

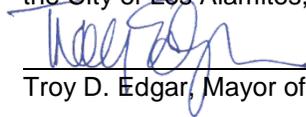
CITY OF LOS ALAMITOS

3191 Katella Ave.
Los Alamitos, CA 90720

AGENDA CITY COUNCIL SPECIAL MEETING

Monday, June 4, 2018 – 6:00 p.m.

I, Troy D. Edgar, as Mayor of the City of Los Alamitos, do hereby call a special meeting of the City Council of the City of Los Alamitos, to be held at the time and place listed above to discuss the matters listed below.



Troy D. Edgar, Mayor of the City of Los Alamitos

NOTICE TO THE PUBLIC

This Agenda contains a brief general description of each item to be considered. Except as provided by law, action or discussion shall not be taken on any item not appearing on the agenda. Supporting documents, including staff reports, are available for review at City Hall in the City Clerk's Office or on the City's website at www.cityoflosalamitos.org once the agenda has been publicly posted.

Each matter on the agenda, no matter how described, shall be deemed to include any appropriate motion, whether to adopt a minute motion, resolution, payment of any bill, approval of any matter or action, or any other action. Items listed as "for information" or "for discussion" may also be the subject of an "action" taken by the City Council at the same meeting.

Any written materials relating to an item on this agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office, 3191 Katella Ave., Los Alamitos CA 90720, during normal business hours. In addition, such writings or documents will be made available for public review at the respective public meeting.

It is the intention of the City of Los Alamitos to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee, or a participant at this meeting, you will need special assistance beyond what is normally provided, please contact the City Clerk's Office at (562) 431-3538, extension 220, 48 hours prior to the meeting so that reasonable arrangements may be made. Assisted listening devices may be obtained from the City Clerk at the meeting for individuals with hearing impairments.

Persons wishing to address the City Council on any item on the City Council Agenda will be called upon at the time the agenda item is called or during the City Council's consideration of the item and may address the City Council for up to three minutes.

1. CALL TO ORDER

2. ROLL CALL

Mayor Edgar
Mayor Pro Tem Kusumoto
Council Member Chirco
Council Member Hasselbrink
Council Member Murphy

3. PUBLIC HEARING

A. Second Public Hearing of Five – Transition to District Based City Council Elections (City Clerk)

The purpose of this public hearing is to inform the public about the districting process and to hear from the community on what factors should be taken into consideration while creating district boundaries. Per Election Code 10010 (a)(1), this is second of two public hearings that will be held before draft maps or proposed district boundaries will be drawn.

Recommendations:

1. Receive this report on the districting process and permissible criteria to be considered to create district boundaries; and,
2. Conduct a public hearing to receive public input on district boundaries.

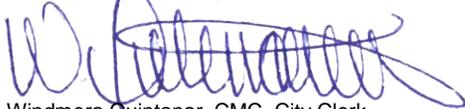
4. CLOSED SESSION

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to paragraph (1) of subdivision (d) of Government Code Section 54956.9. Name of Case: *Los Alamitos Community United, et al. v. City of Los Alamitos, et al.* Superior Court of California, County of Orange, Case No. 30-2018-00987018-CU-WM-CXC.

5. ADJOURNMENT

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing Agenda was posted at the following locations: Los Alamitos City Hall, 3191 Katella Ave.; Los Alamitos Community Center, 10911 Oak Street; and, Los Alamitos Museum, 11062 Los Alamitos Blvd.; not less than 24 hours prior to the meeting.



Windmera Quintanar, CMC, City Clerk
Date: May 31, 2018

City of Los Alamitos

Agenda Report Public Hearing

June 4, 2018
Item No.: 3A

To: Mayor Troy D. Edgar & Members of the City Council
Via: Bret M. Plumlee, City Manager
From: Windmera Quintanar, CMC, City Clerk
Subject: Second Public Hearing of Five – Transition to District Based City Council Elections

Summary: The purpose of this public hearing is to inform the public about the districting process and to hear from the community on what factors should be taken into consideration while creating district boundaries. Per Election Code 10010 (a)(1), this is second of two public hearings that will be held before draft maps or proposed district boundaries will be drawn.

Recommendations:

1. Receive this report on the districting process and permissible criteria to be considered to create district boundaries; and,
2. Conduct a public hearing to receive public input on district boundaries.

Background

The City currently utilizes an at-large election system where voters citywide select each of the five City Council Members. By contrast, a district-based election system is one in which a city is physically divided into separate districts, each with one council member who resides in the district and is chosen solely by the voters residing in that district.

The City received a certified letter on March 29, 2018, from Kevin Shenkman, an attorney with the law firm of Shenkman & Hughes in Malibu, California. The letter asserts that the City's at-large election system violates the California Voting Rights Act by diluting the ability of Latinos to elect candidates of their choice or otherwise influence the outcome of Los Alamitos' City Council elections. Mr. Shenkman claims "polarized voting" may be occurring and threatens litigation if the City declines to voluntarily convert to district-based elections.

The California Voting Rights Act ("CVRA"), codified as Elections Code sections 14025 et seq. became law on January 1, 2003. The purpose of the CVRA is to prevent the disenfranchisement of protected classes; which are broadly defined to include members of a race, color, or language minority group. Any voter who resides in a city and is a member of a protected class may file a lawsuit against the city for a violation of the CVRA. To succeed, the plaintiff must only show that, as a result of an at-large election, "racially polarized voting" has occurred. "Racially polarized voting" means there is a difference between the choice of candidates preferred by voters in a protected class and candidates preferred by voters in the remainder of the voting

population. If the plaintiff prevails in litigation, the CVRA allows for the recovery of significant attorneys' fees and expert witness fees. On the other hand, even if the city prevails, it cannot recover either attorneys' fees or costs.

Consequently, cities throughout the State have increasingly faced legal challenges to their at-large election systems. Nearly all have settled claims out of court by voluntarily transitioning to district-based elections. Those cities that have attempted to defend their existing at-large election systems have incurred significant legal costs. A few examples:

Palmdale: \$4.5 million
Whittier: \$1 million
Anaheim: \$1.1 million

Modesto: \$3 million
Santa Barbara: \$600,000

Staff is unaware of any city that has prevailed in defending its at-large election system under a claim filed pursuant to the CVRA.

