

SCOTT J. RAFFERTY

ATTORNEY AT LAW

1913 WHITECLIFF COURT
WALNUT CREEK CA 94596

(202)-380-5525
RAFFERTY@GMAIL.COM

August 19, 2024

Board of Directors

Hayward Parks and Recreation District

1099 E Street

Hayward CA

Via electronic mail

Re: Creating Equitable Electoral Districts for HARD

Dear President Rosen and Board Members:

The principal goal of creating districts is to provide a more equal opportunity for the Asian-American community, which is concentrated in Southwest Hayward. Map D substantially satisfies that objective, as does Map 825, but the community deserves to be consulted on the boundaries that best define neighborhoods that can be most effectively organized. This includes an assessment of where Asian-American candidates of choice has the greatest opportunity to attract the number of cross-over voters that they will need to win election. We hope that the District will sponsor and effectively publicize a meeting at which Southwest Hayward can provide guidance for your decision. Therefore, this letter does not advocate for a specific map, but propose principles to ensure that the districts that the Board ultimately defines equitably promote voter participation and ensure that residents of all neighborhoods have more equal opportunities to seek election.

My clients initially hoped to revise our map to reflect guidance given by the directors at the August 5, 2024 hearing, but an audible recording was not available until after the deadline.¹ We have also tried to organize a comparison of the maps that you promoted for further study and revision, whether they were available on the website or in the presentation provided on August 5, 2024. Most of the critical materials are posted within a link to "District Calendar." We hope that you will consider making the most

¹ I was informed of recording failures and became aware that an intelligible video was available last Friday, and have attempted to distill the Board's guidance.

salient information more visible and more easily downloadable, which could facilitate greater public input.²

Instead of advocating for a specific map, this letter clarifies the secondary objectives of designing districts that we believe result in the most equitable map. An effective Asian-American influence district is essential for a map to fulfill “the purposes of the CVRA. Elections Code, Section 10010. Although the focus of the map is the class of Asian-American voters, who have had almost no electoral success in any of the three jurisdictions surrounding Hayward (despite a potential majority city council district). In general, districts should promote greater equality for all protected classes that have significant numbers of eligible voters. In your jurisdiction, this includes Latinos and Blacks (but unfortunately not indigenous peoples). Consideration should be given to districts in which minorities have a share of the vote capable of influencing the outcome of elections, first as individual classes and then as potential coalitions among minorities. Maximizing vote share of a protected class can never be the predominant factor, because effective political organization is based in neighborhoods.

Although racial and language minorities have common values, needs, and life experiences, equity also requires consideration of social and economic factors that impair their political participation. All constituents are entitled to equal concern, which is why districts must be reasonably equal in population. Areas where low income, limited education or English proficiency, transiency, lack of transportation or other obstacles have diminished voter eligibility and turnout should be separated from areas with high-proficiency voters, so that their particular needs can have an equal and dedicated voice on the Board. In areas where a large percentage of residents are not eligible to vote (either because they are not yet 18 or not yet citizens), their neighbors can best represent their needs.

Other areas may share common political needs and objectives, whether they are general (such as protection from flood or fire risk) or specific to your mission (such as a concentration of residents you can or should use your facilities, such as seniors, golfers, or parents). Whether they are rich or poor, all geographically based communities that

² The August 5 presentation is ½ Gigabyte as a PowerPoint document, and cannot be printed or saved as a PDF. It must also be viewed until downloaded and opened in PowerPoint.

have distinct interests deserve some degree of consideration, even though it is never possible to maintain the geographic integrity of every one of them.

A key goal should be to create five districts that are meaningfully different. Deliberately blending different groups to achieve “diversity” within each district is antithetical to the purposes of neighborhood-based elections. Homogenization of districts enables the most prosperous and active voters to determine electoral outcomes to an extent that exceeds their share of the population, which can impose the same dilution as the at-large method of election. Since improving representation is best served by districts that are both cohesive *and distinct*, geographic areas do not qualify as communities of interest solely because they are ethnically or economically diverse. On the contrary, these may be the best areas to divide if necessary to assure that the districts are equally populated.

