



CITY OF
Vancouver
WASHINGTON

City of Vancouver 2024 Charter Review Committee

March 19, 2024





Agenda

- Welcome, Agenda, and Introductions
- Review of Charter Review Process & Next Step
- Invited Guest: Jonathan Young, City Attorney
- Discussion: Subcommittee findings
- Preparation for April 15 Council Workshop
- Public Comment/Community Communications
- Next Steps and Conclusion





Approval of February Meeting Minutes



Invited Guest: Jonathan Young, City Attorney

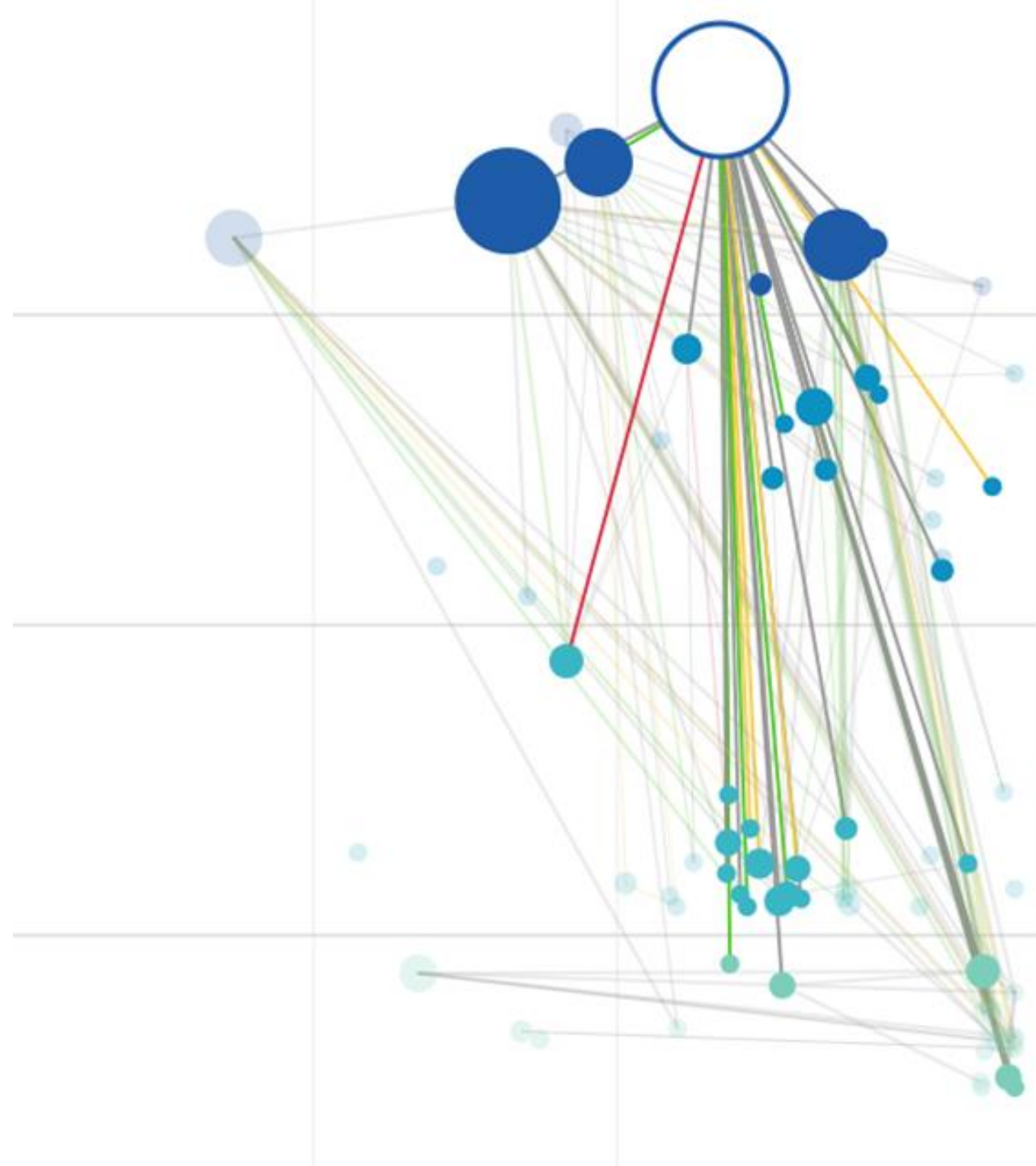




CITY OF
Vancouver
WASHINGTON

Voting Rights Act Overview

Jonathan Young
City Attorney
March 19, 2024



Voting Rights Act



Federalism



History



Legal Test



Practical





Legal Opinions

(Preview)

- The VRA is still in a state of flux.
- **Inadequate legal remedies exist** to fully repair harm caused by Voting Rights Act violations.
- Current risk of illegality **very low**.
- Risk of “cracking” or “packing” is **heightened** during periods of rapid change (e.g., comprehensive plan changes and/or annexation.)



Federalism

Federal Government
sets the floor re:
Civil Rights

States establish
the ceiling



Universal
Health Care

Federalism

Federal Government
sets the floor re:
Civil Rights

States establish
the ceiling

Gender Identity
and Expression;
Reproductive Rights;
Voting Rights.



Civil Rights violations, e.g.,
Cruel and Unusual Punishment

Historical

Federal Voting Rights Act of 1965
(Amended 1982)