On September 28, 2016, the Governor signed AB 350 into law, codified as Elections Code section 10010. The legislation provides a "safe harbor" from CVRA litigation for cities. Once a city receives a demand letter, it has 45 days of protection from litigation to assess its situation. If within that 45-day period, a city adopts a resolution of intention declaring its intent to transition from at-large to district-based elections, outlining specific steps to be undertaken to facilitate the transition, and estimating a timeframe for action, then a potential plaintiff is prohibited from filing a CVRA action for an additional 90-day period. Under AB 350, a city's liability is capped at \$30,000 if it utilizes the safe harbor provisions after receiving a demand letter.

The first step in transitioning to district-based elections is adoption of a resolution of intention. Pursuant to Government Code Section 34886 and Elections Code Section 10010. On May 11, 2018, the City Council adopted Resolution No. 2018-08 ("Resolution of Intention") declaring its intention to transition from at-large to district-based elections for the City Council commencing with the General Municipal Election in November 2020. Through its approval of the Resolution of Intention, the City Council determined that it was in the public interest to begin the process of transition from at-large to district-based elections due to the uncertainty of litigation to defend against a CVRA lawsuit and the potentially extraordinary cost of such a lawsuit, notwithstanding the City Council's assertion that the City's election system is legal in all respects.

Elections Code Section 10010 provides that before any map or maps of the boundaries for the proposed districts are drawn, the City must conduct two (2) public hearings over a period of no more than thirty (30) days, at which time the public is invited to provide input regarding the composition of said districts.

Public Hearing #1 was held on Tuesday, May 29, 2018. Three members of the public spoke during the public hearing. They expressed concern that more outreach to the public needed to occur, opposition to the mandated expedited timeline, and questioned the benefit of district elections. Council discussed the California Voting Rights Act, which mandates the transition to district-based elections, and stated concern district elections would not properly represent the will of all Los Alamitos residents. Council pointed out this was not a Council driven action and the Council was required by law to move forward with district-based elections in an expedited manner to remain within the safe harbor provisions of the CVRA and avoid costly legal fees. Council acknowledged there was not a large turnout for the public hearing and directed Staff to advertise future meeting dates in more locations.

Community Outreach

Since adoption of the Resolution of Intention, the City has engaged in outreach efforts to inform the public about district elections and the process associated with developing the City Council election districts. The Public Hearing Notice for the hearings was published in English, Spanish, Korean, and Vietnamese in the May 16, 2018 edition of the News Enterprise. A color ad noticing the dates ran in the May 2nd edition of the News Enterprise. A color ad was posted on the Orange County Breeze website on May 30 and will run until July 16, 2018. The notices were posted on the City's website, in the three posting locations throughout the City, published on local Channel-3 and the City's social media outlets including Facebook, Twitter, and Nextdoor.com. A video of Public Hearing #1 is running at least once a day on Channel 3 and is available on the City's website. Staff created a new flyer to inform the public and get them engaged. The Chamber of Commerce sent the Public Hearing dates out to its mailing list on March 30, 2018. On March 31, 2018 Staff sent out an email blast to the City's distribution list of approximately 560 Los Alamitos residents. Staff has also requested the Los Alamitos Unified School District send the information to its distribution list.

Discussion

The public is requested to provide input regarding communities of interest and other local factors that should be considered while drafting district maps. A *community of interest* is a neighborhood or group that would benefit from being in the same district because of shared interests, views, or characteristics. Possible community features include, but are not limited to:

- A. School attendance areas;
- B. Natural dividing lines such as major roads, hills, or highways;
- C. Areas around parks and other neighborhood landmarks;
- D. Common issues, neighborhood activities, or legislative/election concerns; and
- E. Shared demographic characteristics, such as:
 - (1) Similar levels of income, education, or linguistic insolation;
 - (2) Languages spoken at home; and
 - (3) Single-family and multi-family housing unit areas.

The City must ensure compliance with the following state and federally-mandated criteria:

- Each district shall contain a nearly equal population.
- Each district shall be drawn in a manner that complies with the Federal Voting Rights Act.
- Each district shall not be drawn with race as the predominate factor in violation of the principles established by the U.S. Supreme Court in *Shaw v. Reno*, 509 U.S. 630 (1993), and its progeny.

Next Steps

Tonight Council will conduct Public Hearing #2 to seek public input and provide direction on criteria to be considered while drafting district maps. Following tonight's hearing, draft district maps and proposed election sequencing will be posted to the City website and available at City Hall on or before June 11. Those maps (and any possible new or revised maps) will be discussed at Council hearings on June 18, July 9, and July 16. An ordinance transitioning to district-based elections is scheduled to be introduced at the July 16th Council meeting, with second reading and adoption in August.

At the June 18, 2018 Special City Council Meeting, the City Council will conduct Public Hearing #3 to seek public input on the content of draft district map(s) and sequence of elections and direct amendments as necessary.

On July 9, 2018, the City Council will conduct Public Hearing #4 and will be requested to select a preferred map and direct amendments as necessary.

On July 16, 2018, a public hearing will be held to adopt a preferred district map and to introduce an ordinance to transition to a district-based electoral system. Second reading and adoption of the ordinance is scheduled to occur on August 20, 2018, and the City Clerk and demographer will then work with the County Elections Division to have the district maps integrated into the countywide voting system. The first district-based Los Alamitos City Council election will be held in November 2020.

Fiscal Impact

Transitioning to district elections required the City to retain the services of a demographer, National Demographic Consultants (NDC). The cost of these service is roughly \$17,000. Significant Staff time will be required to transition to district-based elections and to administer the process including the need for five (5) public hearings. Council appropriated \$20,000 from the General Fund to the Election Expense account for this purpose on May 11, 2018.

Should the City Council ultimately adopt an ordinance to transition to a district-based electoral system, the law firm of Shenkman and Hughes, which threatened litigation if the City declined to voluntarily transfer to district-based elections, may seek reimbursement for its documented costs up to \$30,000; the City, however, will not be exposed to the potential much higher legal fees involved in defense of a lawsuit brought under the California Voting Rights Act. Additional legal fees will be incurred by our City Attorney as well for this unbudgeted item. Once these additional charges have been realized, an appropriation request will come back to the Council.

