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Santa Clara settles voting rights lawsuit after spending \$6 million, four years on legal battles.

City was sued in 2017 over its at-large election system.

By Joseph Geha
The Mercury News

After spending \$6 million of taxpayer money and four years fighting a lawsuit and a court order forcing Santa Clara to switch to district elections, the city has thrown in the towel — vindicating residents who argued that at-large elections diluted the votes of Asian Americans.

As part of a settlement agreement, the council, by June 1, must call for an election to be held in which voters can choose whether to amend the city's charter to make permanent the current six-district system, according to City Attorney Brian Doyle, who announced the settlement at a special City Council meeting this week.

The settlement comes after the city lost an appeal in December 2020 to a 2017 California Voting Rights Act lawsuit brought by five Asian Americans from Santa Clara. In 2018, a Santa Clara County Superior Court ruled that the city's longstanding at-large elections violated the voting rights act and that the city needed to create six council districts for council elections.

No Asian American was ever elected to the City Council in Santa Clara since its city charter adoption in 1951 until the city made the switch to a six-district election system in 2018, in which candidates for each seat ran to represent a smaller area of the city, except the mayor.

While appealing the case, Santa Clara held two district elections, which put its first Asian Americans on the City Council.

Councilman Raj Chahal was the first Asian American elected, in 2018, and two other Asian Americans, Kevin Park and Suds Jain, were elected in 2020.

"I think it was a terrible mistake to have fought the case in the first place," Jain said in an interview Friday. "It's pretty well understood that nobody has ever won a CVRA lawsuit."

Santa Clara was one of many California cities that attorneys pushed into district elections in recent years by claiming violations of the voting rights in demand letters that threatened lawsuits.

Many cities capitulate without much hassle, even if some officials disagree with the claims made by attorneys, as the lawsuits are often costly to fight, and no city has won one yet. Santa Monica currently has a case pending before the California Supreme Court.

Doyle noted that the city would soon fulfill its financial obligations to the plaintiffs' attorneys, which include finishing paying out a rough total of \$4.5 million for their legal fees and accrued interest.

The plaintiffs in the case were LaDonna Yumori-Kaku, Wesley Mukoyama, Herminio Hernando, Umar Kamal and Mike Kaku, represented by the Law Office of Robert Rubin of Mill Valley, Goldstein, Borgen, Dardarian & Ho of Oakland, and the Asian Law Alliance of Santa Clara County, the attorneys group said in a statement.

The city has also spent about \$1.5 million paying for its own outside legal counsel to fight the various court battles on its behalf since 2017, Doyle said in an interview Friday.

The settlement begins to write what appears to be the final chapter in the years-long controversy over how to best elect councilmembers in Santa Clara, during which city officials twice tried and failed to pass measures that would have created new elections systems.

Measure A, proposed in mid-2018, would have divided the city into two three-member City Council districts and instituted ranked-choice voting for all elections in the city. It failed by a narrow margin.

Plaintiffs' attorneys in the lawsuit opposed the measure, saying they preferred smaller neighborhood districts because it would give minority voters a better chance of getting minority candidates on the City Council.

Measure C, which was put to the voters in March 2020, would have cut the number of court-ordered districts in half from six to three, but it was defeated by 60% of the vote and also opposed by the plaintiffs' attorneys.

"After years of resistance to the implementation of a district election system, the city is now required to adopt a voting procedure that will ensure the full and fair participation of the Asian American community in the political process," Rubin, the civil rights attorney who initiated the case, said in the statement.

"The right to vote is the most fundamental right in our democracy and the elimination of the discriminatory at large system removes a significant barrier to the meaningful participation of Asian Americans in the city of Santa Clara's election system," Richard Konda of the Asian Law Alliance said.

Doyle, in an interview Friday, disagreed with the characterization that the city ever tried to avoid switching to district elections after hearing from the plaintiffs.

He said the two ballot measures the city put forth both offered district elections, and those measures importantly honored the city's charter by allowing voters to decide what kind of system they wanted.

He noted that Palm Desert ultimately adopted a similar two-district system with ranked choice voting after being forced to switch to district voting, and an arbitrator in that case called it "a creative hybrid solution."

“If Measure A had passed, we would have avoided the vast majority of litigation, and the lawsuit would have been moot,” Doyle said. He also thinks the plaintiffs’ attorneys opposing both Measure A and Measure C, played a role in their failing at the ballot box.

Mayor Lisa Gillmor, who supported both measures, didn’t respond to a voice message and an email seeking comment for this story Friday.

Jain, the councilman elected in November, said he thinks city leaders “got bad advice” from “a number of people” on how to respond to the original lawsuit.

“The previous system of at-large elections preserved the status quo, and for 70 years it prevented less connected or minority candidates from getting elected,” Jain said.

Some people, including Gillmor, Jain said, “wanted to keep things the way they were.”

The Mercury News Post:

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