WA Voting Rights
Act



1965 - 2012

2013

2018

2023

2024

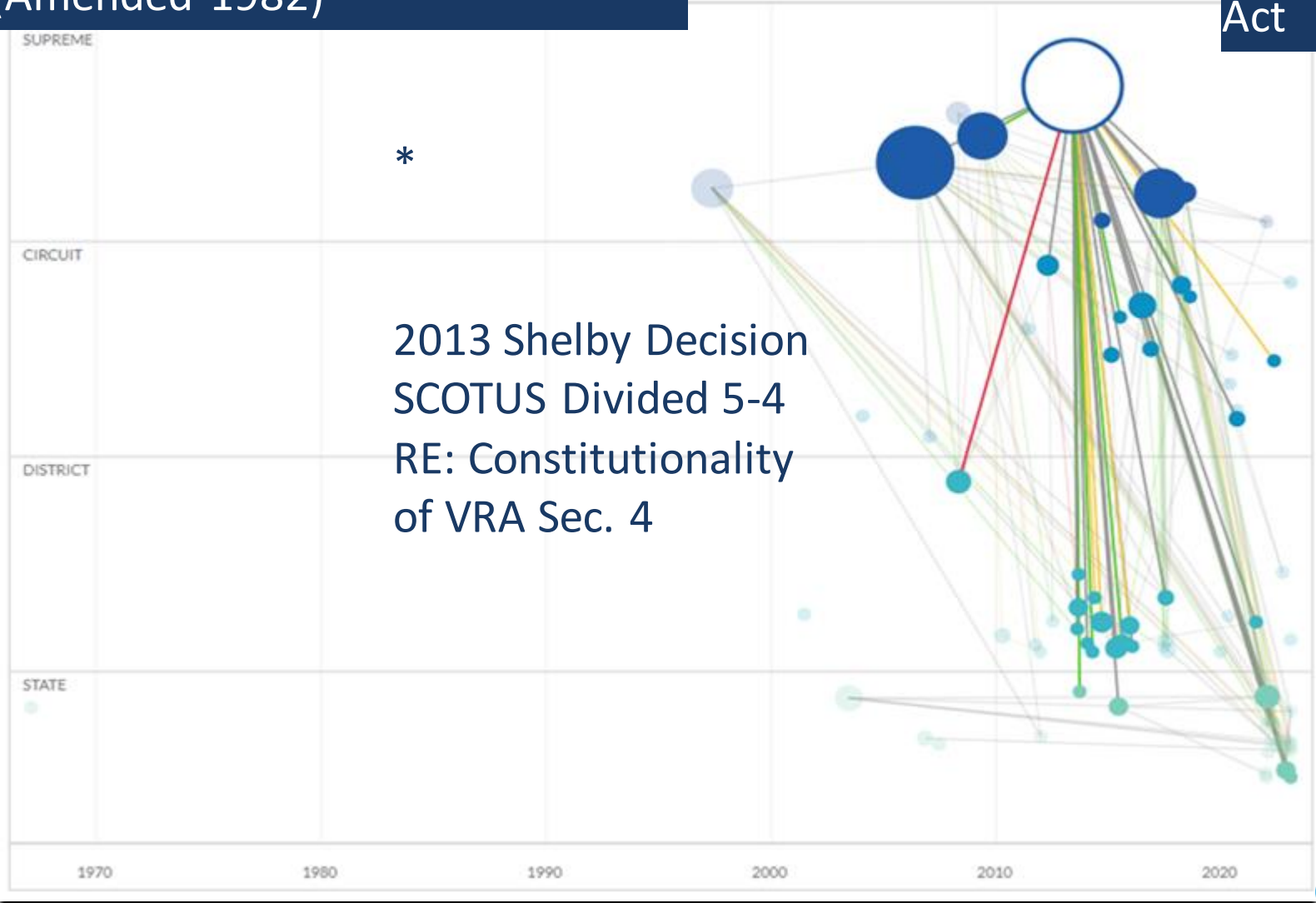
2035



Historical

Federal Voting Rights Act of 1965 (Amended 1982)

WA Voting Rights Act



*
2013 Shelby Decision
SCOTUS Divided 5-4
RE: Constitutionality
of VRA Sec. 4

WA S.Ct.
Franklin County
Decision



Voting Rights Act Federal vs. Washington

U.S. Voting Rights Act (1965)

Section 2 violation if:

- Threshold Question: protected members are:
(a) numerically large and geographically compact; (b) politically cohesive; and (c) others vote as a bloc defeating preferred candidate of the Protected Class.
- Totality of Circumstances reflects the system has the result of denying a Protected Class an equal opportunity to participate in the political process

WA Voting Rights Act (2018)

Violation if:

- Elections exhibit polarized voting; and
- Members of protected class do not have equal opportunity to elect due to dilution or abridgment of rights.



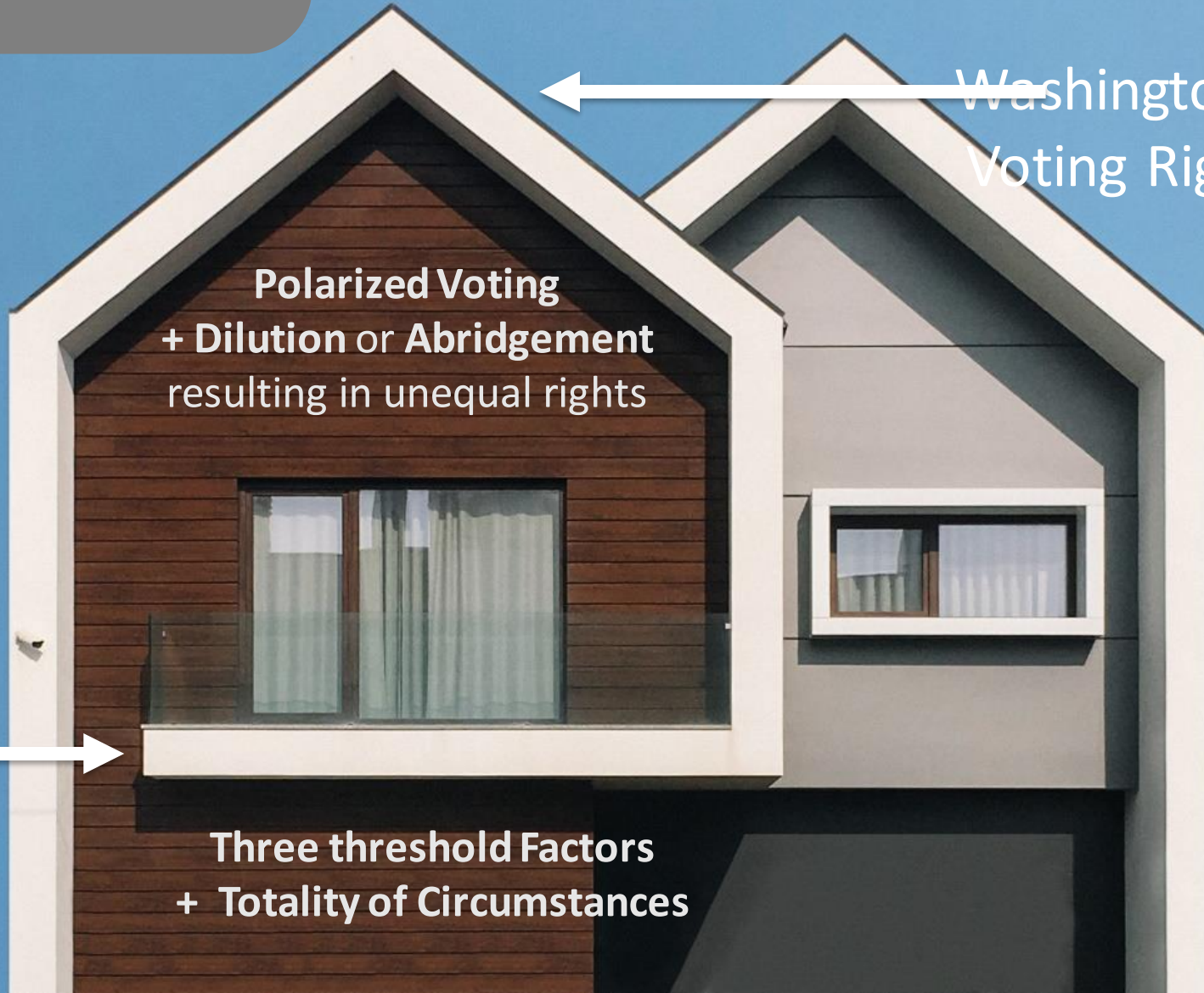
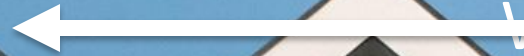
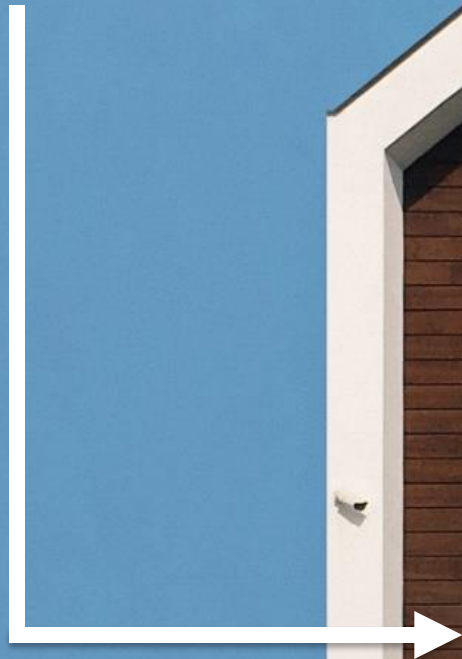
Burden of Proof

