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Sent: Wednesday, November 27, 2019 3:34 PM

To: Michael G. Colantuono <mcolantuono@chwlaw.us>

Subject: Failing to Respect the Legal Requirements of (1) Contiguity and (2) the Majority-Latino District

As you know, other than the absolute requirement to comply with federal law, contiguity has been a traditional districting criterion and AB 849 makes it primary. The only exceptions are for islands (e.g., Brooks Island) and true enclaves (e.g., No. Richmond ballpark), and I do not believe either of these areas has population. As such, much of Richmond's map writes itself, beginning with districts centered around Hilltop and El Sobrante, which are connected to the rest of the city only by narrow land bridges. It is also very difficult to defend any map asserting a community of interest that crosses I-580, which has created a dramatic divide in land use and socio-economic status. Given the limits created by aggregating census blocks into "population units" (which we asked to discuss), there are only two (very similar) combinations that create a majority Latino district in Shields-Reid and Belding Woods. We believe the community should be focused on the margins of this district and given an opportunity to refine it without regard to your "population units." But the fundamental options for Richmond's district maps are severely restrained.

NDC could have produced options that comply with the Voting Rights Act quickly, if they wanted to. They know the territory since they worked for WCCUSD. In April 2018, they told WCCUSD that creating a Latino-majority district was their first priority (WCCUSD agenda, May 2, 2018 #A-7, adopting April 18, 2018 minutes at 3.), but spent almost a year claiming to be unable to find one. Their "Cities and Schools" map did not comply with VRA and tried to perpetuate the status quo. It became the first districting proposal ever to be rejected by the county committee. WCCUSD ultimately adopted my clients' map and conceded that it would have been found to have violated Section 2.

At the last council hearing, NDC's demographer volunteered that whether or not to comply with federal law was a "budgetary decision." She had earlier assured another council member that "respecting neighborhoods," not providing equal influence, was the "most important factor." Cal. Elec. Code 21260 incorporates compliance with Section 2. As Justice Alito recently explained, this requires consideration of race to determine if a majority district can be created for a protected group. *Abbott v. Perez*, 558 U.S. ___ (2018).

The assistant demographer at the Nov. 18 workshop (who is not identified on the audio) dismissed the requirement of a majority-Latino district. When a constituent specifically raised our demand for a majority-Latino district (42:50), he said that "it didn't really matter what the plaintiffs think.... they can threaten all they want.... can't stop someone from suing in California." Later, as prompted by Mr. Gosney, the demographer said that the council should not even consider the plaintiffs' two VRA-compliant maps "Why would they..., given the great turnout tonight?" The "workshop" had no Latinos (and few Asians) because it was called on short notice with very limited outreach, except by Mr. Gosney and the mayor's political newsletter. This demonstrates "a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the minority group." It is difficult to escape the conclusion that the actual purpose of the workshop was to rally opposition to complying

with federal law - and to dismiss well-informed questions about the requirements of the Voting Rights Act. The notion that "turnout" at a selectively publicized meeting justifies dismissing the only options for compliance suggests a lack of good faith.

Of the 15 maps posted yesterday, the plaintiffs' two options (101, 102) are the only ones with majority Latino districts. The fact that NDC itself proposed three maps with Latino districts suggests that the city is intent on defying this federal requirement. NDC's refusal to create any Latino-majority districts is a marked contrast to the "reverse" racial gerrymander it used to create a 51% Asian district in SRVUSD, which combined the incumbent's high turnout gated neighborhoods in Danville with 60% Asian neighborhoods six miles away in Dougherty Valley. As the table below shows, SRVUSD combined these two very different areas (dark green and light green) with no rationale except linking an incumbent with just enough Asians to create a Asian majority trustee area. SRVUSD said a "tentacle" connected the incumbent, who called his own district a "puzzle piece." SRVUSD video, 2/14/19 at 25:29, 1:19:45. By contrast, our maps (101 and 102) are compact, congruent with neighborhoods, reflective of socio-economic communities other than ethnicity, and still provide the required Latino majority of citizen adults. Our proposed districts comply with the majority requirement, as required by law, but race is not the predominant factor.

The demographer also implied that any map was okay as long as it was population balanced, which seems designed to frustrate constituents and foment yet more resistance to compliance. He repeatedly stated that maps could "jump over" unincorporated areas, as well as San Pablo, which is an enclave of Richmond. See audio 22:39. Under this principle, any group of census blocks that touches the external city boundary can be linked with any other group of census blocks that touches the city boundary. Later in the presentation, which was only videoed by Mr. Gosney, the demographer combined your "population groups" 71-74 in the Annex with Tilden Park (5-9) and El Sobrante (1-3). He then proposed to add 81 and 86, which are not contiguous to either the Annex or the eastern Hills, without including the bottleneck groups 69/75 (which we have objected to as too large) or 102 (which is the essential gateway to the McBryde Avenue landbridge).

