the February 2 redistricting hearing, counsel for the City referred to district 2 as a Latino-majority district.⁴ This is incorrect. Latinos in existing district 2 make up only 48% of the CVAP,⁵ 42% of registered voters,⁶ and 39.5% of the voters who turned out during the 2020 general election.⁷ Similarly, Latinos make up only 48.1% of the CVAP in draft district 2.⁸ It is not clear what, if any, analyses the City conducted to assess whether draft district 2 will perform for the Latino community. Given low Latino voter registration and turnout, however, the City likely must go well above the 50% *Gingles* prong I threshold to make district 2 an effective majority-minority district. *See Corbett v. Sullivan*, 202 F. Supp. 2d 972, 985 (E.D. Mo. 2002) (rejecting a remedial district that did not consider low voter turnout and voter registration); *Neal v. Coleburn*, 689 F. Supp. 1426, 1437 (E.D. Va. 1988) (holding that supermajorities in remedial districts were necessary as a corrective measure because socioeconomic disparities had resulted in depressed political participation rates).

The City Council must work with counsel and consultants to: 1) inform the public about the role of the VRA in redistricting, including the need for the City to review community testimony, CVAP data, and socioeconomic data, and the need for the City to conduct an RPV analysis; and 2) determine whether the VRA requires the City to create an additional Section 2 compliant district where Latino voters have an effective opportunity to elect candidates of choice. We further request that the City re-release Map Option 1 with CVAP data as a percentage of each district and attach CVAP data in this format to any draft maps released in the future.

II. State Law Redistricting Requirements

The Fair and Inclusive Redistricting for Municipalities and Political Subdivisions Act (Fair Maps Act), adopted in 2019 and amended in 2020, outlines detailed substantive and procedural requirements that all cities must follow this redistricting cycle. *See, e.g.*, Cal. Elec. Code §§ 21601, 21607.1, 21608. Section 21601(a) of the Elections Code provides that, following each decennial census, the City must adopt a new district map that balances the population. *Id.* § 21601(a). The map must also comply with the VRA and must contain districts that, in order of priority and where practicable: are contiguous, maintain communities of interest, have boundaries that are easily identifiable and understandable, and are compact. *Id.* §§ 21601(b) & (c). Importantly, the Act prohibits partisan gerrymandering, *id.* § 21601(d), and

² 2019 5-year American Community Survey (ACS).

³ February 2 Presentation, *supra* note 1, at 8, 16.

⁴ Counsel erroneously refers to district 2 as a Latino-majority district apparently because Latinos are the plurality of voters in that district. Video of February 2 Hearing, *supra* note 1, at 1:00:00-1:01:00.

⁵ February 2 Presentation, *supra* note 1, at 8.

⁶ Statewide Database’s Spanish surname registration data by precinct.

⁷ Statewide Database’s Spanish surname turnout data by precinct.

⁸ February 2 Presentation, *supra* note 1, at 16.

prohibits you from considering relationships with political parties, incumbents, or political candidates as part of the communities of interest assessment, *id.* § 21601(b)(2). Unlike in 2016 when the City Council had discretion to consider or ignore traditional redistricting criteria like maintaining communities of interest, any new map that the City adopts this cycle must follow the mandatory line-drawing criteria in the Fair Maps Act.

The only draft map released so far, Option 1, simply balances the population to bring it down from nine to six percent total deviation.⁹ Counsel's February 2 presentation reiterates the view that it is permissible for the City to simply re-adopt the existing boundaries with minimal tweaking.¹⁰ While we appreciate that the City drew its existing map in 2016, the City cannot simply readopt the existing map without assessing whether the map, for example, adequately captures communities of interest. The current map was drawn under a different legal scheme, and we urge the Council to engage in a good faith effort to draw a new map that considers and complies with each of the now mandatory ranked criteria.

* * *

The Council should direct staff, including legal counsel and demographic consultants, to determine whether the VRA requires the Council to create an additional Section 2 compliant district in the City. The Council should also continue to work with consultants and engage with community members to ensure that any new map you adopt complies with the Fair Maps Act. If you have any questions, please feel free to contact us at jgomez@aclusocal.org or cvalencia@aclusocal.org.

Sincerely,

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⁹ February 2 Presentation, *supra* note 1, at 14, 17.

¹⁰ *Id.* at 14.