Submitted By: Windmera Quintanar, CMC, City Clerk

Approved By: Bret M. Plumlee, City Manager

Attachments:

- 1. PowerPoint Presentation*
- 2. Adopted Timeline for District-based Elections*
- 3. Flyer Advertising Public Hearing Dates*
- 4. Flyer Requesting Public Input*
- 5. Demand Letter*



City of Los Alamitos Districting 2018

June 4, 2018

Dr. Douglas Johnson, President, NDC

1. **“At Large”**
2. **“From District” or “Residence” Districts**
3. **“By District”**

The California Voting Rights Act was written to specifically require by-district elections.

Project Timeline

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Date	Event
May 29	1 st hearing to gather input on the composition of districts
June 4	2nd hearing to gather input on the composition of districts
<i>June 11 at the latest</i>	<i>Draft maps posted on City website and available at City Hall</i>
June 18	3 rd hearing: public input on draft maps and election sequencing (5 pm)
July 9	4 th hearing: public input on draft maps and election sequencing Possible map selection and First Reading
July 16	5 th hearing: Map selection and adoption
Nov. 2020	First by-district elections in two districts
Nov. 2022	First by-district elections in remaining three districts
2021	Districts redrawn to reflect 2020 Census data

□ Switched (or in the process of switching) as a result of CVRA:

- At least 165 school districts
- 30 Community College Districts
- 90 cities
- 1 County Board of Supervisors
- 8 water and other special districts.

□ Key decisions & settlements

- Only Palmdale has gone to trial on the merits (the city lost)
- Key settlements:
 - Palmdale: \$4.7 million
 - Modesto: \$3 million
 - Anaheim: \$1.1 million
 - Whittier: \$1 million
 - Santa Barbara: \$600,000
 - Tulare Hospital: \$500,000
 - Madera Unified: about \$170,000
 - Hanford Joint Union Schools: \$118,000
 - Merced City: \$42,000
 - Placentia: \$20,000

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Demographic & Election Review

June 4, 2018

Traditional Districting Criteria

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Federal Laws

- Equal Population
- Federal Voting Rights Act
- No Racial Gerrymandering



Traditional Criteria

- Communities of interest
- Compact
- Contiguous
- Visible (Natural & man-made) boundaries
- Planned future growth/
Growth since 2010
- Respect for voters' wishes and continuity in office

Defining Communities of Interest

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1st Question: what is your neighborhood or community of interest?

A Community of Interest is generally defined as a neighborhood or community of shared interests, views, problems, or characteristics.

Possible community feature/boundary definitions include:

- ❑ School attendance areas
- ❑ Natural neighborhood dividing lines, such as highway or major roads, rivers, canals, and/or hills
- ❑ Areas around parks and other neighborhood landmarks
- ❑ Common issues, neighborhood activities, or legislative/election concerns
- ❑ Shared demographic characteristics
 - ▣ Such as similar levels of income, education, or linguistic isolation

2nd Question: Does a Community of Interest want to be united in one district, or to be divided to have a voice in multiple elections?



Demographic Summary

Latinos are 21% of the total population and 19% of the eligible voters (measured by Citizen Voting Age Population data).

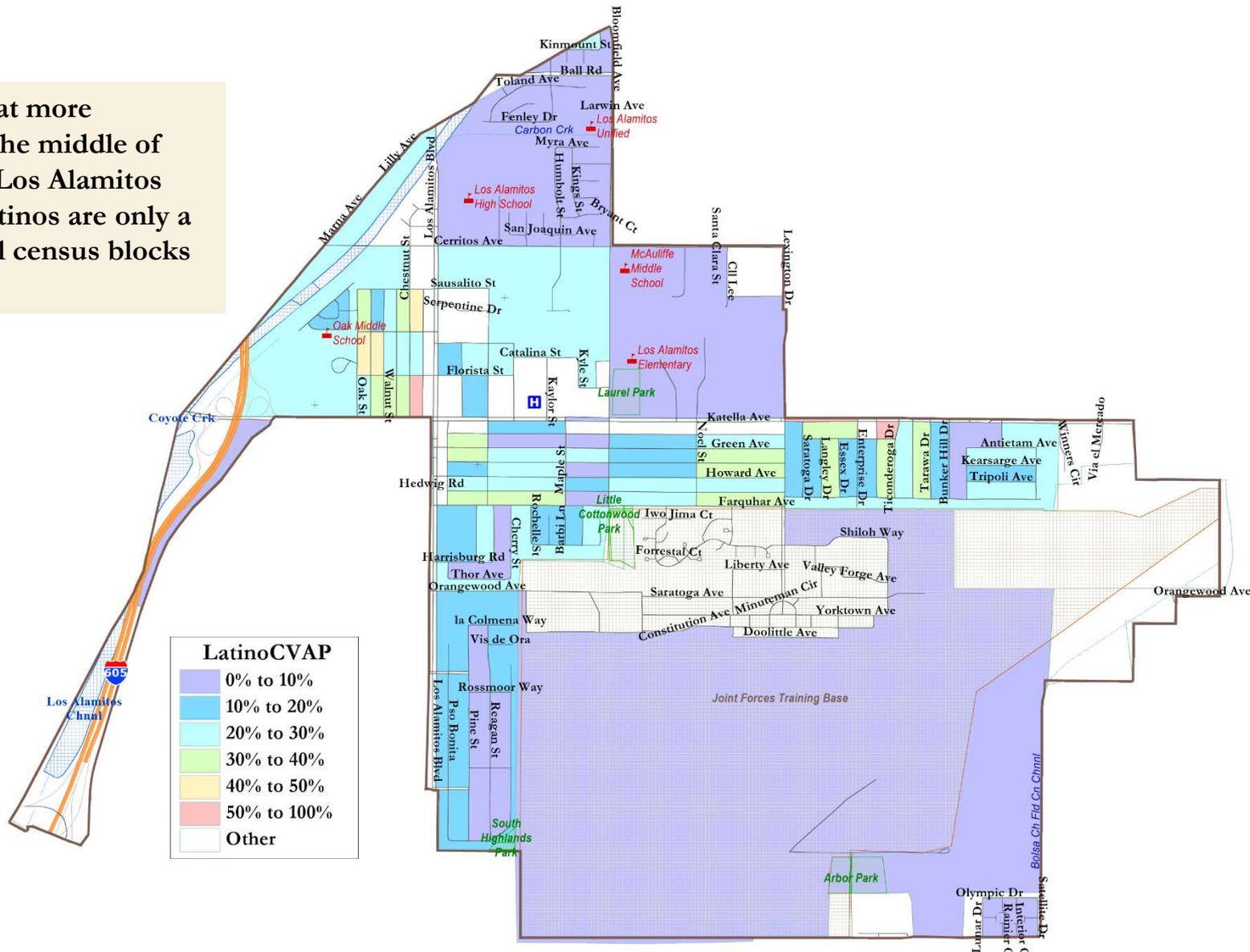
Asian-Americans are 14% of total population and 13% of eligible voters.