Federal Voting Rights Act

Washington State Voting Rights Act

**Polarized Voting
+ Dilution or Abridgement**
resulting in unequal rights

**Three threshold Factors
+ Totality of Circumstances**



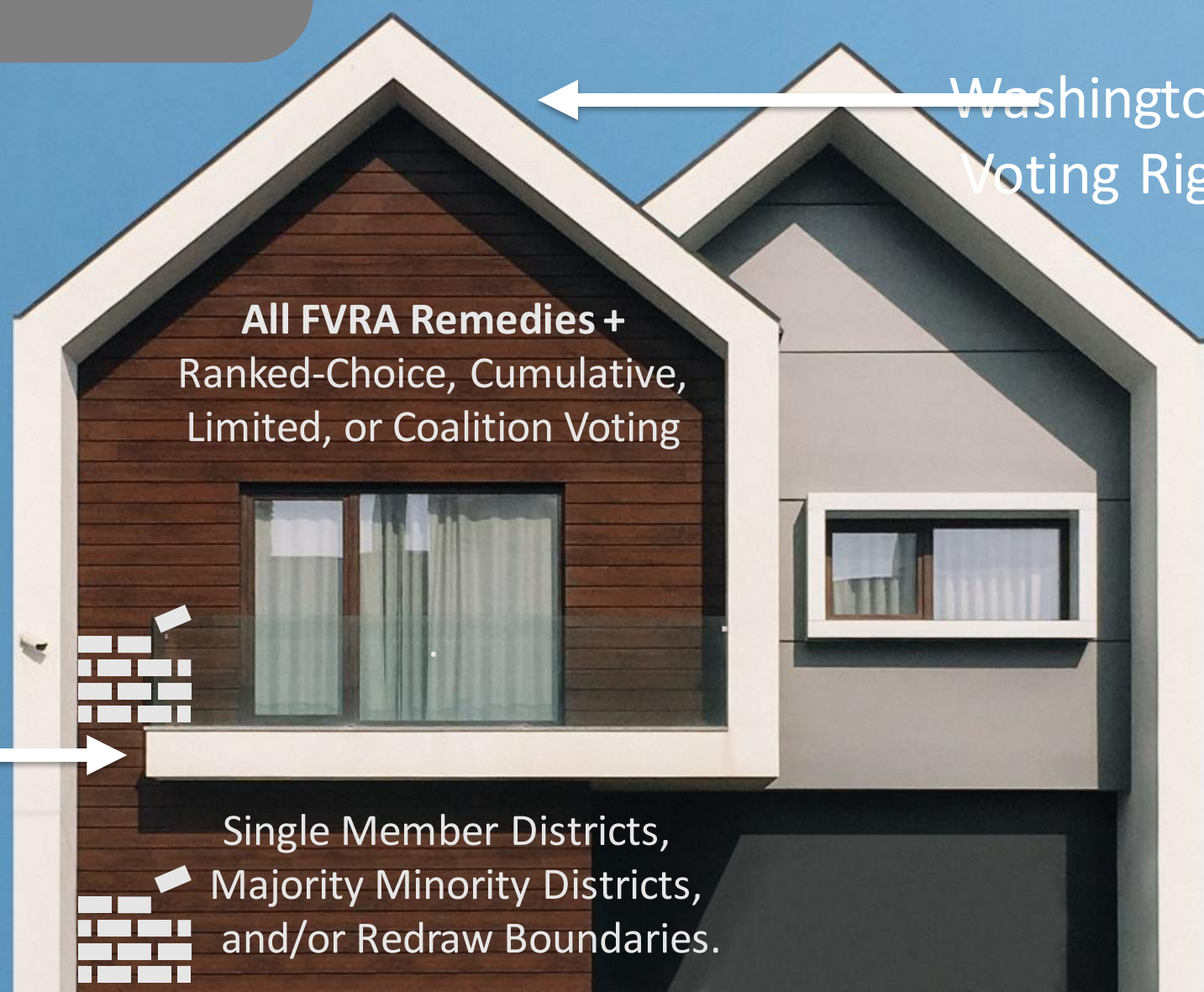
Remedies

Federal Voting Rights Act

Washington State Voting Rights Act

All FVRA Remedies +
Ranked-Choice, Cumulative,
Limited, or Coalition Voting

Single Member Districts,
Majority Minority Districts,
and/or Redraw Boundaries.



