

SENT VIA ELECTRONIC MAIL

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Re: Request to Reject Proposed Charter Change Abandoning Manager-Council Form of Government and Implementing a Strong Mayor System

Dear Members of the Yakima City Council,

It has come to our attention that the Yakima City Council is considering a measure to abandon the City's current Council-Manager governance system and replace it with a Mayor-Council structure. It appears that the Council is poised to rush this significant change to the City's charter through the political process, on the heels of resolving a multimillion-dollar lawsuit regarding the City's unlawful election system. For the reasons stated below, council action to place the proposed charter change on the ballot opens the City up to legal liability and the immense costs of defending litigation once again. We write to urge the City of Yakima to reconsider.

The issue of at-large seats has already been litigated in Yakima: in 2014, the U.S. District Court of Eastern Washington determined that such seats violate the Voting Rights Act. *Montes v. Yakima*, 40 F. Supp. 3d 1377 (E.D. Wash. 2014). The Court found that Yakima's election system "which essentially converts each of the seven city council seats to a city-wide majority-takes-all election, has the effect of denying Latinos the equal opportunity to participate in the political process and to elect candidates of their choice." *Montes v. Yakima*, No. 12-cv-3108, 2015 WL 11120964 at *2 (E.D. Wash. Feb. 17, 2015).

The Court not only determined that the City's election scheme as a whole violated the Voting Rights Act, but concluded that an election system that retained *any* at-large seat in Yakima would be "flawed in the same manner as the current electoral system because it dilutes the Latino vote against the majority population." *Id.* at *7. The Court further concluded that Latinos are excluded from an equal opportunity in city-wide seats, which "effectively preserve[s] the status quo that the Court has concluded violates Section 2 as it continues to allow non-Latino candidates to dominate those elections on a city-wide majority-takes-all basis." *Id.* at *8. As a result, the Court permanently enjoined the City of Yakima from administering, implementing, or conducting any future elections for the

Yakima City Council in which members are elected on an at-large basis.
Id. at *10.

The *Montes* ruling was supported by an extensive record regarding Yakima's voting population; a history of voting discrimination and suspect voting practices or procedures; marked disparities in socio-economic status; and the fact that not one Latinx person had ever been elected to a City-wide position. *See Montes*, 40 F. Supp. 3d at 1408-1415. The Court's findings apply equally to any City-wide election, whether it is for City Council or Mayor. The City is still bound by this order, the proposal directly violates it, and the ACLU-WA is prepared to ensure that Yakima complies with it. *See Montes*, 2015 WL 11120964 at *11.

In addition to opening itself up to expensive and time-consuming litigation, there is no evidence that a strong-mayor system is something Yakima residents actually want. In fact, voters in Yakima have already spoken on a strong-mayor system, striking down a similar proposal in 2011. Voters could have petitioned the Council for such a charter amendment in the 8 years since, but no such petition has surfaced. Thus, it is unclear why the City Council is considering such a monumental and costly charter change to the ballot now, let alone rushing it through the political process with minimal legal analysis or constituency engagement. The City should put a Mayor-Council proposal on pause to allow for a comprehensive legal analysis and meaningful community engagement or reject the proposal outright.

Sincerely,



Breanne Schuster

Staff Attorney
ACLU of Washington