African-Americans are 3% of total population and 6% of eligible voters.

Race/Ethnic Profile	Count	Percent	ACS Profile	Count	Percent
Total Population	11,409		ACS Total Population	11,706	3%
Latino	2,415	21%	Immigrant	1,699	15%
NH White	6,704	59%	Naturalized (pct of total immigrants)	1,081	64%
NH Black/African-American	361	3%	Age 5+	11,182	
NH Native American	71	1%	Speak English at home	8,731	78%
NH Asian-American	1,636	14%	Speak Spanish at home	1,086	10%
NH Pacific Islander	67	1%	Speak an Asian language at home	1,047	9%
NH Other	61	1%	Speak other language at home	317	3%
NH Multi-Race	94	1%	Speak English only "well" or less	852	8%
Citizen VAP total	8,364		Age 25+	7,835	
CVAP Latino	1,594	19%	Age 25+, no HS degree	671	9%
CVAP NH White	4,934	59%	Age 25+, HS degree (only)	3,928	50%
CVAP NH African-American	495	6%	Age 25+, bachelor degree (only)	1,959	25%
CVAP NH Asian & Pacific Islander	1,105	13%	Age 25+, graduate degree (only)	1,278	16%
CVAP Other	235	3%	Households	4,181	
			Child under 18 in Household	1,416	34%
Voter Registration (Nov. 2016)	6,319		Income \$0-25k	547	13%
Estimated Latino Reg	1,089	17%	Income \$25-50k	638	15%
Spanish-Surnamed Reg.	978	15%	Income \$50-75k	775	19%
Asian-Surnamed Reg.	398	6%	Income \$75-200k	1,845	44%
Filipino-Surnamed Reg.	102	2%	Income \$200k+	376	9%
Est. NH White Reg.	4,249	67%	Housing units	4,293	
Est. African-Amer. Reg	352	6%	Single-Family	2,485	58%
Democratic Reg.	2,149	34%	Multi-Family	1,808	42%
Republican Reg.	2,479	39%	Rented	2,291	55%
Other/No Party Reg.	1,691	27%	Owned	1,891	45%
Voters Casting Ballots (Nov. 2016)	5,114	81%	Voters Casting Ballots (Nov. 2014)	2,655	46%
Estimated Latino Voters	858	17%	Estimated Latino Voters	308	12%
Spanish-Surnamed Voters	770	15%	Spanish-Surnamed Voters	277	10%
Asian-Surnamed voters	304	6%	Asian-Surnamed voters	146	5%
Filipino-Surnamed voters	81	2%	Filipino-Surnamed voters	30	1%
Est. NH White voters	3,486	68%	Est. NH White voters	2,108	79%
Est. African-Amer. Reg	276	5%	Est. African-Amer. Reg	34	1%
Democratic voters	1,787	35%	Democratic voters	871	33%
Republican voters	2,081	41%	Republican voters	1,307	49%
Other/No Party voters	1,246	24%	Other/No Party voters	478	18%

