



City of Millbrae Districting 2021- 2022





Background

- On November 27, 2020 the City received a letter from Mr. You You Xue claiming the City’s at large election system for electing candidates to the City Council violated the California Voters Right Act (CVRA). Mr. Xue’s letter did not contain all of the required elements to constitute a valid claim under the CVRA. .
- On March 5, 2021, the City received a letter from attorney Kevin Shenkman, Mr. Xue’s attorney, claiming the City’s at-large electoral system violates the California Voting Rights Act (CVRA).

The letter states:

“I write on behalf our client, Southwest voter Registration Education Project and its members residing within the City of Millbrae (“Millbrae” or “City”) as well as You You Xue. Millbrae relies upon an at-large election system for electing candidates to its governing board. Moreover, voting within the City is racially polarized resulting in minority vote dilution, and therefore, the City’s at-large elections violate the California Voting Rights Act of 2001.”



Background

- Mr. Shenkman has threatened litigation unless the City voluntarily converts to district-based elections for Councilmembers.
- Shenkman asserts (although no proof was provided to the City) that the City's at-large electoral system dilutes the ability of certain ethnicities (specifically Latinos and Asians, both protected classes), to elect candidates of their choice or otherwise influence the outcome of the City's at-large Council elections.
- The City of Millbrae is a fully integrated community, but the CVRA does not provide an exemption for smaller communities that are fully integrated.



MILLBRAE

California Voting Rights Act (CVRA)

- CVRA made it easier for plaintiffs to prevail in lawsuits against public entities by removing a number of procedural safeguards and burden of proof requirements that exist under the Federal Voting Rights Act (“FVRA”)
- Prevailing plaintiff has the right to recover their reasonable attorneys’ fees and expert witness cost. However, there is no attorney fee or cost recovery allowed should the City prevail, unless the City can prove the claim was frivolous.
- The City must adopt a Resolution of Intent by October 15, 2021 to cap the attorney and expert fee exposure to a maximum of \$30,000 pursuant to the CVRA.
- Not moving forward with this Resolution of Intent could expose the City to millions in plaintiff costs.
- On October 12, 2021 the City Council adopted Resolution 21-70

Agenda

Things we will cover:

- The California Voting Rights Act (CVRA)
- What is Districting
- Traditional Districting/Redistricting Principles
- The Fair Maps Act
- How the public can participate in the process
- Public Hearing Schedule

What is the CVRA?

The California Voting Rights Act is a state law that prohibits the use of At Large Election Systems in local government if there is Racially Polarized Voting.

“At Large” is defined as anything other than a system in which an elected official lives in a district, and is only elected by members of that district.

“Racially Polarized Voting” is defined as differences in voting patterns which can be shown to be correlated to race, religion, national origin, or membership in any other protected class.

What is the CVRA?

The California Voting Rights Act takes the principles of the Federal Voting Rights Act and expands it regarding districted elections in two key ways:

While Federal law uses “majority minority” districts as a standard for vulnerability, the CVRA only requires “ability to influence.”

The CVRA requires that plaintiffs get full reimbursement for legal fees associated with any successful challenge.

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While Federal law uses “majority minority” districts as a standard for vulnerability, the CVRA only requires “ability to influence.”

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What is Districting

Definition

Districting is the initial process of creating election district boundaries.

These boundaries determine:

- Eligibility to run for office – must live within boundaries to qualify for election.
- Who votes in the election – only voters within the district vote for their councilmember.

What is Districting

Definition

Districting is the initial process of creating election district boundaries.

These boundaries do not determine:

- How the city decides to govern. The city can still work to achieve goals that benefit the city as a whole rather than the interests of any single district.
- How services or relationships between the city and the public are managed.

Traditional Districting Principles

Preventing a Districting from Becoming a Gerrymander

There are a number of criteria that have been used nationally and upheld by courts.

- Relatively equal size – people, not citizens
- Contiguous – districts should not hop/jump
- Keep districts compact – appearance/function
- Maintain “*communities of interest*”
- Follow city/county/local government lines

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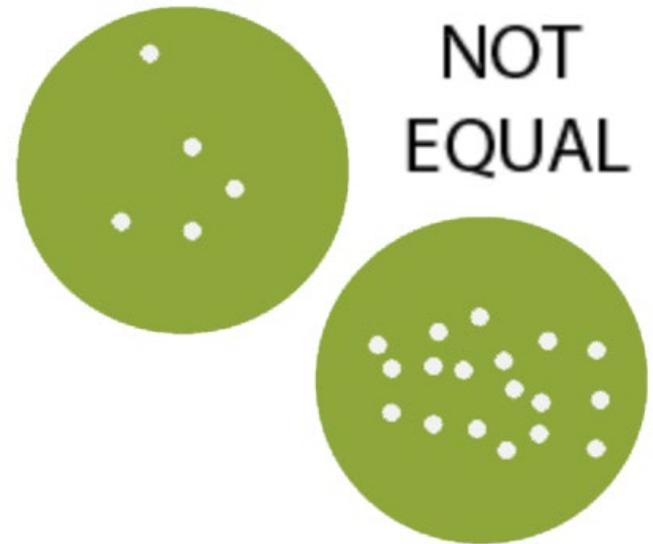
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Equal Population

Utilizing the US Census Decennial File

What is “equal” population has been a key subject in districting litigation.

