

Challengers to At-Large Elections Must Prove Effect on Election Outcomes

07.16.2020

ATTORNEYS

James L. Markman

Challengers who seek to force a public entity to replace at-large elections with district-based elections under the California Voting Rights Act ("CVRA") must prove that the at-large system dilutes the votes of minority voters in a way that affected the outcome of elections. In addition, a constitutional challenge under the Equal Protection clause must prove that a jurisdiction adopted the electoral system for the purpose of discriminating against a protected class and not merely with the knowledge that the system would have a discriminatory result. The case marks the first published appellate decision ruling against a CVRA challenge to at-large elections.

On July 9, 2020, the Court of Appeal published its decision in *Pico Neighborhood Association v. City of Santa Monica* and required that these standards be met in their ruling in favor of the City of Santa Monica ("City"). Pico Neighborhood Association ("Pico") sued the City, alleging that the City's at-large electoral system violated the CVRA and Equal Protection because the City's at-large electoral system discriminated against Latinos. Pico prevailed on both claims at trial, and the trial court ordered the City to switch to district based elections. The Court of Appeal reversed the trial court's decision on two major grounds.

First, the Court of Appeal concluded that the City did not violate the CVRA because Pico failed to prove that the at-large electoral system unlawfully diluted Latino voting power. Voting-age Latinos comprise 14% of the electorate in the City. Although Pico argued that district-based elections would increase Latino voting power to 30% in a single district, the Court found there was no dilution because the result in at-large voting would be the same in district-based voting – neither 14% nor 30% is enough to win a majority to elect a preferred candidate. The Court of Appeal also determined that the increase in electoral influence from 14% to 30% was insufficient to show that Latino votes had been unlawfully diluted. Thus, to show actionable dilution, the change in the electoral system must affect the ultimate electoral outcome.

Second, the Court of Appeal held that the City's at-large electoral system did not violate Equal Protection because Pico did not prove that the City adopted or maintained its system for the purpose of discriminating against minorities. The minority community's unanimous support for adopting at-large elections in 1946 and the City's decision to maintain at-large elections in 1992 in response to a lack of consensus about the right alternative to at-large voting do not prove a purposeful intent to discriminate against minorities.

If you have any questions about the California Voting Rights Act, or how this decision may impact your jurisdiction, please contact **Jim Markman** or **Stephen Lee**.