I. AN EQUITABLE MAP SHOULD ATTEMPT TO CREATE A BLACK INFLUENCE DISTRICT.

Unlike other protected classes, Black electors often vote at rates as high as the rest of the electorate. Especially in California, Black communities have been exceptionally effective in leading minority coalitions to support their candidates of choice (and in attracting cross-over voters). The Hayward area’s two county education trustees, Aisha Knowles and Janevete Cole, represent areas without a Black majority. The map we previously submitted map includes a 22% Black district (2), with good potential for a Latino coalition voting. This should be a benchmark that the adopted map should attempt to achieve.³

II. BOUNDARIES BETWEEN CENSUS DESIGNATED PLACES SHOULD BE GIVEN LIMITED WEIGHT.

The Fair Maps Act allows the Board to consider the boundaries of cities and Census Designated Places (CDPs) only to the extent that doing so does not compromise the geographic integrity of communities of interest. Elections Code, §21130(c)(3). In Alameda County, CDP boundaries have not been reviewed for decades and would not likely be retained if examined under current census standards. For governmental

³ Division 1 of Map 791 creates a majority Latino division, which is desirable for similar reasons.

purposes, many have been superseded by municipal advisory councils, specific plans, and “recognized unincorporated communities.”

“CDPs are statistical geographic entities representing closely settled, unincorporated communities that are locally recognized and identified by name.” [73 FR 8269](#) (2/13/2008). These geographical designations respond to “data user needs for place-level data” within unincorporated areas, reflecting “a compromise between localized perceptions of place and a concept that would be familiar to data users throughout the United States.” [72 Fed. Reg. 17326](#) (4/6/2007).

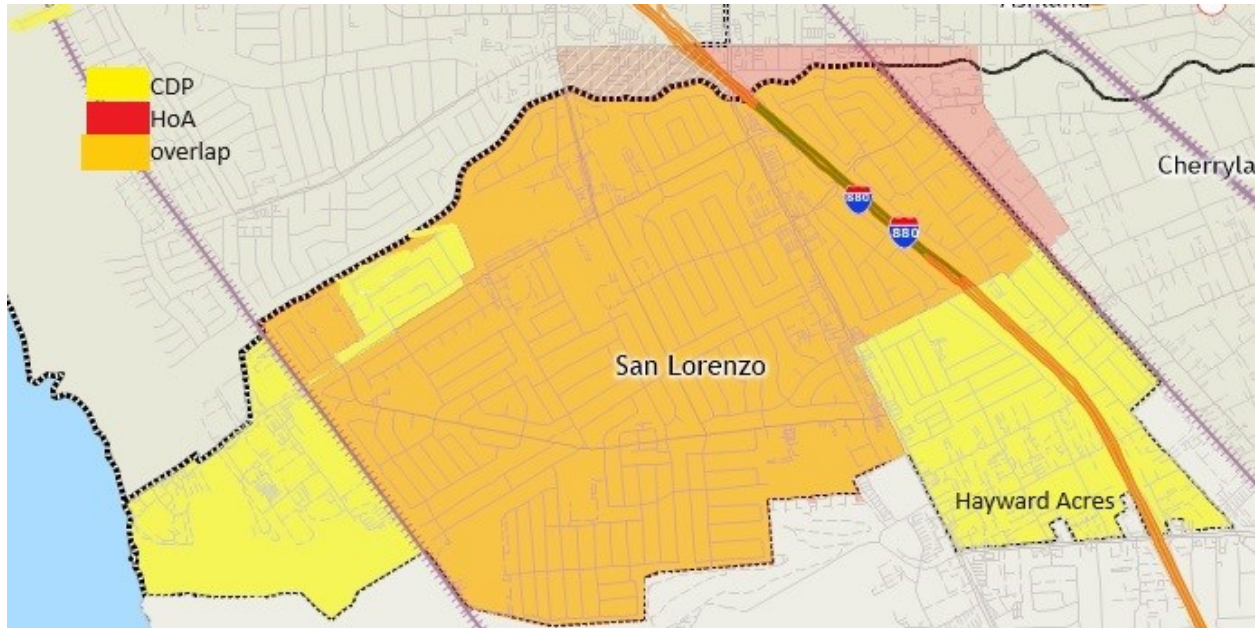
CDPs are statistical constructs, not governing entities. They cannot have a “legally defined boundary or an active, functioning governmental structure.”⁴ As recently redefined, a CDP simply constitutes “a single, closely settled center of population” with a name that is “recognized and used in daily communication by the residents.” [83 FR 56290-56293](#) (Nov. 13, 2018). Whether CDP boundaries also define an authentic neighborhood or a “population that shares common social or economic interests” or “similar voter registration rates” requires an independent inquiry. This is why the Fair Maps Act assigns them a lower priority.