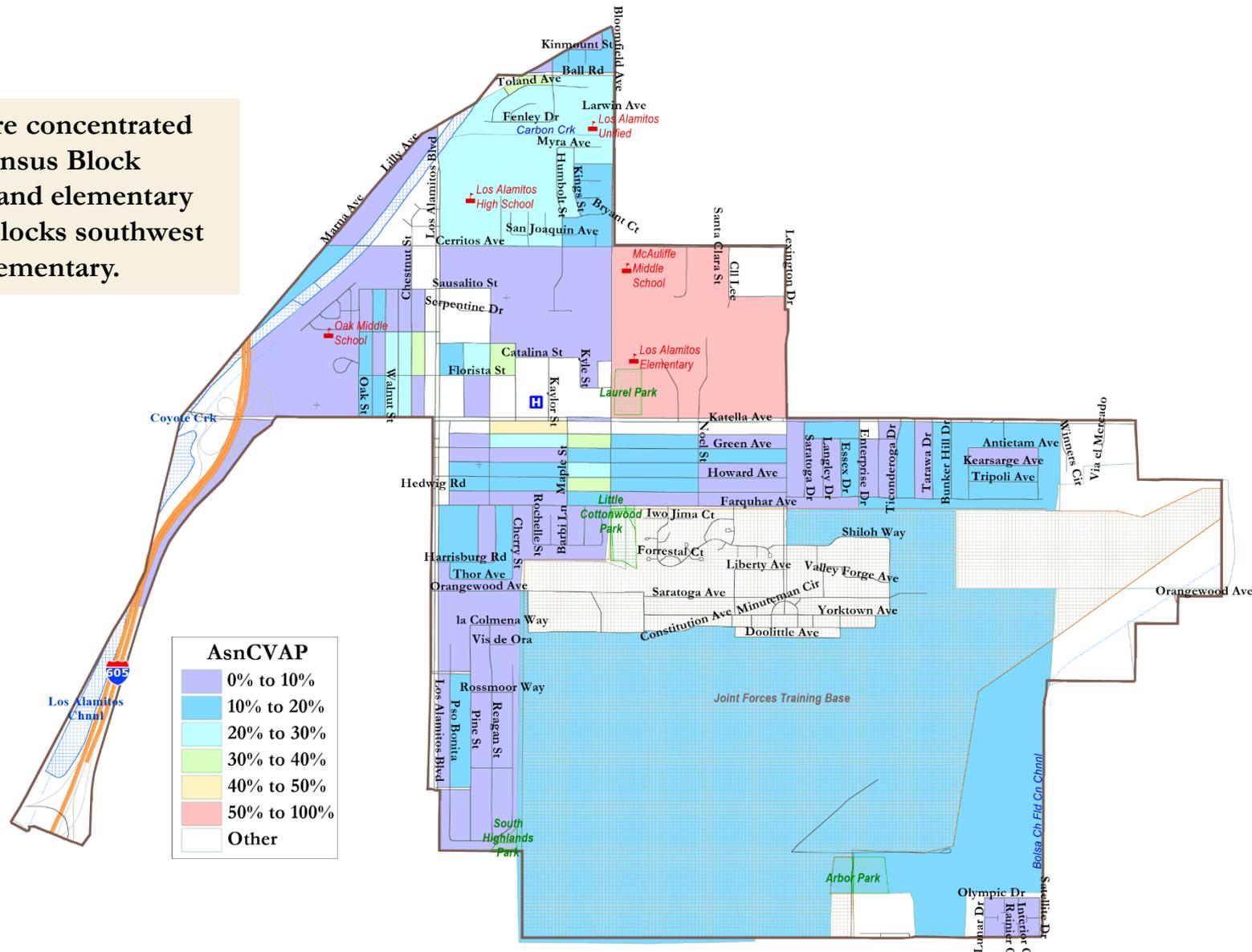
Latino Percentage of Eligible Voters

Latinos are somewhat more concentrated along the middle of the city and around Los Alamitos High School, but Latinos are only a majority in two small census blocks (shown in red).

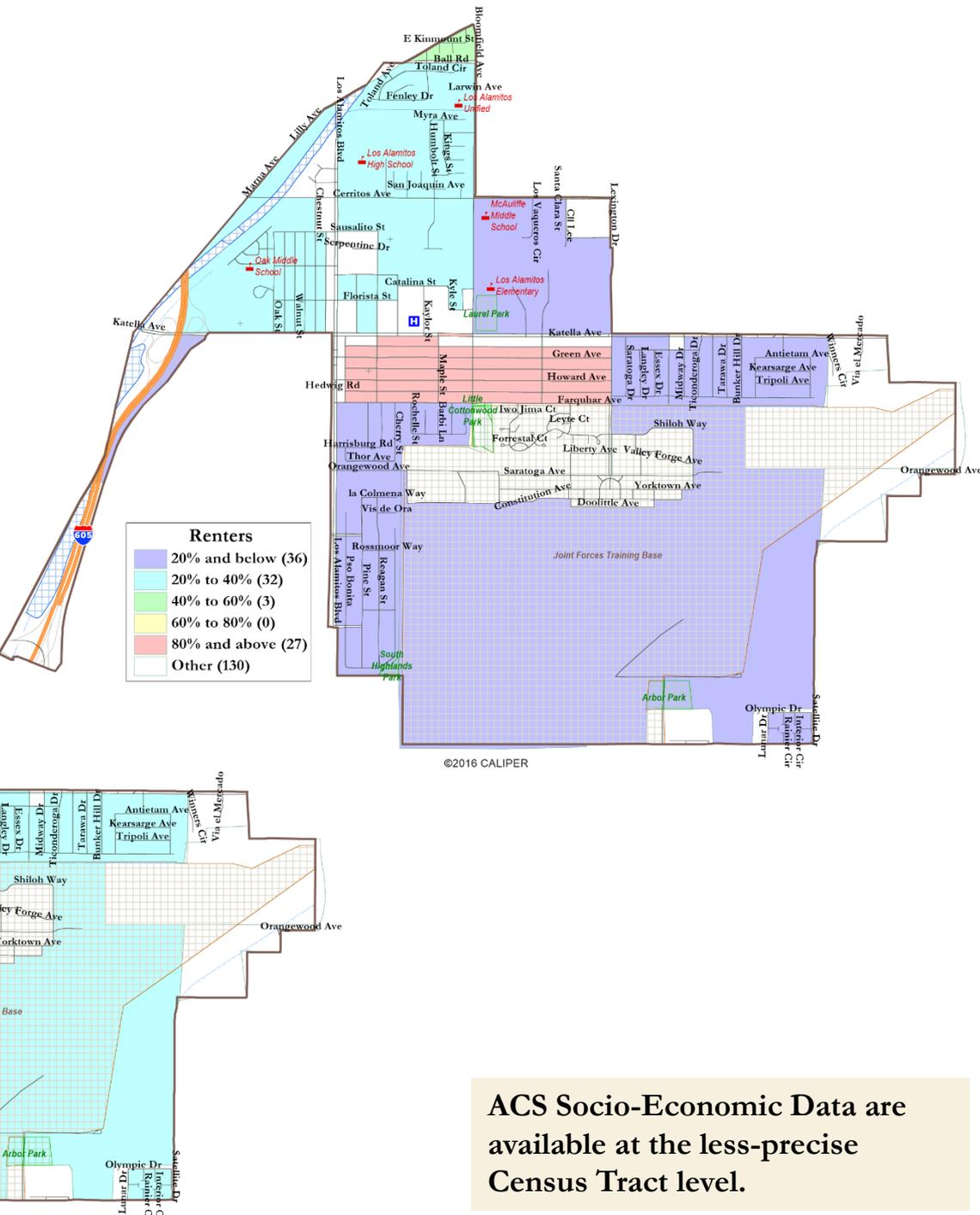
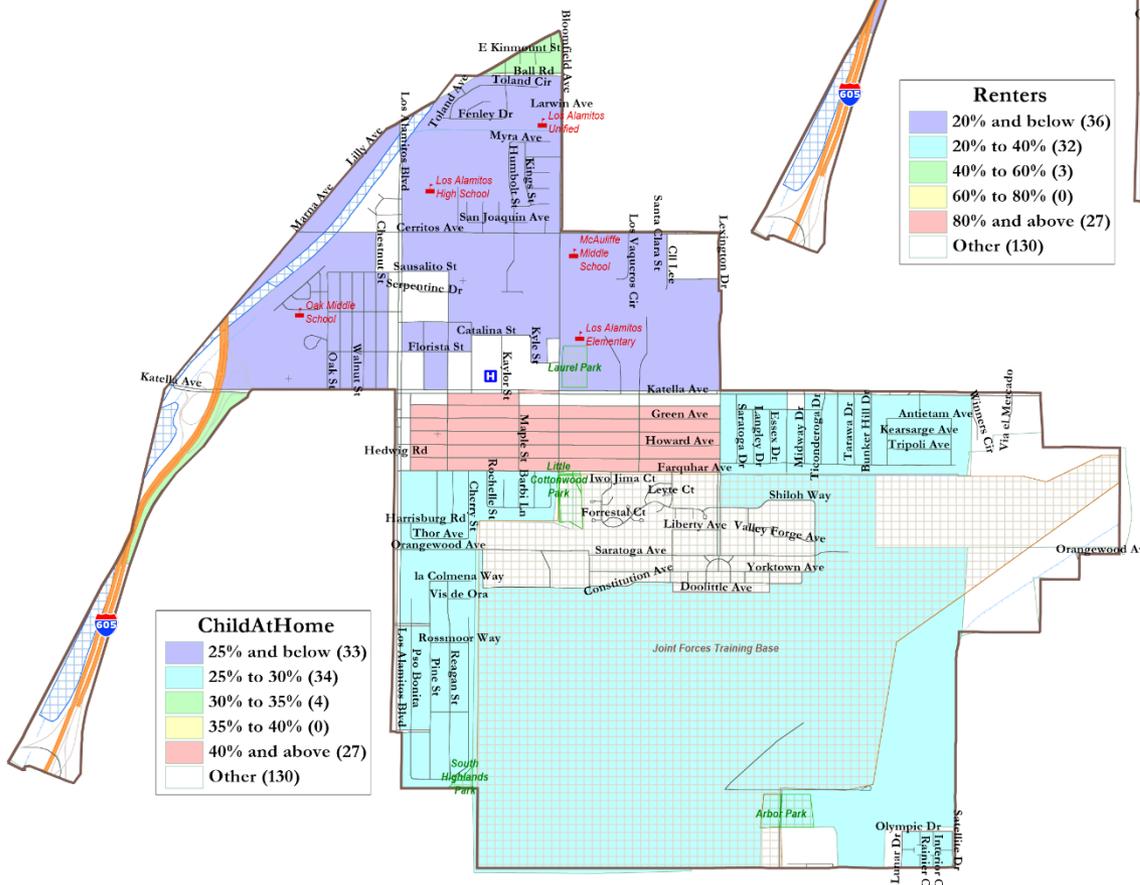


