

Charlot Thickstun  
Director, Division of Elections

December 27, 1991

663-92-0281

465-3600

Resolution of conflict  
in boundary descriptions  
in reapportionment plan

Virginia B. Ragle  
Assistant Attorney General  
Governmental Affairs Section, Juneau

You have asked how a conflict between the official maps and official narrative descriptions of districts established by the reapportionment proclamation should be resolved. This confirms oral advice given by Assistant Attorney General James Baldwin on November 8, 1991. The facts, as explained by Deputy Director Elizabeth Zeigler and by former Advisory Reapportionment Board Director Tuckerman Babcock, are as follows.

As stated in the July 15, 1991, report of the Advisory Reapportionment Board, a decision was made to prevent the pairing of Anchorage's black incumbent representative in a house district with a white incumbent. This was done upon the advice of outside counsel 1/ and this office, based on federal Voting Rights Act considerations. The board members believed that the incumbents were separated when they unanimously recommended the plan to the governor. The governor adopted the reasoning of the board in issuing his proclamation creating the two districts.

During the first week of November, the white incumbent inquired with the division of elections regarding filing of a declaration of candidacy for the new house district (number 22).

When division staff reviewed the detailed Phase II Voting District maps 2/ on which the boundaries of the districts proclaimed by Governor Hickel are drawn, it was discovered that

---

1/ Charles Cooper and Michael Carvin, partners in the Washington, D.C., law firm of Shaw, Pittman, Potts & Trowbridge, provided advice to the board and staff regarding the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c.

2/ These maps were prepared by the Bureau of the Census in connection with a near decade-long project to assist states in accomplishing reapportionment using census data and a computerized geographic cartographic file known as TIGER, which stands for "topologically integrated geographic encoding and referencing."

her residence was actually barely inside the boundaries of the district that had been drawn to include the black incumbent (number 21).

The narrative description of the districts set out in Appendix A to the proclamation indicates an erroneous assumption that, in establishing its TIGER file for Alaska, the Bureau of the Census used Patterson Street as the boundary between Anchorage precincts #164 and #165 for the entire distance between Northern Lights Boulevard and Debarr Road. If this assumption had been correct, the white incumbent would have in fact been placed in the proper new district. Patterson Street, including a length of greenbelt that connects two parts of the roadway, 3/ is in fact the boundary between those precincts, and the two incumbents actually live in different precincts.

However, although the "voting districts" or "vtd's" created by the Bureau of Census in the TIGER geography are supposed to replicate actual state precincts, the Bureau apparently refused to follow the greenbelt line, due to its technical requirements for establishment of block boundaries in the census geography. Instead, the boundary in the census geography takes a jog east to the next north/south street (Tagalak and Paxson Drives) and rejoins Patterson just north of East 20th Avenue. The white incumbent lives on the west side of Paxson. Therefore, the census geography erroneously depicts precinct #165 as including the residences of both incumbents.

Clearly, the line drawn on the Phase II map conflicts with the intent of the board and the governor. The narrative description of the districts indicates that Patterson Street, which separates the two incumbents, is intended to be the boundary between the two districts. The conflict between the line drawn on the Phase II map and the narrative description of the districts should be resolved in favor of the narrative description, since that description implements the intent of the board and of the governor. The precincts established by the division of elections should reflect the correct boundaries set out in the narrative description.

It is important to note that correction of the Phase II map in accordance with the narrative description does no damage to implementation of a policy of paramount concern to the board and governor -- adherence to the one-person one-vote standard.

---

3/ On Anchorage housing stock maps, both the roadway and the greenbelt are designated "Patterson Street."

Charlot Thickstun, Director  
Division of Elections  
AG File #: 663-92-0281

December 27, 1991  
Page 3

In order to correct the conflict between the Phase II maps and the narrative description, the population of 13 single-family residences and 12 duplexes that are currently included in the population counts for House District 21 will have to be included in House District 22. The Department of Labor, after conferring with the Municipality of Anchorage, has advised us that the population of the residences in the affected area at the time of the 1990 Census is estimated to have been 106 people. The shift of population will not result in a variance among the populations of the new districts, statewide, in excess of 10 percent. 4/

Please let us know if you need further advice in this matter.

---

4/ The Advisory Board adopted a policy allowing an overall population variance of up to 10 percent for purposes of compliance with the Voting Rights Act. See Report and Proposed Plan of the Governor's Advisory Reapportionment Board, at 37 (July 15, 1991). The plan recommended by the board included a 6.73 percent variance between house districts with the highest and lowest populations. The governor's changes to the plan, made in response to public comment, resulted in a variance of 9.22 percent. Once the population is allocated between house districts 21 and 22 in accordance with this memorandum, the variance is 9.6 percent.