In most other counties, CDP boundaries are informative. Almost all counties have asked the Census Bureau to increase the number of CDPs and to refine their boundaries. In California, the number of CDPs increased 72% after the 2000 census and another 8% after 2010. Alameda is the exception. The county government has not asked the census bureau to add or redefine a single CDP since before 2000.

Instead, the County has defined its own geographic designations within its unincorporated jurisdiction. As the Board noted, the County government subdivided the San Lorenzo CDP to recognize Hayward Acres as a separate “unincorporated community” for governmental purposes. A single municipal advisory committee combines San Lorenzo, Ashland, Cherryland, and Hayward Acres. These five areas also have a unified general plan. A single business district overlaps Ashland and Cherryland. For governmental purposes, the county has defined Castro Valley as a general plan area including Fairview and the southwest portion of your jurisdiction.

⁴ <https://www.census.gov/programs-surveys/bas/information/cdp.html> (revised 12/14/23)

Another Board member observed that the “San Lorenzo Village” homeowners association is a more relevant geographic unit than the CDP of San Lorenzo. The HoA serves approximately 1875 residents of Ashland and Cherryland, suggesting one of many bases to recognize communities of interest that span multiple CDPs.⁵



Hayward USD heard loud and clear that unincorporated areas collectively seek a dedicated voice on the school board. They testified that they felt disempowered because no city council members advocated for them on school issues. Fairview residents wanted to be in the same trustee area Cherryland. The boundary between City of Hayward and the unincorporated areas has significance, but the Board should give priority to genuine communities of interest even if they include areas from more than one CDP.

Unincorporated areas have a somewhat different role in your jurisdiction. Only 16% of Hayward USD is outside the City of Hayward, so the “unincorporated” area ignored all CDP boundaries and still had to add population from the city. By contrast, about 48% of your jurisdiction is unincorporated. To a greater degree than in Hayward USD, the unincorporated areas have socio-economic disparities and policy priorities that are not necessarily outlined by the borders of individual CDPs.

⁵ Based on HOA’s Street Sweeping Map: <https://slvha.com/wp-content/uploads/2022/02/Street-Sweeping-Map-2022.pdf>, which is not to scale and does not follow census blocks.

The Board questioned the division of Castro Valley CDP to define an economically challenged area that linked El Portal Ridge with parts of Cherryland and Ashland, which occurs in our initial map and in demographers Draft C. The county recognizes El Portal Ridge as one of three “unincorporated communities and neighborhoods” that are not separately defined as CDPs.⁶ The “challenged” district (2) in our initial map also included the Castro Valley Redevelopment Area, as well as the Foothill RDA.⁷ The Castro Valley general plan defines a “central business district” with an additional specific plan.⁸ Its boundaries resemble those that this map used to separate the economically challenged parts of Castro Valley from its more affluent voters. A district of Castro Valley should separate areas that have very different economic characteristics, such as median income or percent of rentals, which both the demographer’s presentation (pp.6-7) and our previous submission have identified.

