



ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND

99 HUDSON STREET, 12th FL • NEW YORK, NY 10013 • TEL 212.966.5932 • www.aaldef.org • info@aaldef.org

May 19, 2023

Boston City Council
1 City Hall Square, Room 550
Boston, MA 02201-2043

**RE: Unconstitutional Cracking of the Chinatown/South End
Community of Interest**

Dear Council President Flynn and Members of the City Council:

The Asian American Legal Defense and Education Fund (AALDEF), founded in 1974, is a national organization that protects and promotes the civil rights of Asian Americans. AALDEF has engaged in advocacy, organizing, and litigation across the country to ensure Asian Americans are treated fairly and equitably in redistricting.

As the City Council works to redraw its district lines as a result of litigation, it is imperative that the Chinatown/South End community of interest be kept intact, and that the City Council not improperly prioritize protecting white voting power at the expense of this community of interest. After reviewing the newly proposed city council redistricting plans proffered by Mayor Michelle Wu and members of the City Council, we are alarmed by the plans' division of the Chinatown/South End community of interest by splitting Chinatown's core precincts, 3-8, 3-12, 3-14, and 5-1, from historically connected South End precincts, 8-1, 8-2, 9-1, and 5-13. We urge the City Council to reject these harmful and likely unconstitutional plans, and instead adopt a plan that maintains the integrity of the Chinatown/South End community of interest.

The Voting Rights Act of 1965 (VRA) prohibits city council district boundaries from being drawn such that they result in the dilution of minority group members' votes. Section 2 of the VRA, as amended by Congress in 1982, prohibits any voting practice which "results in a denial or abridgement of the right . . . to vote on account of race or color" or due to being a "member of a language minority group."¹ The VRA defines "language minority" as "persons who are American Indian, *Asian American*, Alaskan Natives or of Spanish heritage."² The VRA is violated if the political process is not equally open to members of such a racial or language minority group, in that they have less opportunity than others to participate in the political process and elect representatives of their choice.³ The federal courts have held that this statute applies to the drawing of district boundaries for electing officials.⁴

¹ 52 U.S.C. §§ 10301, 10303(b).

² *Id.* at § 10310(c)(3) (emphasis added).

³ See *Thornburg v. Gingles*, 478 U.S. 30, 44, 63 (1986).

⁴ See *Grove v. Emison*, 507 U.S. 25, 39-41 (1993).

Further, the Supreme Court has long viewed maintaining “communities of interest” as a traditional and legally legitimate redistricting principle.⁵ The federal courts have stated communities of interest exist “where residents share substantial cultural, economic, political and social ties.”⁶ These ties include “shared broadcast and print media, public transport infrastructure, and institutions such as schools and churches.”⁷ The Boston City Charter, itself, instructs that district lines “shall be drawn with a view toward preserving the integrity of existing neighborhoods.”⁸

Chinatown/South End has long been such a community of interest. For over 70 years, the community has been historically rooted in this section of Boston, coalescing around their own shared culture, language, and community organizations. In the past decades it has continued to rapidly grow, alongside the city’s burgeoning Asian American population.⁹ The new district lines should reflect this tremendous growth. Residents have advocated for their unity in each of the last four redistricting cycles. At numerous public hearings during the 2022 redistricting cycle, community members testified to their desire to keep their Chinatown/South End community of interest intact.

Proposed plans dividing the Chinatown/South End community of interest alongside statements made by council members during the City Council Committee on Civil Rights and Immigrant Advancement’s May 15, 2023 meeting suggest an unconstitutional preference for drawing districts to protect and expand white voting power in South Boston over federally protected minority communities. To retain this white voting power, the proposed plans divide the Chinatown/South End community of interest, a community of federally protected minority residents. As you are now well aware, the Equal Protection Clause of the Fourteenth Amendment requires that race not be the predominant factor in redistricting, unless such consideration of race is narrowly tailored to ensure compliance with the VRA, meaning race is considered to ensure protected minority voters’ equal opportunity to participate in elections.¹⁰ By prioritizing the maintenance of white voting power over that of a federally protected minority community of interest, the proposed plans under consideration harm the Chinatown/South End community and likely violate the Equal Protection Clause.

⁵ See, e.g., *Bethune-Hill v. Va. State Bd. of Elections*, 137 S. Ct. 788, 795 (2017).

⁶ *Diaz v. Silver*, 978 F. Supp. 96, 123 (E.D.N.Y. 2004), *aff’d*, 522 U.S. 801 (1997).

⁷ *Bush v. Vera*, 517 U.S. 952, 964 (1996); see also *Diaz*, 978 F. Supp at 124.

⁸ BOSTON, MASS., CITY CHARTER § 18.

⁹ The Asian population of Boston has grown 37.8% between the 2020 and 2010 Censuses. BOSTON PLANNING & DEVELOPMENT AGENCY RESEARCH DIVISION, 2020 U.S. CENSUS: REDISTRICTING DATA RELEASE at 5 (2021).

¹⁰ See *Cooper v. Harris*, 581 U.S. 285, 291–92 (2017).

While the City Council must redraw its district lines, AALDEF cautions against plans that violate the VRA and Equal Protection Clause by dividing such a historic and growing minority community of interest in furtherance of maximizing white voting power. We encourage the City Council to adopt a redistricting plan that maintains the integrity of the Chinatown/South End community of interest, keeping Chinatown's core precincts, 3-8, 3-12, 3-14, and 5-1, in one district with historically connected South End precincts, 8-1, 8-2, 9-1, and 5-13. Such a redistricting plan would comply with the requirements of the VRA and the Equal Protection Clause, as well as the redistricting criteria laid out in the Boston City Charter. Further, adopting a redistricting plan that keeps the Chinatown/South End community of interest intact would enable federally protected language and ethnic minority groups to be meaningfully represented and have equal opportunity to participate in the political process.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ronak Patel", with a small mark above the end of the signature.

Ronak Patel
Equal Justice Works Fellow Sponsored by Cooley LLP
Democracy Program
Asian American Legal Defense and Education Fund