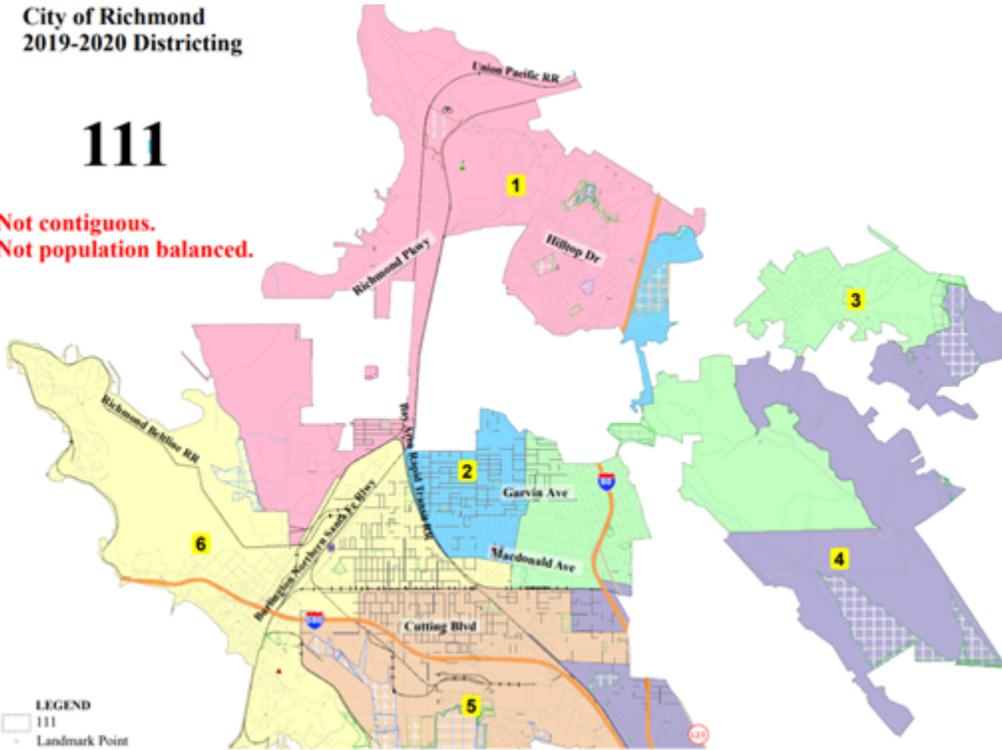
He argued that his exception to the contiguity rule was necessary because city would otherwise be "hamstrung" otherwise, since Richmond's unusual geometry limits the number of options for compact and contiguous districts that are fundamentally different. No such exception exists, which is why we have urged the workshops to focus on the margins between the geographically grouped elements of the city. It is critical that these be conformed to neighborhoods and other communities of interest.

The (anonymous) author of Map 111 relied upon this strange advice, so his map was properly rejected as noncompliant. While several single district maps are constructive, the citywide maps that do not contain majority-Latino districts must also be disqualified.

The misinformation provided at the workshop reinforces the conclusion that the city is fomenting opposition to and confusion regarding the legal requirements that it faces. It would be helpful to understand how prolonging a process of resisting federal requirements could possibly improve outcomes or avoid litigation.

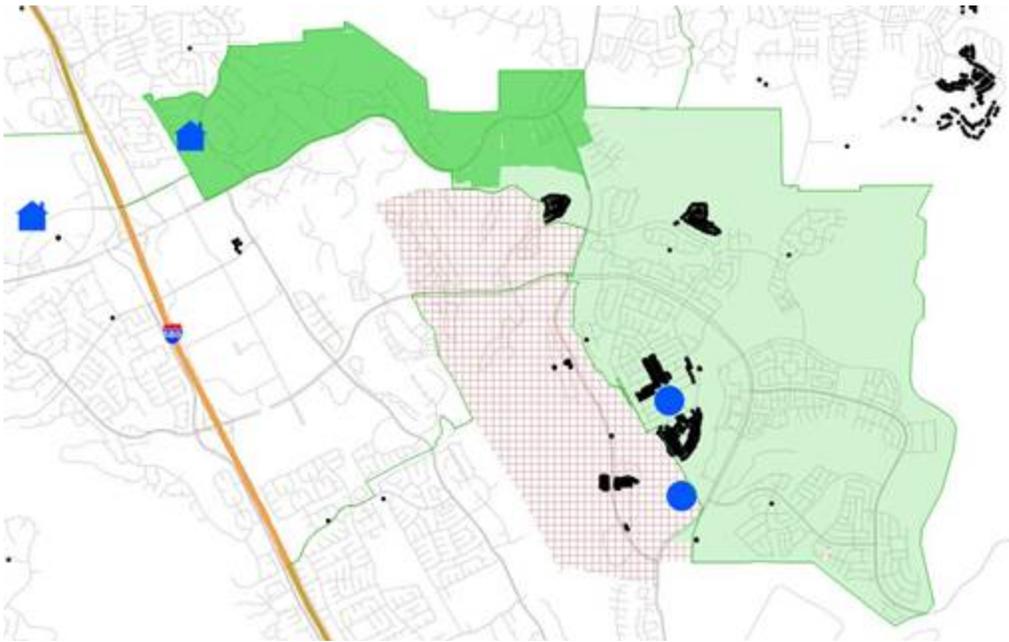
111

Not contiguous.
Not population balanced.



Name: _____
Phone and/or email: _____

SRVUSD - example of a reverse racial gerrymander combining diverse communities of interest (blue homes are incumbents; black dots new construction, large blue dots, new developments >130 units)



Tract
3451.14 Tract 3551.11
W Danville **Dougherty Valley**

	W Danville	Dougherty Valley
Average age	50	33
-over 65	25%	5%
Own home	91%	52%
Employed (if over 25)	49%	96%
Speak only English at home	91%	41%
B.S. or B.S.E.	38%	53%
School-age in home	14%	30%
Born in U.S.A.	86%	52%

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