III. AN EQUITABLE MAP SHOULD CONSIDER A DISTRICT INCLUDING WEALTHY, HIGH PROPENSITY VOTERS.

Our initial map (and Map 825), which the Board promoted for further consideration, respect the geographic integrity of most of the Castro Valley Planning Area. (Our map includes Fairview by moving El Portal and Foothill RDA into a separate district.) These districts are internally uniform (and distinct from the rest of the jurisdiction) when measured by a number of socio-economic characteristics. These area is low density, with high value homes, and household incomes. A majority of voters are non-minority. We expect further analysis of voter participation to identify an area whose division could allow its residents to determine the outcome of multiple elections, even though they are only one-fifth of the population.

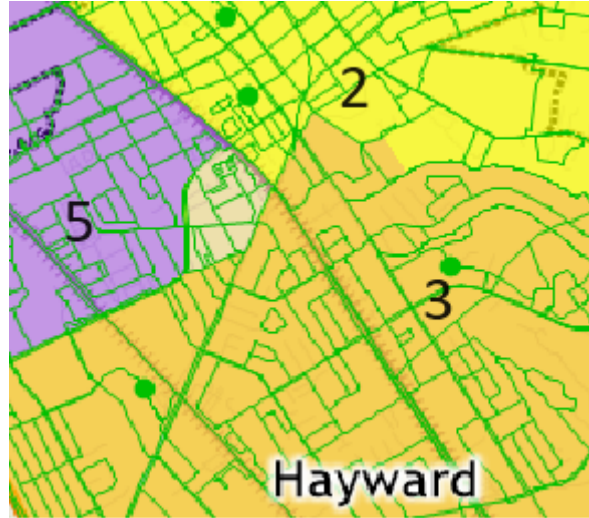
⁶ https://www.acgov.org/cda/planning/ordinance/documents/FinalUnincCommunities_Neigh.pdf

⁷ [Castro Valley Revised General Plan](#), p. 24.

⁸ https://acgov.org/cda/planning/generalplans/documents/CastroValleyGeneralPlan_2012_FINAL.pdf p.23.

IV. OUR INITIAL MAP CAN BE ADJUSTED TO ADDRESS THE BOARD'S CONCERNS.

Because of its low population variance, the "NEN" map can accommodate substantial refinements while maintaining the necessary equality among its districts. One issue was the irregular boundary west of the intersection of BART and Mission Boulevard. These 14 census blocks have a population of 1596, with a diverse ethnic distribution of voters. Its removal from 2 results in a very small increase in that district's Black voter share (22.2% to 22.3%), which is likely insignificant. It does not change the Latino plurality whether moved to 3 (34.9%) or 5 (37.1%). Neither move results in impermissible deviation in population.



Sincerely,

A handwritten signature in black ink that reads "Scott Rafferty".

Scott Rafferty

Attachment: Compilation of Maps and Summary of Board Direction

Map & FMA status*

on webpage or powerpoint**

video

title

comments by demographer

direction from Board

High Asian CVAP

green is best

* <https://haywardrec.org/DocumentCenter/View/10279/FAIR-MAPS-Act-Assessment-72924>

OK not-evaluated issues-identified

** webpage= <https://haywardrec.org/2063/Draft-Maps>

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powerpoint presentation can be downloaded from 8/5/24 "presentation" link <https://haywardrec.org/2062/District-Elections-Calendar>

DEMOGRAPHERS DRAFTS

A			Communities experiencing negative health impacts from highways	32.4%
B			CDPs, important Cols, and clear boundaries	34.7%
C			School districts	32.2%
D			Hayward downtown	37.2%

PROMOTED to additional consideration (in addition to drafts A B and C)

