

April 15, 2022

Fort City Commission
100 North U.S. Highway 1
Fort Pierce, FL 34950

Copies to: City Attorney Tanya Earley, Kurt Spitzer

Dear Mayor Hudson and City Commissioners,

We write to you regarding two aspects of the City Commission's ongoing redistricting process that have raised concerns. We hope that we can clarify the City's obligations and opportunities with respect to these issues.



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Firstly, as you know, the City is bound to comply with the U.S. Constitution's "One Person, One Vote" mandate, meaning districts must be substantially equal in population, generally plus or minus five percent from the ideal district size (an overall range of ten percent).¹ This constitutional requirement allows some discretion for the Commission to balance other important but competing criteria, such as keeping neighborhoods together and maintaining the cores of existing districts.

We have noticed some discrepancies in the population figures presented to you at previous meetings. It is clear that Mr. Spitzer is not using the official 2020 U.S. Census numbers. For example, Mr. Spitzer's presentations have cited 47,408 as the City's total population, while the official 2020 Census number is 47,297. Mr. Spitzer has reported the City's white and Black populations as 18,069 and 18,267, respectively, while the Census numbers are 15,465 and 19,340 (total population) and 13,830 and 13,337 (voting-age population).

These discrepancies are especially concerning since Mr. Spitzer has offered varied and shifting explanations when asked about them. When asked, Mr. Spitzer first said that he is using Census numbers, then claimed that the differences are a result of recent annexations (even though annexations do not explain the discrepancies), then declined to explain where the data used came from.

It is paramount that the City Commission ensure it has an accurate picture of the population equality—and inequality—of the districts under consideration. The Commission must take care that it uses the accurate and official Census figures.

Secondly, Section 2 of the Voting Rights Act of 1965 protects racial and language minorities' opportunity to participate in the political process and

¹ See, e.g., *Brown v. Thomson*, 462 U.S. 835 (1983); *Avery v. Midland Cnty.*, 390 U.S. 474 (1968).

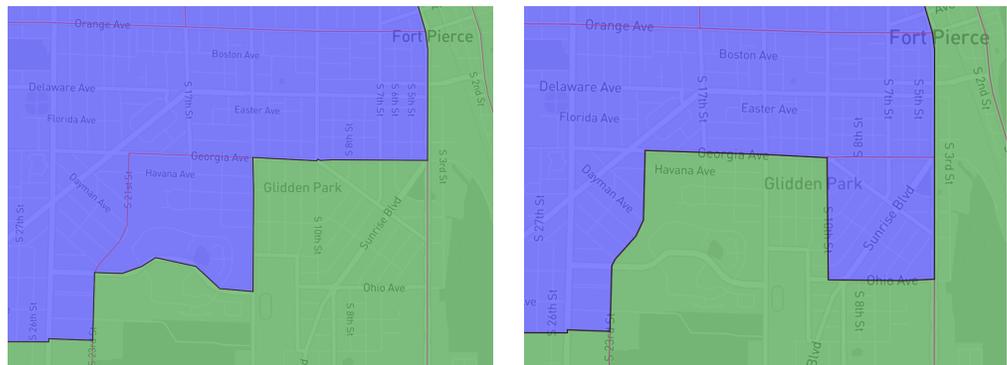
elect candidates of their choice. To that end, in 1993 the City Commission entered into a consent decree with members of Fort Pierce’s Black community.² The City Commission and Black community leaders—represented by the ACLU and Florida Rural Legal Services—all agreed on a redistricting plan including a District 1 that afforded Black voters an opportunity to elect candidates of choice. The decree provided: “The plan will be implemented so that the successors of the city commissioners whose terms expire in 1993 will be elected under the new plan and all commissioners elected thereafter will be elected under the new plan.”³ That consent judgment—approved and issued by the U.S. District Court for the Southern District of Florida—is still binding on the City.

The ACLU of Florida recognizes and understands the need to update the district map—and the *Coleman* consent judgment—to comply with the “One Person, One Vote” principle. Indeed, our analysis of the official decennial census numbers indicate that the districts are outside the permissible constitutional range:

Dist.	Population	Deviation	% Dev.
1	21,545	– 2,104	– 8.9%
2	25,752	+ 2,104	+ 8.9%
Overall	47,297	+/- 4,208	+/- 17.8%

However, we urge the City to bring the map into compliance while respecting the existing district lines as much as possible. Moving fewer residents out of District 2 and into District 1 will avoid voter confusion, minimize disrupting constituents’ relationships with their current commissioners, and better achieve the goals of the still-binding Voting Rights Act consent decree.

Here are two examples of what such a map could look like:



² *Rev. Howard D. Coleman, et al., v. Ft. Pierce City Commission, et al.*, No. 92-14157 (S.D. Fla. Sep. 24, 1993).

³ *Coleman*, Consent Decree at 10.

The map on the left moves the area bounded by Georgia Avenue, Birch Street, Nebraska Avenue, and 13th Street into District 1. The map on the right moves the area bounded by Georgia Avenue, 10th Street, Ohio Avenue, and U.S. 1. Both options achieve the population equality that the U.S. Constitution requires. The districts in the map at left have deviations of 848 people or 3.4%, for an overall range of 7.2%. At right, the districts have deviations of 985 people or 4.2%, for an overall range of 8.3%. These numbers, therefore, are well within the constitutional limits (an overall range of ten percent).

In sum, this redistricting cycle offers Fort Pierce an opportunity to ensure equal and fair representation for all its residents. We look forward to working with you to achieve that goal. We are confident that the City will be able to produce a mutually agreeable and appropriate change that can attain final approval from the federal court.

If we can share any other information that would be helpful throughout this process, please do not hesitate to contact us.

Sincerely,



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