Remedies

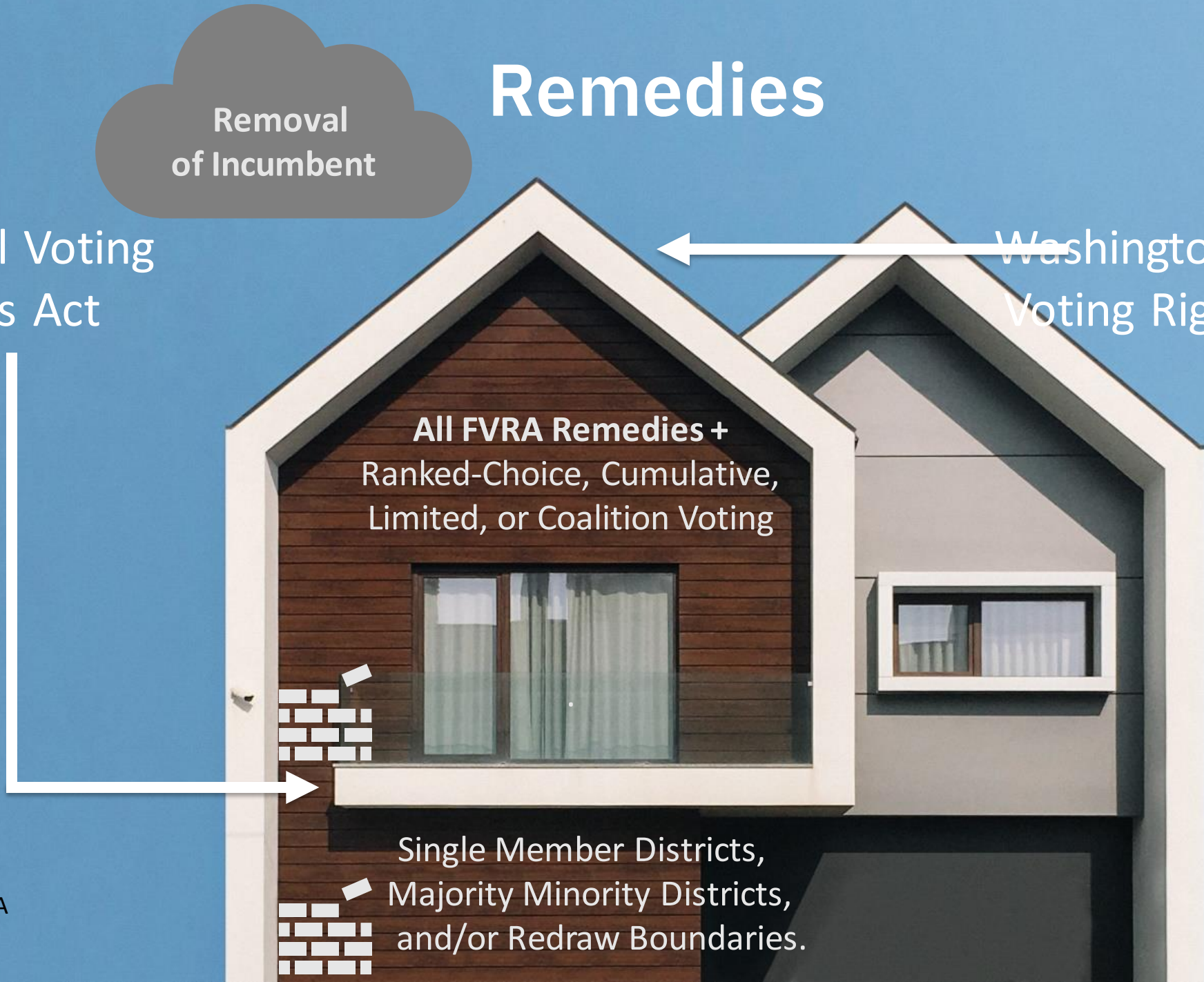
Removal
of Incumbent

Federal Voting
Rights Act

Washington State
Voting Rights Act

All FVRA Remedies +
Ranked-Choice, Cumulative,
Limited, or Coalition Voting

Single Member Districts,
Majority Minority Districts,
and/or Redraw Boundaries.





Adequate Remedies?

Districts Formed

Districts Reviewed

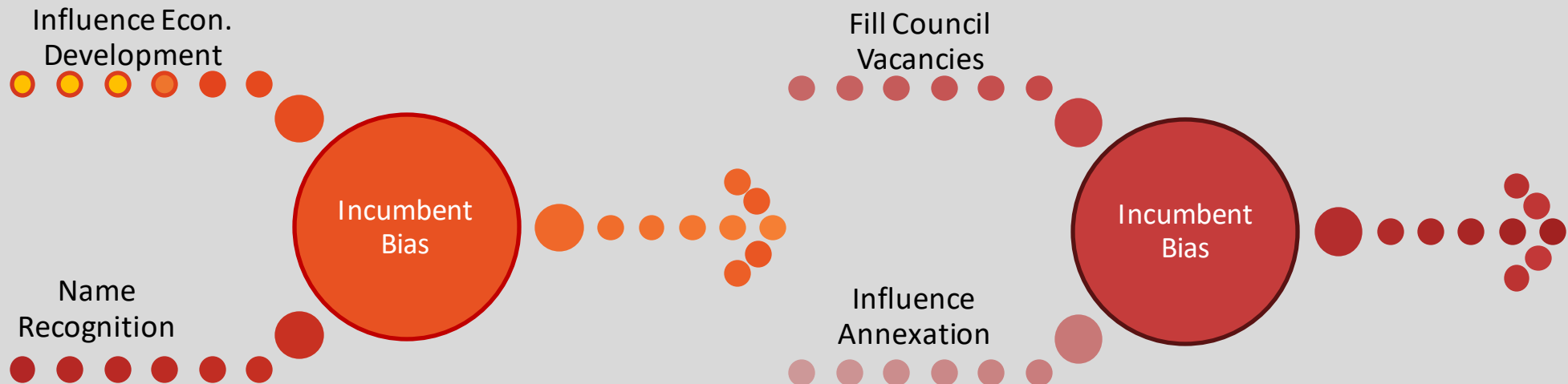
Districts Reviewed



Election #1

Election #2

Election #3



Risk Analysis

Portugal v. Franklin County

Case Study: Franklin County

Majority Minority

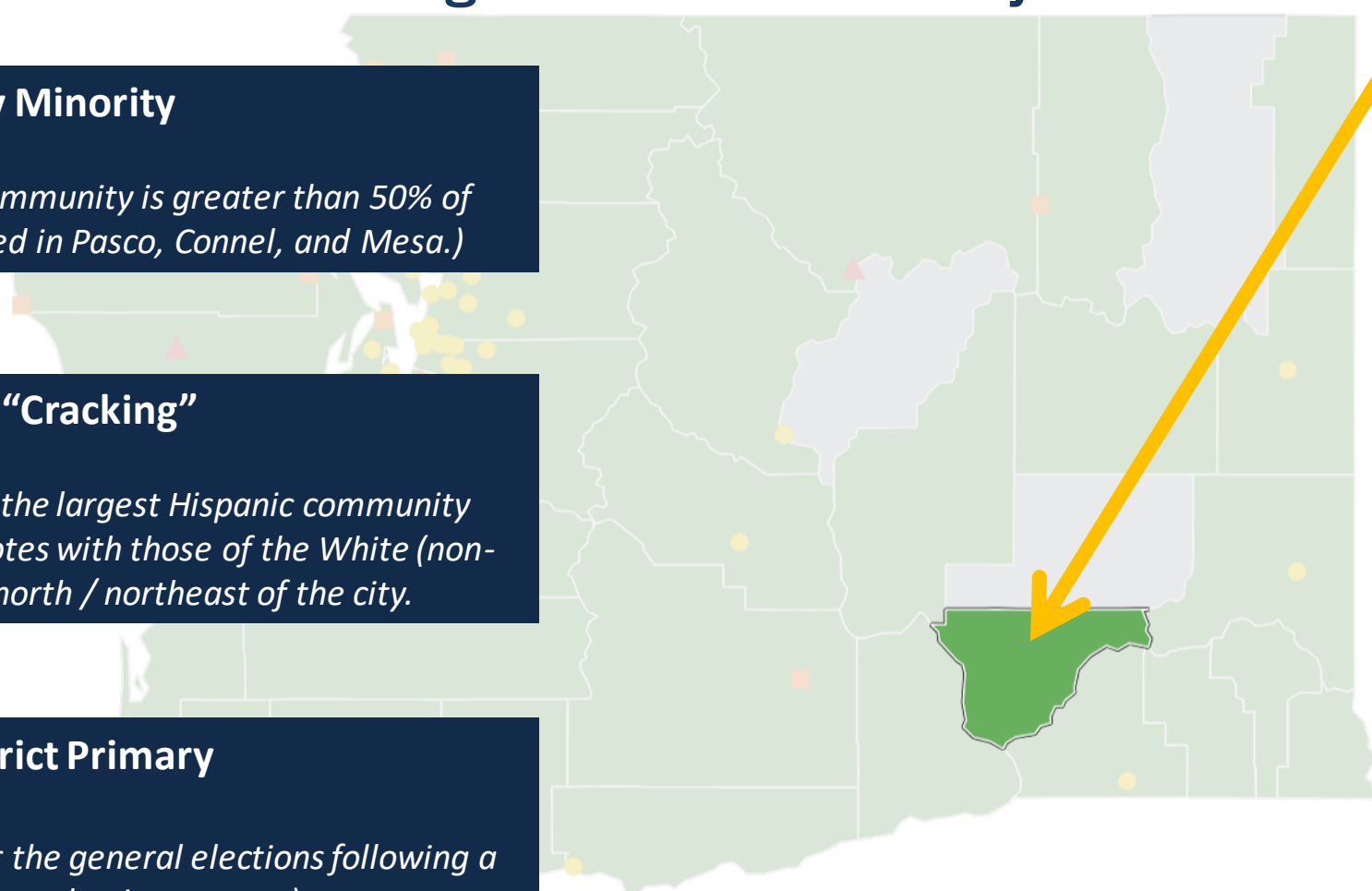
(Hispanic / Latino / Spanish community is greater than 50% of Franklin Co. population Located in Pasco, Connel, and Mesa.)

