[ms-0398.030.008.0037]

FILED
RECEIVED
LODGED
ENTERED
OCT - 7 1991
CLERK U S DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY
DEPUTY

LLOYD M. HARMON, JR., County Counsel (State Bar No. 32500)
County of San Diego
DIANE BARDSLEY, Chief Deputy (State Bar No. 81525)
By IAN FAN, Deputy (State Bar No. 61080)
1600 Pacific Highway, Room 355
San Diego, California 92101-2469
(619) 531-6218

Attorneys for Defendants

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

TINA C. DEBACA, JAMES MINER, and ELENE ANITA MORENO on behalf of themselves, and all others similarly situated, Plaintiffs, v. COUNTY OF SAN DIEGO, NORMAN HICKEY, Chief Administrative Officer of San Diego County, BRIAN P. BILBRAY, County Board of Supervisors, SUSAN M. GOLDING, County Board of Supervisors, LEON L. WILLIAMS, County Board of Supervisors, JOHN MACDONALD, County Board of Supervisors, Defendants.	No. 91-1282-S (BTM) ANSWER TO COMPLAINT

Defendants respond to the complaint as follows, utilizing the same numbering system as used in the complaint:

1. This paragraph constitutes a characterization of this case, for which no response is required. If a response is required, defendants deny each allegation in paragraph 1.

2. Defendants lack knowledge or belief of information as to the truth of this paragraph and, on that basis, denies each allegation in paragraph 2.

3. This paragraph constitutes a characterization of this case, for which no response is required. If a response is required, defendants deny each allegation in paragraph 3.

4. Defendants admit the allegations contained in paragraph 4.

5. Defendants admit the allegations contained in paragraph 5.

6. Defendants admit the allegations contained in paragraph 6.

7. This paragraph constitutes a statement as to references to defendants, for which no response is required. If a response is required, defendants deny each allegation in paragraph 7.

8. This paragraph constitutes a characterization of this case, for which no response is required. If a response is required, defendants deny each allegation in paragraph 8.

9. Defendants deny each allegation in paragraph 9.

10. Defendants deny each allegation in paragraph 10.

11. Defendants deny, and affirmatively aver that African-American, Asian-American, and Hispanic-American citizens do not vote alike and are not politically cohesive, and cannot be lumped into a class of "Minority Citizens." In addition, African-American and Asian-American citizens were opposed to the Chicano Federation supermajority minority redistricting plan, further evidencing the lack of political cohesiveness among the groups.

12. Defendants deny each allegation in paragraph 12.

13. Defendants deny each allegation in paragraph 13.

14. Defendants lack knowledge or belief of information as to the truth of this paragraph and, on that basis, denies each allegation in paragraph 14.

15. This paragraph constitutes a conclusion of law, for which no response is required. If a response is required, defendants deny each allegation in paragraph 15.

16. Defendants admit the allegations made in the first five sentences of paragraph 16. Defendants lack knowledge or belief of information as to the truth of the last sentence, and on that basis denies the last sentence in paragraph 16.

17. Defendants admit the allegations made in the first sentence of paragraph 17, and deny the second sentence.

18. This paragraph constitutes a characterization of this case, for which no response is required. If a response is required, defendants deny each allegation in paragraph 18.

19. Defendants admit the allegations in paragraph 19.

20. Defendants admit the first sentence of paragraph 20, and deny the second sentence, except to admit that the County currently has five supervisorial districts.

21. Defendants admit the allegations in paragraph 21.

22. Defendants admit the allegations in paragraph 22.

23. Defendants admit the allegations in paragraph 23.

24. Defendants admit the first sentence of paragraph 24. With respect to the second sentence, defendants deny that the 1990 population was 2,509,919, but admit the remainder of said sentence. Defendants lack knowledge or belief of information as to the truth of

the last sentence, and on that basis, denies the last sentence of paragraph 24.

25. Defendants deny each allegation in paragraph 25, and affirmatively aver that Lou Conde, who was elected a supervisor in 1973, was Cuban. As to the list of supervisors, defendants are presently unable to verify each and every name for each and every year, and to the extent that a response is required, defendants deny.

26. Defendants deny paragraph 26, and affirmatively aver that Tom Hom, an Asian-American, served on the San Diego City Council from 1963 to 1965 and from 1967 to 1969.

27. Defendants deny each allegation in paragraph 27.

28. Defendants deny each allegation in paragraph 28.

29. Defendants deny the allegations of paragraph 29, and affirmatively aver that the County did not divide minority communities but created two districts with minority population majorities; one currently represented by an African-American, Leon Williams, and another in which Hispanic-Americans would have a realistic opportunity to elect an Hispanic-American. Combining all three groups into one supermajority district would result in no better representation than at present, i.e., the election of one minority supervisor. The County's plan provides the opportunity to elect two minority supervisors.