- Population Equality is based on “People” not citizens or voters or other metrics.
- 10% deviation or better.



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Contiguity

Two definitions for what is contiguous

Contiguity should be thought of as “literal” and “functional.”

- An area that is one whole piece is “literally contiguous.”
- An area that represents how the population functions or how people are connected is “functionally contiguous.”



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Compactness

Determining what is “compact”

The measure of compactness can get complicated.

- Ratio of the circumference of a district and the area of a district.
- Measuring the number of distinct straight lines and the number of kinks and bends.
- Simply outlawing funny shapes.

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Communities of Interest

Bringing like people together for representation

Communities of interest are the building blocks of districts.

A community of interest includes ethnic and language minorities and other groups.

- Subjective
- Open-ended to be as inclusive as possible

Examples of Voting Rights Act Communities

- Latinos
- Asians
- African Americans

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Examples of Voting Rights Act Communities

- Latinos
- Asians
- African Americans

While communities of interest may include race, it cannot be the *predominant factor* in drawing district boundaries.

Communities of Interest

Bringing like-minded people together for representation

A community of interest includes ethnic and language minorities and other groups.

Other Communities, example are:

- People living near an industry (farming, higher education, manufacturing)
- Senior Citizens or Students
- Downtown / Urban
- Rural or Agricultural
- Homeowners or Renters

Communities of Interest

Three Critical Questions in Defining YOUR Community

Communities can be best described by answering these three questions:

- Does the community have a shared culture, characteristics or bond?
- Is the community geographic in nature? Is the community able to be mapped?
- What is the community's relationship with the jurisdiction being districted? How is it affected by the policy decisions made by the elected officials?

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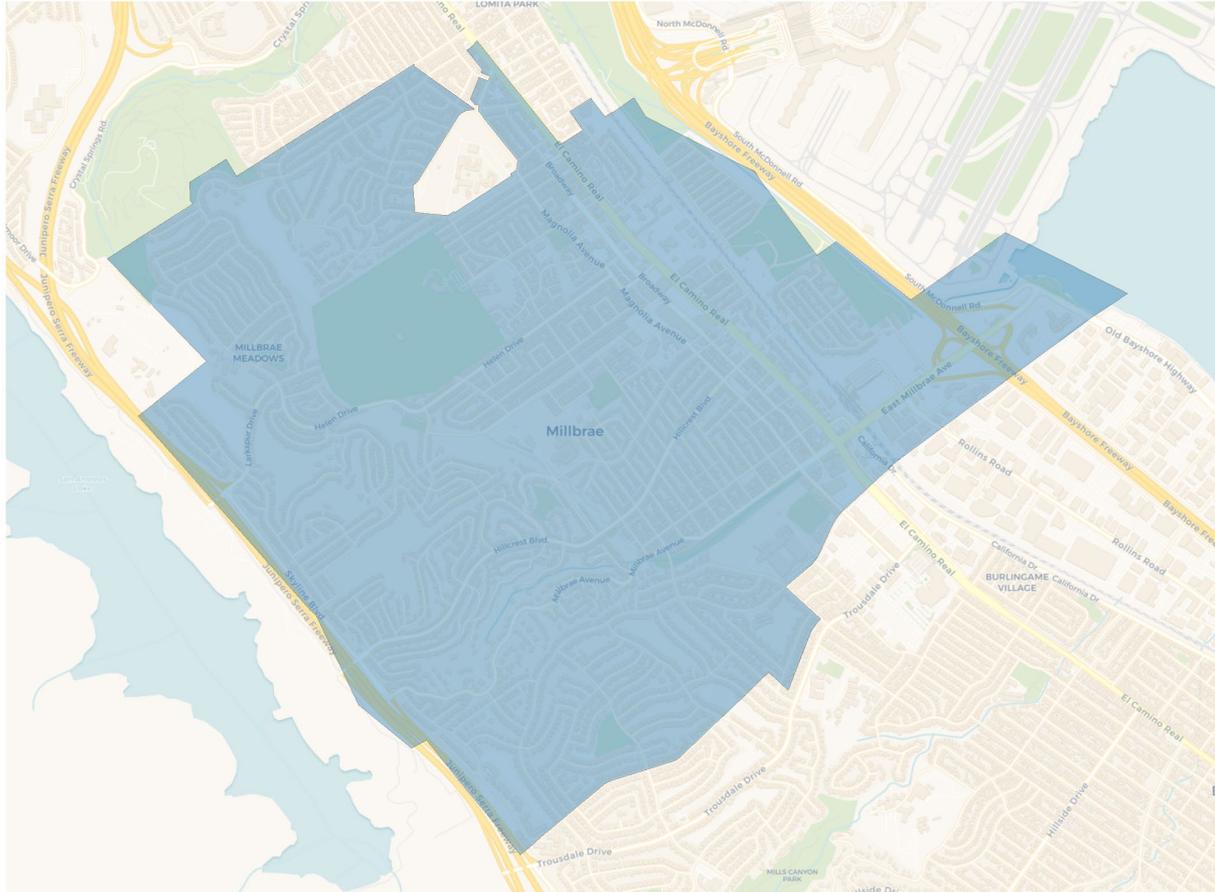
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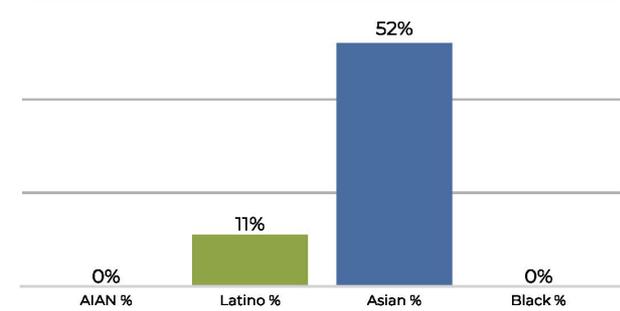
Starting in 2020, cities and counties doing redistricting have additional criteria they must follow under the California Fair Maps Act.