Textbook “Cracking”

The primary districts trisected the largest Hispanic community (Pasco) effectively diluting its votes with those of the White (non-Hispanic) residents to the north / northeast of the city.

Three-District Primary

(At-large election system use for the general elections following a three-district primary election system.)



Risk Analysis

Portugal v. Franklin County

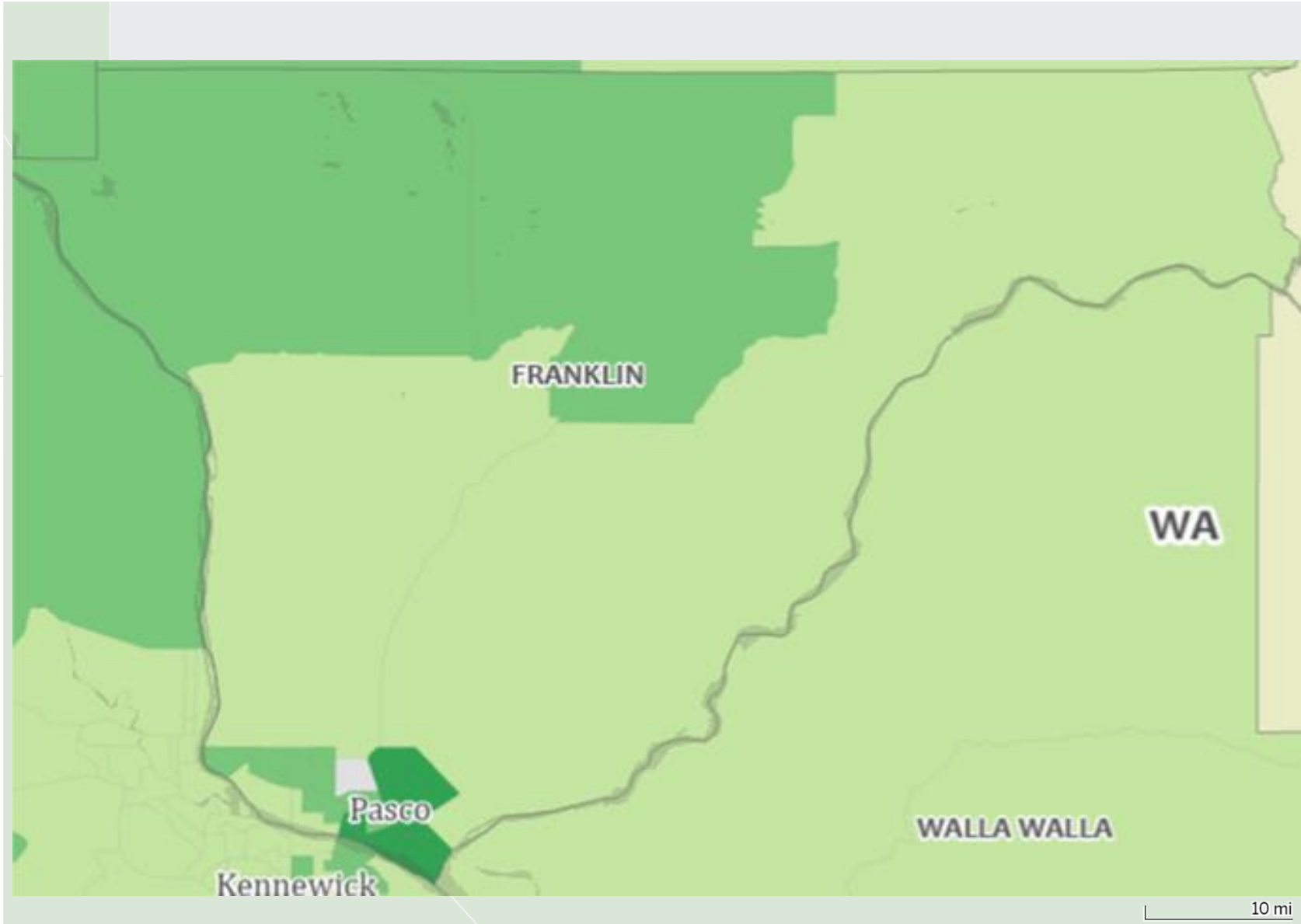
Case Study:
Franklin County

United States[®]
Census
Bureau
2020 Census Demographic

Legend

Percent White alone or in combination, Hispanic or Latino by census tract

- 50.0 or more
- 30.0 to 49.9
- 15.0 to 29.9
- 5.0 to 14.9
- Less than 5.0



Risk Analysis

Portugal v. Franklin County

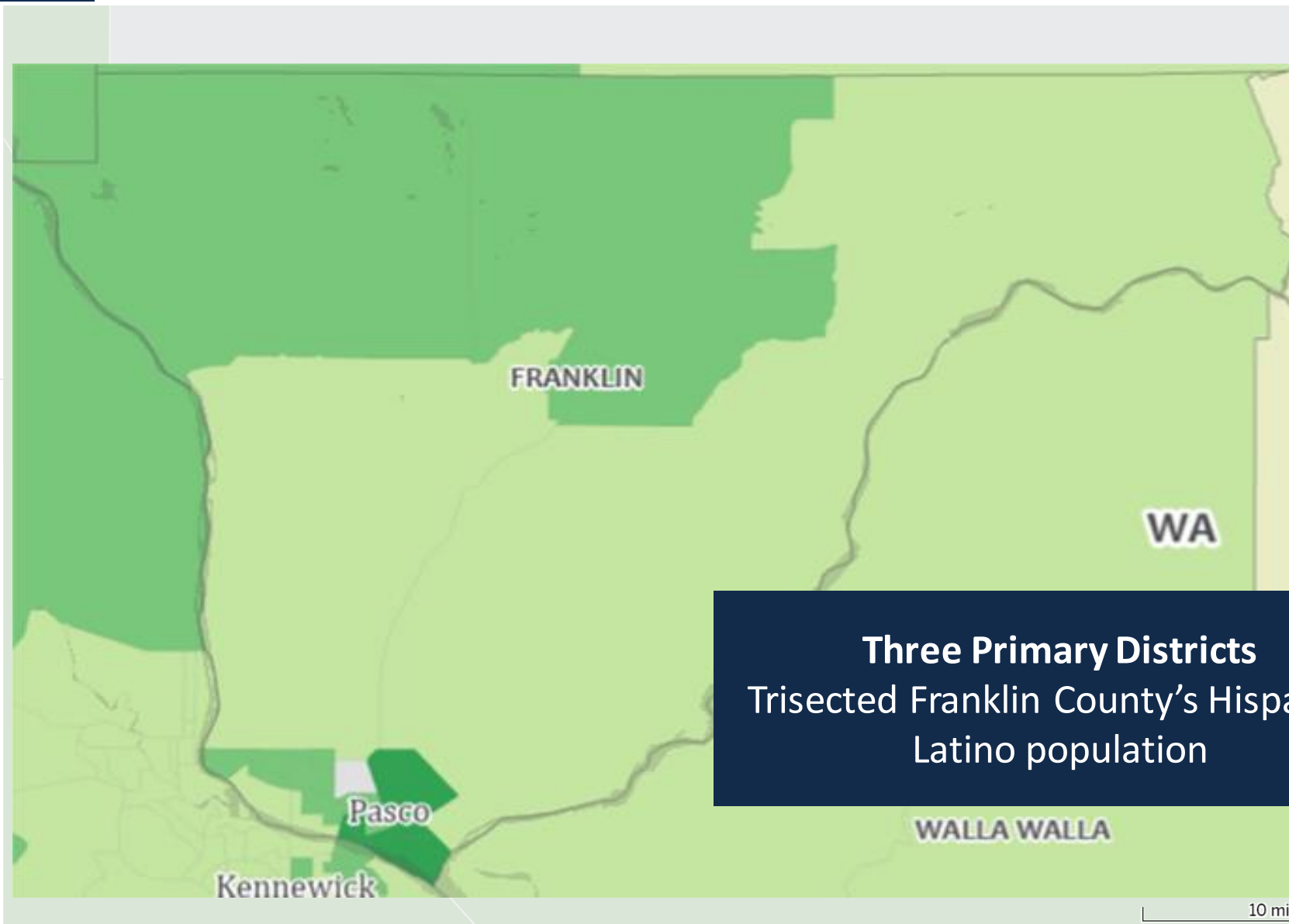
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Three Primary Districts
Trisected Franklin County's Hispanic / Latino population