30. Defendants deny each allegation in paragraph 30.

31. Defendants deny each allegation in paragraph 31.

32. Defendants deny the first sentence of paragraph 32, except to admit that persons purporting to represent the Chicano Federation

testified at various hearings during the stated time period. Defendants admit the second sentence of paragraph 32 and note that the map on page nineteen of the complaint is the second map sent to the County by the Chicano Federation.

33. Defendants deny each allegation in paragraph 33.

34. Defendants lack knowledge or belief of information as to the truth of this paragraph and, on that basis, denies each allegation in paragraph 34.

35. Defendants deny each allegation in paragraph 35.

36. Defendants lack knowledge or belief of information as to the truth of this paragraph and, on that basis, denies each allegation in paragraph 36.

37. Defendants deny each allegation in paragraph 37.

38. Defendants deny each allegation of paragraph 38 except to admit that the proposal proffered by the Chicano Federation increases the minority population and decreases the non-minority population in district 4 at the expense of the minority population in district 1.

39. Defendants deny each allegation in paragraph 39.

40. Defendants deny each allegation in paragraph 40.

41. Defendants deny each allegation in paragraph 41.

42 Defendants deny each allegation in paragraph 42.

43. Defendants deny each allegation of paragraph 43, except to admit that a numerical supermajority of minority citizens could be created in one supervisorial district.

44. Defendants deny each allegation in paragraph 44.

///

45. Defendants lack knowledge or belief of information as to the truth of this paragraph, except to admit that the map would provide minority citizens with a voting age majority by population.

46. Defendants lack knowledge or belief of information as to the truth of this paragraph and, on that basis, denies each allegation in paragraph 46.

47. Defendants lack knowledge or belief of information as to the truth of this paragraph and, on that basis, denies each allegation in paragraph 47.

48. Defendants deny each allegation in paragraph 48, and affirmatively aver that African-American, Asian-American, and Hispanic-American citizens do not vote alike and are not politically cohesive. In addition, African-Americans and Asian-Americans opposed the Chicano Federation plan described in paragraph 32.

49. Defendants deny each allegation in paragraph 49.

50. Defendants deny each allegation in paragraph 50.

51. Defendants deny each allegation in paragraph 51.

52. Defendants deny each allegation in paragraph 52.

53. Defendants deny each allegation in paragraph 53.

54. Defendants deny each allegation in paragraph 54.

55. Defendants deny each allegation in paragraph 55.

56. Defendants deny each allegation in paragraph 56.

57. Defendants deny each allegation in paragraph 57.

58. Defendants deny each allegation in paragraph 58.

///

///

59. Defendants lack knowledge or belief of information as to the truth of this paragraph and, on that basis, denies each allegation in paragraph 59.

60. Defendants deny each allegation in paragraph 60.

61. Defendants deny each allegation in paragraph 61.

62. Defendants incorporate herein, in response to paragraph 62, their responses to paragraphs 1 through 61 of the complaint.

63. Defendants deny each allegation in paragraph 63.

64. Defendants deny each allegation in paragraph 64.

65. This paragraph constitutes a statement of plaintiffs' aims in bringing this lawsuit, for which no responses are required. If responses are required, defendants deny each allegation in paragraph 65.

66. This paragraph constitutes a statement of plaintiffs' aims in bringing this lawsuit, for which no responses are required. If responses are required, defendants deny each allegation in paragraph 65.

67. Defendants deny each allegation in paragraph 67.

68. Defendants incorporate herein, in response to paragraph 68, their responses to paragraphs 1 through 67 of the complaint.

69. Defendants deny each allegation in paragraph 69.

70. This paragraph constitutes a statement of plaintiffs' aims in bringing this lawsuit, for which no response is required. If a response is required, defendants deny each allegation in paragraph 70.

71. Defendants deny each allegation in paragraph 71.

///

72. Defendants incorporate herein, in response to paragraph 72, their responses to paragraphs 1 through 71 of the complaint.

73. Defendants deny each allegation in paragraph 73.

74. Defendants deny each allegation in paragraph 74.

FIRST AFFIRMATIVE DEFENSE

Plaintiffs have failed to state a claim for relief.

WHEREFORE, defendants pray that this action be dismissed, for costs, and for such other and further relief as the Court deems appropriate.

DATED: 10/7/97

LLOYD M. HARMON, JR., County Counsel
DIANE BARDSLEY, Chief Deputy

By Theresa Ostrom Stevenson for
IAN FAN, Deputy
Attorneys for Defendants

VICKIS\WP\DEBACA.ANS