209	Webpage only	1:24 NEN	San Lorenzo district extends into Cherryland to gain population which must come from outside SL	concerns about downtown area bounded by Wilk, D, and Foothill where 2 3 & 5 meet ; 1 wraps around CV, divides Cherryland, Ashland, CV and Hayward Acres; dividing S Hayward at 880 problem; S Hayward should not be spilt because it is one of the most diverse areas in nation;	
474	Both	1:39 3d attempt	economic blending 33%Asian, discussion of 880		33.6%
479	Both	1:29 .09% dev 1 880W...	no strong Asian, Latino district		33.2%
599	Powerpoint only	2:11 minor fixed to roads	FMA: lines not easy	[hard to hear] can be cleaned up	
606	Powerpoint only	2:13 maintain neighborhoods	34% Asian	already have similar mape, no downtown Hayward district	32.2% ?
705	Powerpoint only	2:17 more compact census boundaries	downtown HW, low deviation, can clean up'		33.6%
745	Powerpoint only	1:43, 1:51 2 guaranteed unincorporated	FMA: contiguity; low Asian		33.9%
791	Powerpoint only	2:18 majority Latino district	FMA: over population deviation; needs 2-4 swap		31.6%
794	Powerpoint only	2:23 maintain COIs		similar to others	33.9%
825	Both	1:54 DBR-2	similar to 818		34.8%
					37.0%

DISCUSSED

137	Both	1:33 none	striped		
138	Both	1:34 none	vertical striped		
140	Both	1:35 none	no strong Asian		
431	Both	1:57 split Cherryland at Western		CV boundary	
463	Webpage only	2:08 city boundary fix			
472	Both	1:31 1 Hayward...	no strong Asian, Latino district; unclear boundaries; economic blending		
488	Both	1:28 1 880W...	no strong Asian, Latino district		
506	Both	1:59 .05% dev	3 not compact, high Latino, low Asian		
516	Both	2:00 .05% dev w central Hayward dist			
520	Both	2:00 .01% dev w central Hayward dist			
524	Both	2:02 adjusted boundaries	no strong Asian	doesn't follow CDP, should build map around centra	
528	Powerpoint only	2:04 Cherryland SL Ashland	no strong Asian	irregular 3	
544	Powerpoint only	2:05 Coyote	contiguity of 1 problem	puts come of CV into Ashland, 2 members remember helpful narrative	
604	Powerpoint only	2:12 0% dev more adjustments			
610	Both	1:42 Second attempt		divides communiy; 880	
660	Powerpoint only	2:14 include core services district		4 and 5 weird	
666	Powerpoint only	2:15 less stretching		same as 660	
681	Neither	2:15 Blue is AC transit 60 COI		wow, no	

684	Powerpoint only	2:16 unincorp intact	over population deviation
818	Both	1:44 DBR-2	high Latino, Asian, 5 boundary justified by pointy part of 2 arbitrary blocks
824	Both	1:53 DBR-3	see 818
844	Both	1:32 Ranked choice	MMD
896	Powerpoint only	2:20 DBR3A	
987	Both	1:36 none	divides CDP, high Latino, but no high Asian

OTHER SUBMISSIONS

342	Powerpoint only		
420	Webpage only		
462	Powerpoint only		
465	Webpage only	Ranked choice	
514	Webpage only	City.zip.LAFCO_SOI	
554	Both	Perfection!	
629	Neither		
685	Powerpoint only		
690	Webpage only	Ranked choice	apparently submitted in 8/10 public comment
890	Webpage only		
891	Webpage only		
892	Neither		
929	Webpage only		apparently submitted in 8/10 public comment
987	Neither		

SIGNIFICANT GENERAL ISSUES RAISED DURING HEARING

1:37	demographer suggests that Asian community might expect a district with more than 35-37%
1:38	objectively valid
1:39	board points out that 880 and RR have underpasses, discuss relevance of these boundaries
1:43	demographer observes that there is no fixed Asian threshold, but 31% may not be in ballpark
2:19	discussion whether downtown matters; is it identifiable & have relationship to policy, events, library, non-HARD parks
1:25	San Lorenzo HoA is distinct - refers to letter
1:00	EBMUD director April Chan - Old Fairview in CV mac and school district, but really Fairview
1:21	some people in San Lorenzo think they live in Ashland or Cherryland