Risk Analysis

Portugal v. Franklin County

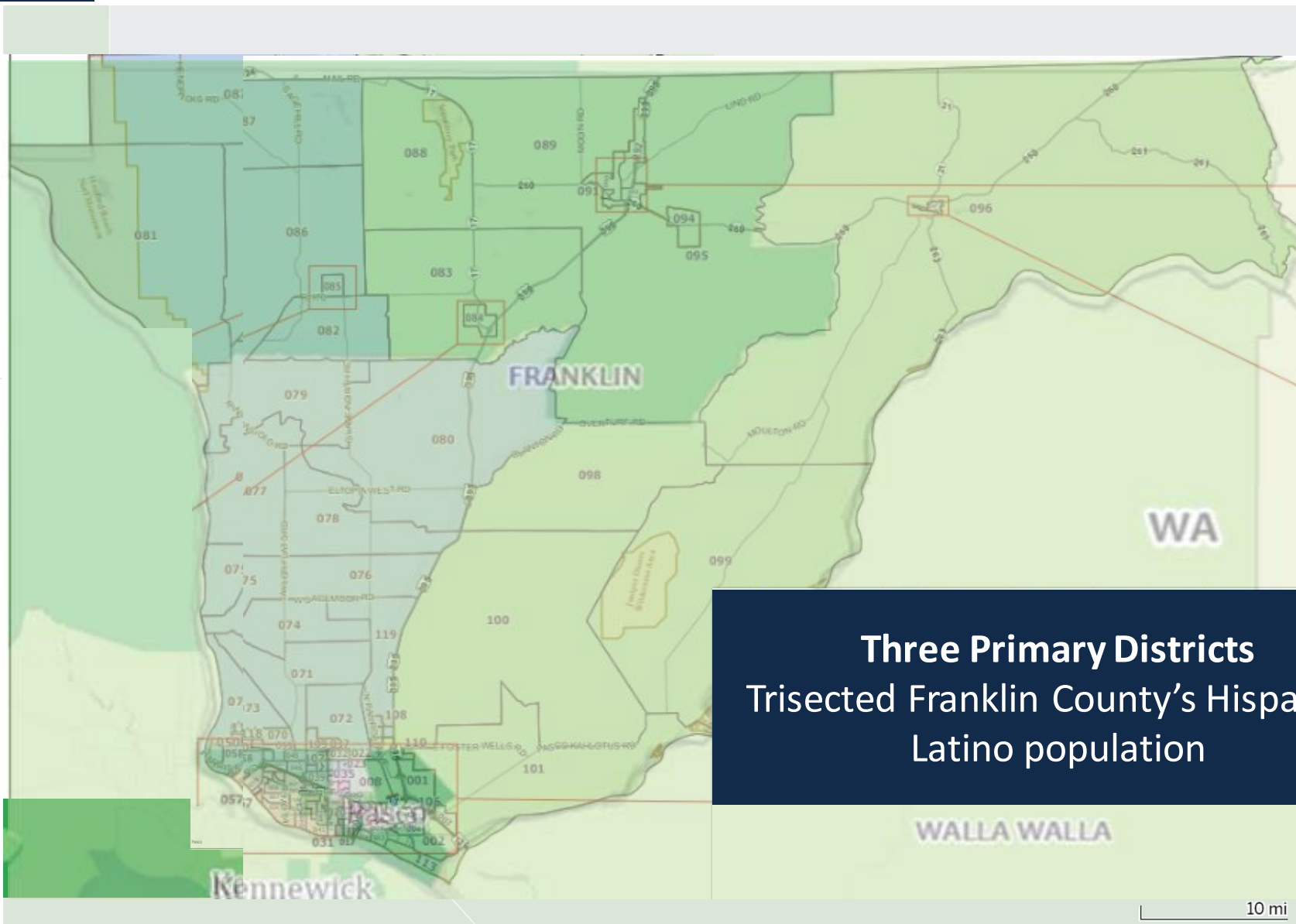
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Three Primary Districts
Trisected Franklin County's Hispanic / Latino population