- Process/transparency when conducting redistricting
- Not using incumbent or candidate residence as a Community of Interest
- Not drawing districts to advantage a political party

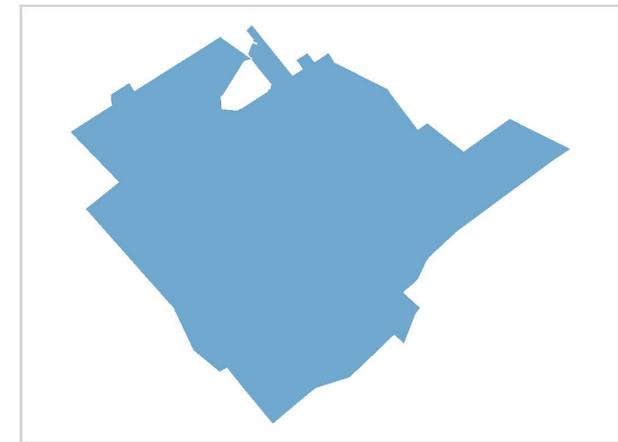
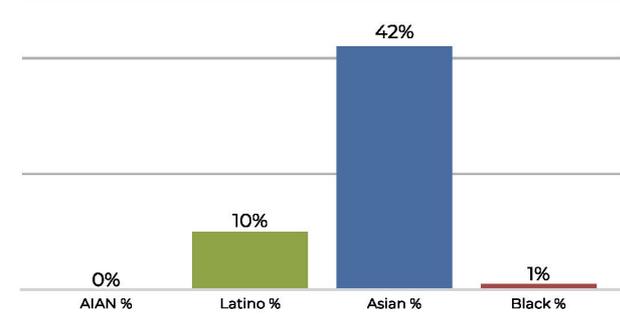
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2020 Census



Citizen Voting Age Population



Population	Deviation	Deviation %	Other	Other %	Latino	Latino %	Asian	Asian %	Black	Black %
23,228	0	0.0%	8,276	35.6%	2,625	11.3%	12,155	52.3%	172	0.7%
Total CVAP	Other CVAP	Other CVAP %	Latino CVAP	Latino CVAP %	Asian CVAP	Asian CVAP %	Black CVAP	Black CVAP %		
15,935	7,306	45.8%	1,678	10.5%	6,792	42.6%	160	1.0%		

Next Steps

Upcoming Hearings

Nov. 9, 2021	Public Hearing #1: Educational
Nov. 17, 2021	Public Hearing #2 – Communities of Interest
Dec. 8, 2021	Community Workshop
Jan 11, 2022	Presentation of Draft Maps
Jan 25, 2022	Review Draft Maps
Feb. 22, 2022	Final Vote on Maps



REDISTRICTING PARTNERS