

**Item # 12**  
**AGENDA DATE: 4/6/2022**  
**SUPPLEMENT # 6**

**From:** Christina Turner

**To:** Michelle Bigelow; Kim Mancera

**Subject:** April 6, 2022 City Council Meeting Questions  
Supplement for Item 12 - RECONSIDER ACTION TO ADOPT CITY COUNCIL DISTRICT MAP 103 - FROM  
MARCH 2, 2022 CITY COUNCIL ACTION

**Date:** Tuesday, April 5, 2022

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**Question:** This legal document in essence is a third opinion supporting the two opinions that the city attorney sought to support his findings on the matter of contiguity. This legal document gives an additional insight, as outlined in my comments, that undeniably Map 103 does not comply with Fair Maps Act and VRA as described below. Am I correct in my analogy?

**Response:** Yes. The City Attorney has advised the Council that Map 103 does not comply with the Fair Maps Act. The letter from the Neilsen Merksamer firm is consistent with the City Attorney's advice as well as the advice from the City's outside consultants.

**Question:** You state: As to the threat of litigation, the City would have faced no risk of liability under the equal population requirements if it had adopted any of the other proposed maps, nor would it have faced any threat of litigation under the Voting Rights Act. As to the latter point, the United States Supreme Court has held that liability under the VRA is not triggered unless it is possible to draw a district in which members of a given minority group constitute of at least 50% of the citizen voting age population (i.e., eligible voters). See *Bartlett v. Strickland*, 556 U.S. 1, 19-20 (2009)  
The first sentence is a key legal statement relative to equal population, thus map 103 has no legal basis or threat. The second sentence also is key in that because no district has a minority of more than 50% including map 103 thus the statement that contiguity in the earlier vote is incorrect and has no legal merit.

**Response:** The number one factor for the Council to consider (before considering the Fair Maps Act factors), is that the map must be constitutional. The author of the letter states correctly that none of the legal/contiguous maps prepared by our consultants are unconstitutional, therefore the City has to comply with the contiguity requirement.

**Question:** Again, a key statement, the racial consideration is simply not required by VRA and constitutes unconstitutional gerrymandering. Therefore another map would have been acceptable.

**Response:** The City Attorney has not independently reviewed the case law cited in this statement, but it is consistent with the advice we received from the outside consultants, and we believe it to be an accurate statement of the law.

**Question:** The fact that District D has the lowest proportion of rentals was never disclosed nor the other district never disclosed specifically where the renters were located, however, this would not justify the violation of Map 103 relative to contiguity, correct.

**Response:** The consultants provided demographic data for the various maps, but the number of renters in individual districts was never called out specifically. No one has identified the specific locations of high rental concentrations that could form a community of interest. However, contiguity is a higher priority than communities of interest, so the statement is correct that the existence of communities of interest within District B would not justify violation of the contiguity requirement.

**Question:** Another key point, contiguity is the first instance of priority and wasn't considered in Map 103, accepting map103 defeats the purpose of the order of priority thus not compliant with Fair Maps Act and VRA, correct?

**Response:** Yes. We agree with this statement.