Risk Analysis

Portugal v. Franklin County

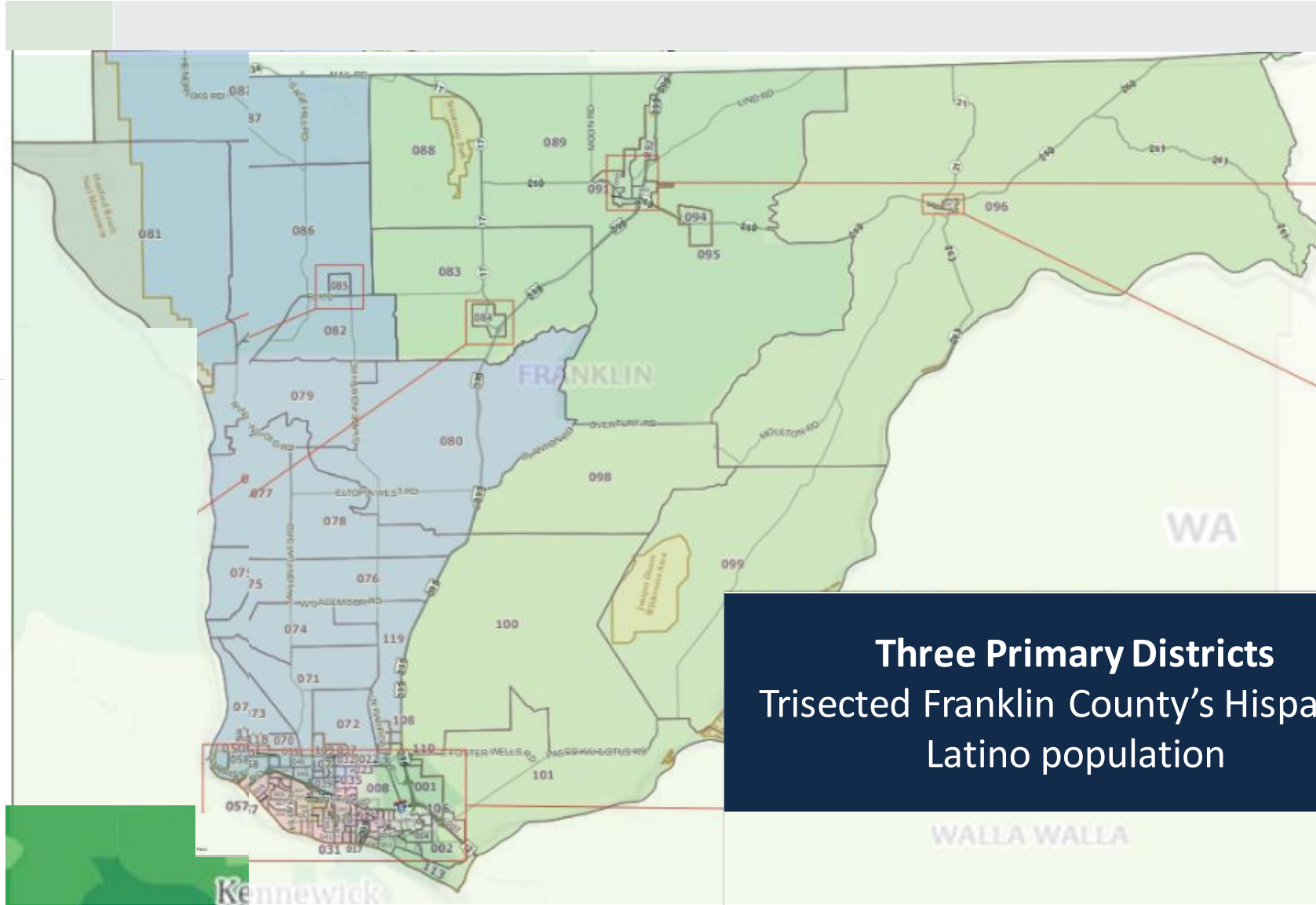
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Census
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Three Primary Districts
Trisected Franklin County's Hispanic / Latino population



Risk Analysis

Portugal v. Franklin County

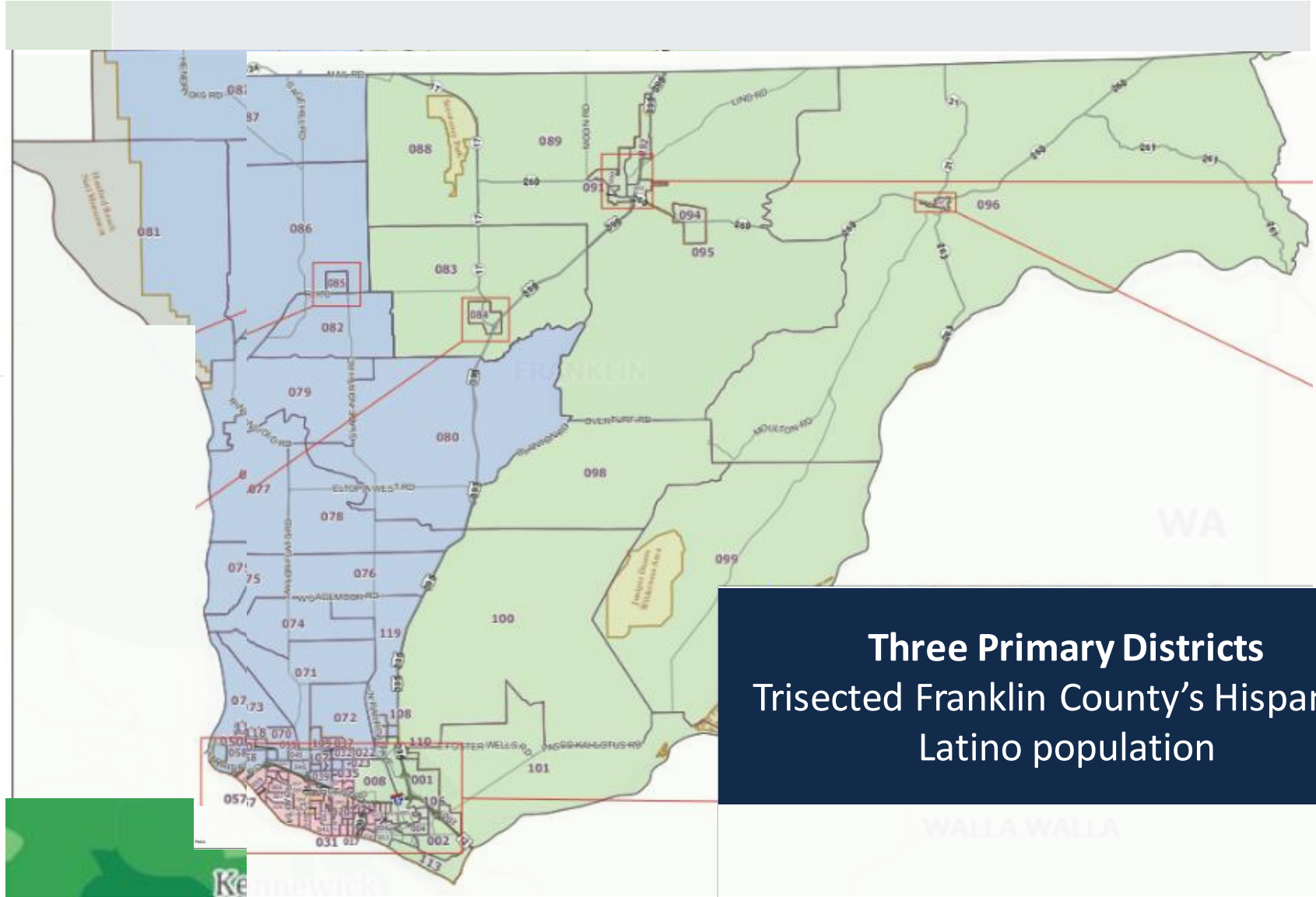
Case Study: Franklin County

United States[®]
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2020 Census Demographic

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Three Primary Districts
Trisected Franklin County's Hispanic / Latino population