Asian-Amer. Eligible Voters

Asian-Americans are concentrated in the 85-person Census Block around the middle and elementary schools and a few blocks southwest of Los Alamitos Elementary.



Other Demographics



©2016 CALIPER

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ACS Socio-Economic Data are available at the less-precise Census Tract level.

Discussion & Questions

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1. What is your neighborhood or “community of interest”?
2. Do you prefer your neighborhood be kept together in one district or have multiple representatives?
3. What are other communities of interest in the City that should be considered when drafting maps?

TIMELINE: CONSIDERATION AND IMPLEMENTATION OF DISTRICT-BASED ELECTIONS SYSTEM

DATE	EVENT	COMMENT
March 29, 2018	City received Notice of Violation of CVRA	City has 45 days (May 12, 2018) to adopt a Resolution of Intention to transition to district elections
May 11, 2018	Informational Report	Staff presented a report to the City Council on the Notice of Violation
May 11, 2018	Resolution of Intention	90-Day Safe Harbor begins (Ends August 9, 2018)
May 29, 2018 6:00 p.m.	First Public Hearing	Council hearing regarding composition of districts. No maps to be drawn yet.
June 4, 2018 6:00 p.m.	Second Public Hearing	Council hearing regarding composition of districts. No maps to be drawn yet. <i>First and second public hearings must occur within a period of 30 days.</i>
June 7, 2018	Post Draft Maps and Potential Sequence of Elections	Draft maps and proposed sequence must be posted publicly at least 7 days before next hearing.
June 18, 2018 5:00 p.m.	Third Public Hearing	Council hearing regarding published drafts maps. <i>Third and fourth public hearings must occur within a period of 45 days.</i>
June 19, 2018	Post Draft Maps and Potential Sequence of Elections	Draft maps and proposed sequence must be posted publicly at least 7 days before next hearing.
July 9, 2018 6:00 p.m.	Fourth Public Hearing	Council hearing regarding published drafts maps. <i>If selected map is amended, ordinance cannot be introduced until 7 days after the amended map is published.</i>
July 9, 2018	Post Amended Draft Maps	Draft maps and proposed sequence must be posted publicly at least 7 days before being adopted..
July 16, 2018 6:00 p.m.	Fifth Public Hearing	Council introduces ordinance establishing district elections, selects map, includes district boundaries and elections sequence
August 20, 2018	Ordinance Adoption	Second reading and adoption of Ordinance.
September 2018	County Elections Division	Staff and the demographer will work with the Orange County Elections Division to implement districts into the County's elections database.
November 2020	General Municipal Election	First election utilizing adopted district boundaries.



CITY OF Los Alamitos

3191 Katella Avenue, Los Alamitos, CA 90720

California

PUBLIC HEARING NOTICE City Council Voting Districts

NOTICE IS HEREBY GIVEN the City Council of the City of Los Alamitos will conduct Public Hearings on the below listed dates and times in the City Council Chamber located at 3191 Katella Ave., Los Alamitos, CA to discuss CREATION OF A CITY COUNCIL DISTRICT-BASED ELECTORAL SYSTEM PURSUANT TO CA ELECTIONS CODE 10010

Tuesday, May 29, 2018 - 6:00 p.m.

Monday, June 4, 2018 - 6:00 p.m.

Monday, June 18, 2018 - 5:00 p.m.

Monday, July 9, 2018 - 6:00 p.m.

