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Final Verdict: Twice-Lost Voting Rights Lawsuit Cost City Nearly \$5.8 Million

by Carolyn Schuk
The Silicon Valley Voice

Santa Clara will be paying out almost \$5.8 million in awards, costs, interest and its own legal bills to settle the voting rights lawsuit it lost both in court and on appeal. The Council unanimously approved the agreement at the April 20 meeting.

The [original award](#) in 2018 was \$3.16 million in legal fees and costs and the accrued interest over the last two years is \$490,000. The additional legal costs for the appeal are \$712,000. In addition, the City has paid its attorney in the case, Sacramento-based Steve Churchwell, \$1.37 million.

This doesn't include the costs of two failed ballot measures proposing multi-member districts — equally illegal as the former at-large by-seat system — that would have brought the City more legal entanglements.

The settlement agreement also requires the Santa Clara City Council to call an election for voters to approve a charter amendment requiring all Council Members except the Mayor to be elected from single-member districts, and to have that change in effect for the 2022 elections.

Further, the ballot statement must include a description of the city's previous at-large election system "and the circumstances and reasons relating to its having been held in violation of the California Voting Rights Act ...and ... the reasons for which the voters might wish to permanently adopt [a] district election system of the kind ordered by the court ... and used in the 2018 and 2020 city council elections," according to the settlement agreement.

Two or more Council Members who support the change can file ballot statements in support of the charter change and rebuttals to opposing ballot statements. However, no Council Member can publish an opposing ballot statement.

If the charter change passes, the City can move for a dismissal, whereby the City's elections will no longer be under the jurisdiction of the Superior Court.

If the ballot measure fails, "the City will not oppose any injunctive relief under the court's retained jurisdiction" to require single-member Council districts.

"The settlement agreement will avoid further costly litigation and allows the City to move on from fighting its own voters in this case to more fairly representing all of its residents," said Laura Ho, from the law firm of Goldstein, Borgen, Dardarian & Ho, in an April 21 news release.

A Long Road Paved With Missed Opportunities.

Santa Clara had [many opportunities](#) to prevent the huge bill it now faces — starting with the first time it was warned, in 2011, that the City’s at-large by-seat election system likely broke the California Voting Rights Act by diluting minority votes. Instead, the City told the demographer that brought the bad news to change the report — a detail that only came out in the eventual complaint.

The City Council could have announced its intention to move to a single-member election district system after it received a [warning letter](#) from civil rights attorney Robert Rubin in 2017. That would have capped the City’s costs at \$30,000. Instead, it hired Churchwell and [went to court](#). And [lost](#).

When the City lost the case in 2018 and the judge [imposed](#) six single-member Council districts, it still could have settled at that time, capping its costs at about \$4 million. Instead, Santa Clara appealed. And [lost](#) again.

As late as last December, the plaintiffs indicated they were willing to settle the case, which could still have saved the City millions. Instead, City Attorney Brian Doyle [didn’t disclose](#) the settlement offer to the Council until it was too late.

Yet, at no time has City Attorney Brian Doyle publically acknowledged the City’s two court losses; nor have Mayor Lisa Gillmor or Council Member Kathy Watanabe. After the lawsuit was filed, Doyle asserted that it “had little merit,” and that the CVRA didn’t apply to charter cities.

The Silicon Valley Article:

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