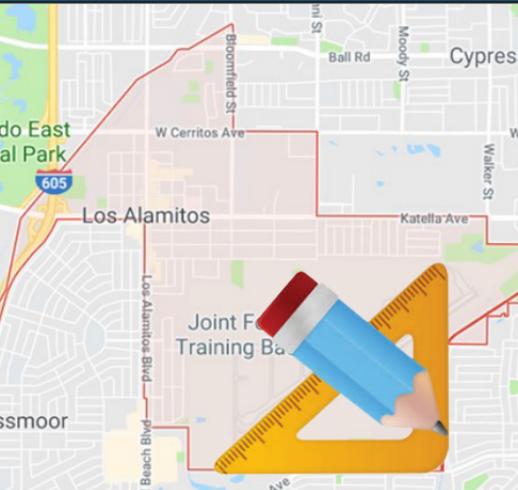
Monday, July 16, 2018 - 6:00 p.m.

**For more information visit us online:
www.cityoflosalamitos.org**

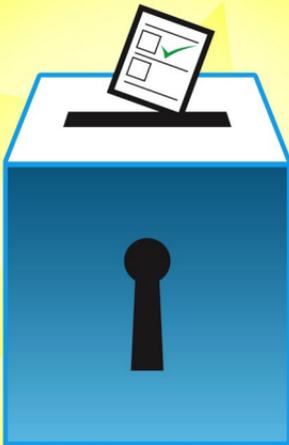
**Windmera Quintanar, CMC, City Clerk
(562) 431-3538, ext. 220
wquintanar@cityoflosalamitos.org**



CITY COUNCIL VOTING DISTRICTS



WE NEED YOUR INPUT
Join us as we discuss
the future of Los Al's
Voting Districts



DRAW LOS ALAMITOS' FUTURE

For more information visit us online:

www.cityoflosalamitos.org/district-elections

SHENKMAN & HUGHES, PC

Attorneys

Malibu, California

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28905 Wight Road
Malibu, California 90265
(310) 457-0970kshenkman@shenkmanhughes.com

VIA CERTIFIED MAIL

March 27, 2018

Windmera Quintanar - City Clerk
City of Los Alamitos
3191 Katella Avenue
Los Alamitos, CA 90720*Re: Violation of California Voting Rights Act*

I write on behalf of our client, Southwest Voter Registration Education Project and its members. The City of Los Alamitos (“City”) relies upon an at-large election system for electing candidates to its City Council. Moreover, voting within the City is racially polarized, resulting in minority vote dilution, and, therefore, the City’s at-large elections violate the California Voting Rights Act of 2001 (“CVRA”).

The CVRA disfavors the use of so-called “at-large” voting – an election method that permits voters of an entire jurisdiction to elect candidates to each open seat. *See generally Sanchez v. City of Modesto* (2006) 145 Cal.App.4th 660, 667 (“*Sanchez*”). For example, if the U.S. Congress were elected through a nationwide at-large election, rather than through typical single-member districts, each voter could cast up to 435 votes and vote for any candidate in the country, not just the candidates in the voter's district, and the 435 candidates receiving the most nationwide votes would be elected. At-large elections thus allow a bare majority of voters to control *every* seat, not just the seats in a particular district or a proportional majority of seats.

Voting rights advocates have targeted “at-large” election schemes for decades, because they often result in “vote dilution,” or the impairment of minority groups’ ability to elect their preferred candidates or influence the outcome of elections, which occurs when the electorate votes in a racially polarized manner. *See Thornburg v. Gingles*, 478 U.S. 30, 46 (1986) (“*Gingles*”). The U.S. Supreme Court “has long recognized that multi-member districts and at-large voting schemes may operate to minimize or cancel out the voting strength” of minorities. *Id.* at 47; *see also id.* at 48, fn. 14 (at-large elections may also cause elected officials to “ignore [minority] interests without fear of political consequences”), citing *Rogers v. Lodge*, 458 U.S. 613, 623 (1982); *White v. Register*, 412 U.S. 755, 769 (1973). “[T]he majority, by virtue of its numerical superiority, will regularly defeat the choices of minority voters.” *Gingles*, at 47. When racially polarized

voting occurs, dividing the political unit into single-member districts, or some other appropriate remedy, may facilitate a minority group's ability to elect its preferred representatives. *Rogers*, at 616.

Section 2 of the federal Voting Rights Act (“FVRA”), 42 U.S.C. § 1973, which Congress enacted in 1965 and amended in 1982, targets, among other things, at-large election schemes. *Gingles* at 37; *see also* Boyd & Markman, *The 1982 Amendments to the Voting Rights Act: A Legislative History* (1983) 40 Wash. & Lee L. Rev. 1347, 1402. Although enforcement of the FVRA was successful in many states, California was an exception. By enacting the CVRA, “[t]he Legislature intended to expand protections against vote dilution over those provided by the federal Voting Rights Act of 1965.” *Jauregui v. City of Palmdale* (2014) 226 Cal. App. 4th 781, 808. Thus, while the CVRA is similar to the FVRA in several respects, it is also different in several key respects, as the Legislature sought to remedy what it considered “restrictive interpretations given to the federal act.” Assem. Com. on Judiciary, Analysis of Sen. Bill No. 976 (2001-2002 Reg. Sess.) as amended Apr. 9, 2002, p. 2.

The California Legislature dispensed with the requirement in *Gingles* that a minority group demonstrate that it is sufficiently large and geographically compact to constitute a “majority-minority district.” *Sanchez*, at 669. Rather, the CVRA requires only that a plaintiff show the existence of racially polarized voting to establish that an at-large method of election violates the CVRA, not the desirability of any particular remedy. *See* Cal. Elec. Code § 14028 (“A violation of Section 14027 *is established* if it is shown that racially polarized voting occurs ...”) (emphasis added); *also see* Assem. Com. on Judiciary, Analysis of Sen. Bill No. 976 (2001–2002 Reg. Sess.) as amended Apr. 9, 2002, p. 3 (“Thus, this bill puts the voting rights horse (the discrimination issue) back where it sensibly belongs in front of the cart (what type of remedy is appropriate once racially polarized voting has been shown).”)

To establish a violation of the CVRA, a plaintiff must generally show that “racially polarized voting occurs in elections for members of the governing body of the political subdivision or in elections incorporating other electoral choices by the voters of the political subdivision.” Elec. Code § 14028(a). The CVRA specifies the elections that are most probative: “elections in which at least one candidate is a member of a protected class or elections involving ballot measures, or other electoral choices that affect the rights and privileges of members of a protected class.” Elec. Code § 14028(a). The CVRA also makes clear that “[e]lections conducted prior to the filing of an action ... are more probative to establish the existence of racially polarized voting than elections conducted after the filing of the action.” *Id.*

Factors other than “racially polarized voting” that are required to make out a claim under the FVRA – under the “totality of the circumstances” test – “are probative, but not

necessary factors to establish a violation of” the CVRA. Elec. Code § 14028(e). These “other factors” include “the history of discrimination, the use of electoral devices or other voting practices or procedures that may enhance the dilutive effects of at-large elections, denial of access to those processes determining which groups of candidates will receive financial or other support in a given election, the extent to which members of a protected class bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process, and the use of overt or subtle racial appeals in political campaigns.” *Id.*

The City’s at-large system dilutes the ability of Latinos (a “protected class”) – to elect candidates of their choice or otherwise influence the outcome of the City’s Council elections.

The City’s election history is illustrative: during the past 15 years, there has not been a single Latino candidate for the Los Alamitos City Council. Opponents of fair, district-based elections may attribute the lack of Latinos vying for elected positions to a lack of interest in local government from the Latino community. On the contrary, the alarming absence of Latino candidates seeking election to the Los Alamitos City Council reveals vote dilution. *See Westwego Citizens for Better Government v. City of Westwego*, 872 F. 2d 1201, 1208-1209, n. 9 (5th Cir. 1989).

The elections on ballot measures addressing the rights of ethnic minorities are similarly illustrative of the racially polarized voting in City of Los Alamitos. For example, in the 1994 election for State Proposition 187, which involved the denial of governmental benefits to persons who could not demonstrate legal residence, Latino voters voted against State Proposition 187, while the rest of the electorate in City of Los Alamitos, particularly the Non-Hispanic White voters, supported the passage of State Proposition 187. Similarly, the 1996 election for State Proposition 209, which involved eliminating “affirmative action,” was racially polarized in City of Los Alamitos. Latino voters voted against State Proposition 209, while the Non-Hispanic White portion of the electorate in City of Los Alamitos supported the passage of State Proposition 209. Similarly, the 1998 election for State Proposition 227, which involved eliminating bilingual education was racially polarized in City of Los Alamitos. Latino voters voted against State Proposition 227, while the rest of the electorate in City of Los Alamitos, particularly the Non-Hispanic White voters in Mission Viejo, supported the passage of State Proposition 227.

As of the 2010 Census, the City of Los Alamitos has a population of 11,449. According to this data, Latinos comprise over 21% of the City’s population. However, for at least the past 15 years, there has not been one Latino to serve on the Los Alamitos City Council. Therefore, not only is the contrast between the significant Latino proportion of the electorate and the total absence of Latinos to run for or be elected to the City’s

Council outwardly disturbing, it is also fundamentally hostile towards Latino participation.

This hostility – the same sort of hostility demonstrated by Los Alamitos’ support of the unconstitutional Proposition 187 – was evidenced most recently when, on March 19, 2018, the Los Alamitos City Council adopted Chapter 9.30, deceptively entitled “Constitution of the United States Compliance” to its Municipal Code to expressly exempt the City of Los Alamitos from the “California Values Act.” This politically charged move by the City Council, to incite a fight over California’s status as a “sanctuary state,” reflects a disturbing insensitivity to the Latino community it purports to represent. Under the guise of compliance with the US Constitution, the action of the Los Alamitos City Council only serves to perpetuate a climate of fear amongst Latinos who feel unwanted, unsafe and unrepresented in Los Alamitos. These exact sentiments were voiced by Luz Beltran-Acevedo, a Los Alamitos resident, who during public comment at the March 19th City Council meeting said, “I don’t want to be scared walking on Katella...be scared that my neighbors are going to be looking at me because I’m Mexican-American. My husband is Mexican-American too and he served in the Afghanistan war. I’m here speaking out because I don’t want my two daughters to be afraid of walking on our streets in Los Alamitos.” Disregarding her plea and the comments of dozens of other speakers who urged a “no” vote, the City Council adopted this Ordinance leaving many Los Alamitos families living in fear, rejected by their neighbors because of their national origin.

Sadly, racially charged rhetoric is not unfamiliar to the Los Alamitos City Council. In 2009, shortly after the inauguration of our first African American President, Mayor Dean Grose circulated an email of a picture entitled “No Easter egg hunt this year” depicting the White House lawn as a watermelon patch. While Mr. Grose proclaimed that he had no idea that the picture was objectively racist, any American with even a modicum of sensitivity to racial stereotypes and discourse would have recognized that the suggestion that President Obama had turned the White House lawn into a watermelon farm is overtly racist. Then, in 2012 the majority non-Hispanic white voting bloc in Los Alamitos expressed its tolerance for such racist behavior when it elected Mr. Grose to the Los Alamitos City Council again. This overtly racial incident, and the lack of any consequence to Mr. Grose from the Los Alamitos electorate is yet another direct reflection of the lack of diversity on the Los Alamitos City Council.

As you may be aware, in 2012, we sued the City of Palmdale for violating the CVRA. After an eight-day trial, we prevailed. After spending millions of dollars, a district-based remedy was ultimately imposed upon the Palmdale city council, with districts that combine all incumbents into one of the four districts.

Given the historical lack of Latino representation on the Los Alamitos City Council in the context of racially polarized elections, we urge the City to voluntarily change its at-large system of electing City Council members. Otherwise, on behalf of residents within the jurisdiction, we will be forced to seek judicial relief. Please advise us no later than May 15, 2018 as to whether you would like to discuss a voluntary change to your current at-large system.

We look forward to your response.

Very truly yours,

A handwritten signature in black ink, appearing to read 'KS', written over a horizontal line.

Kevin I. Shenkman