Risk Analysis

Portugal v. Franklin County

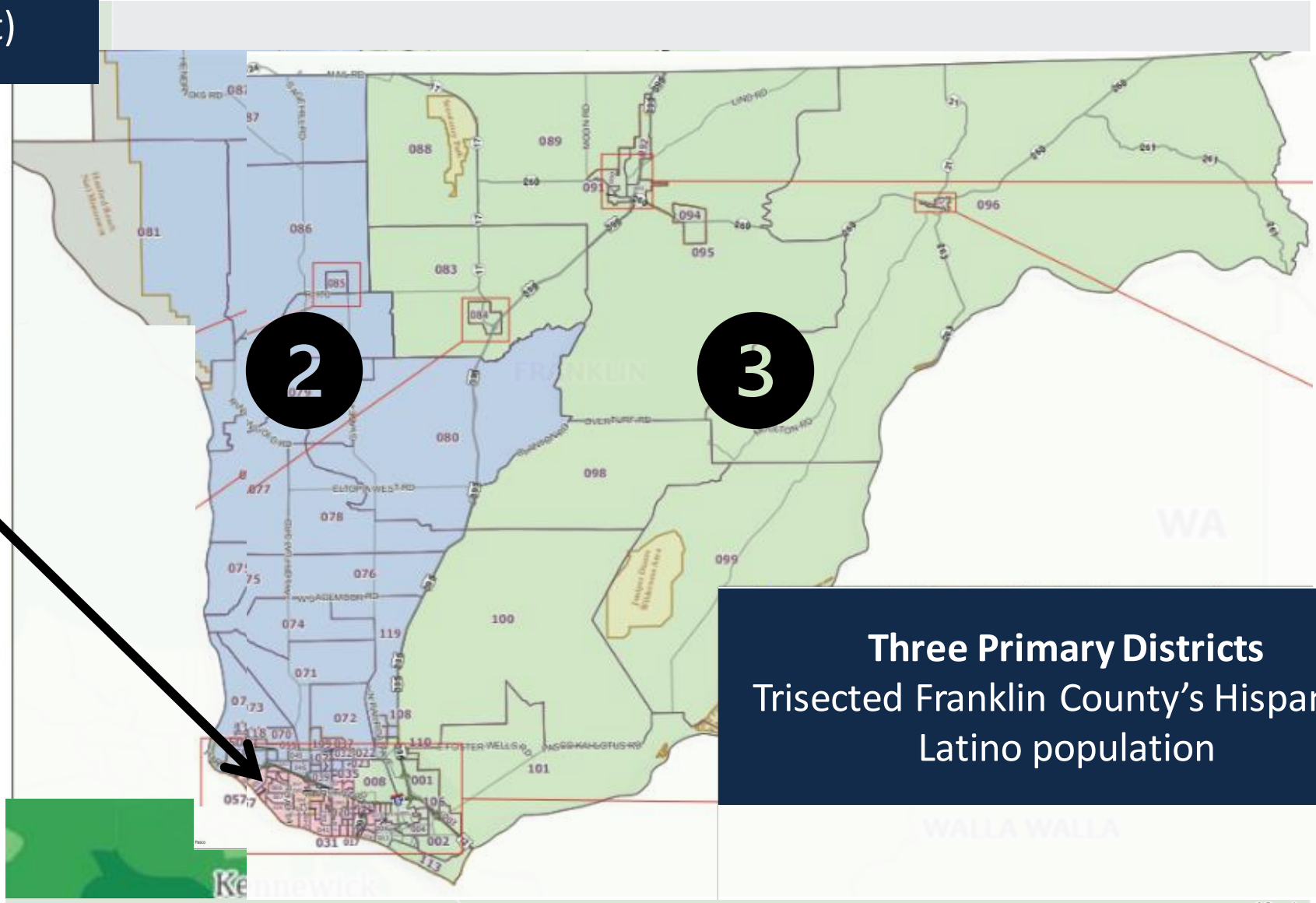
Case Study:
Franklin County

Primary Districts
(Pre-Settlement)

1

2

3



Three Primary Districts
Trisected Franklin County's Hispanic /
Latino population

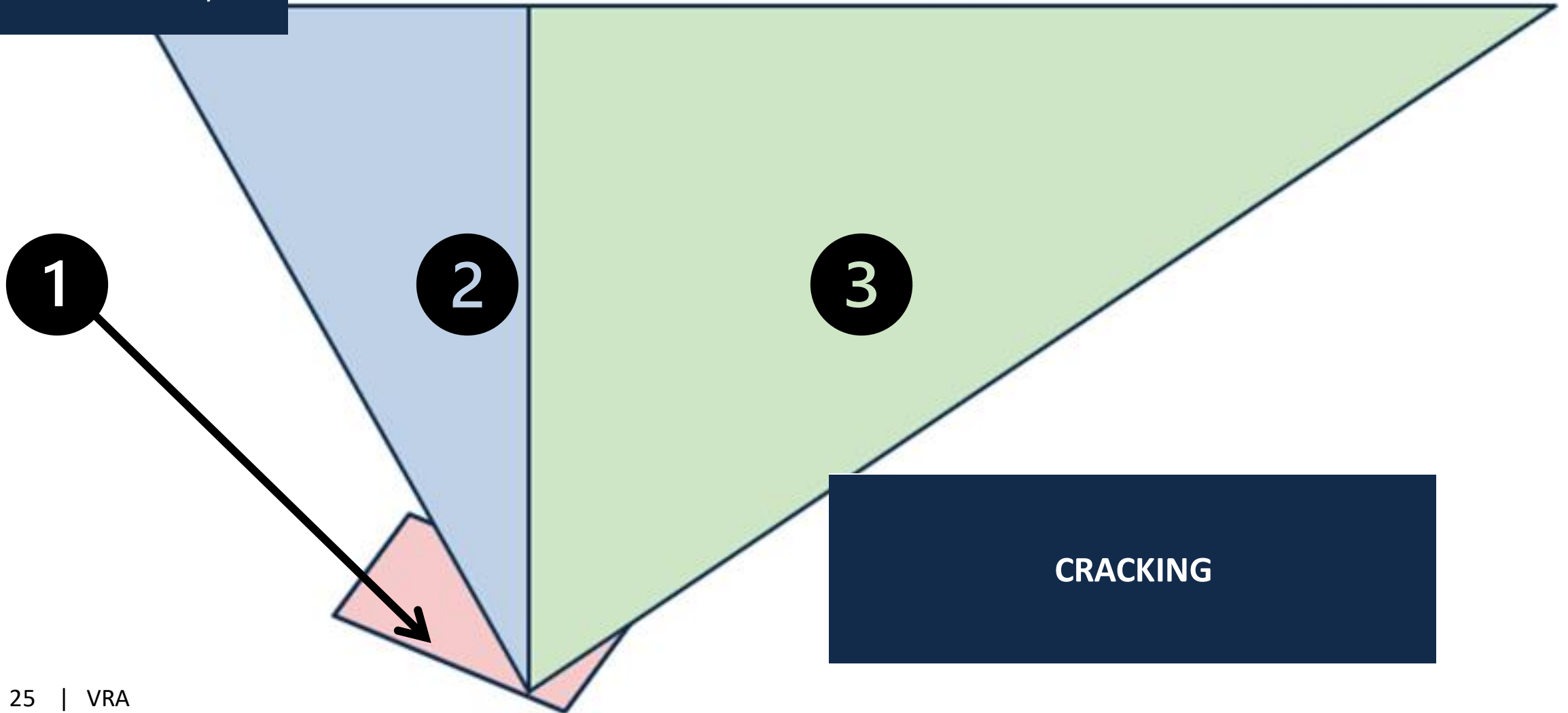


Risk Analysis

Portugal v. Franklin County

Case Study:
Franklin County

Primary Districts
(Pre-Settlement)



CRACKING

Risk Analysis

Portugal v. Franklin County

Case Study:
Franklin County

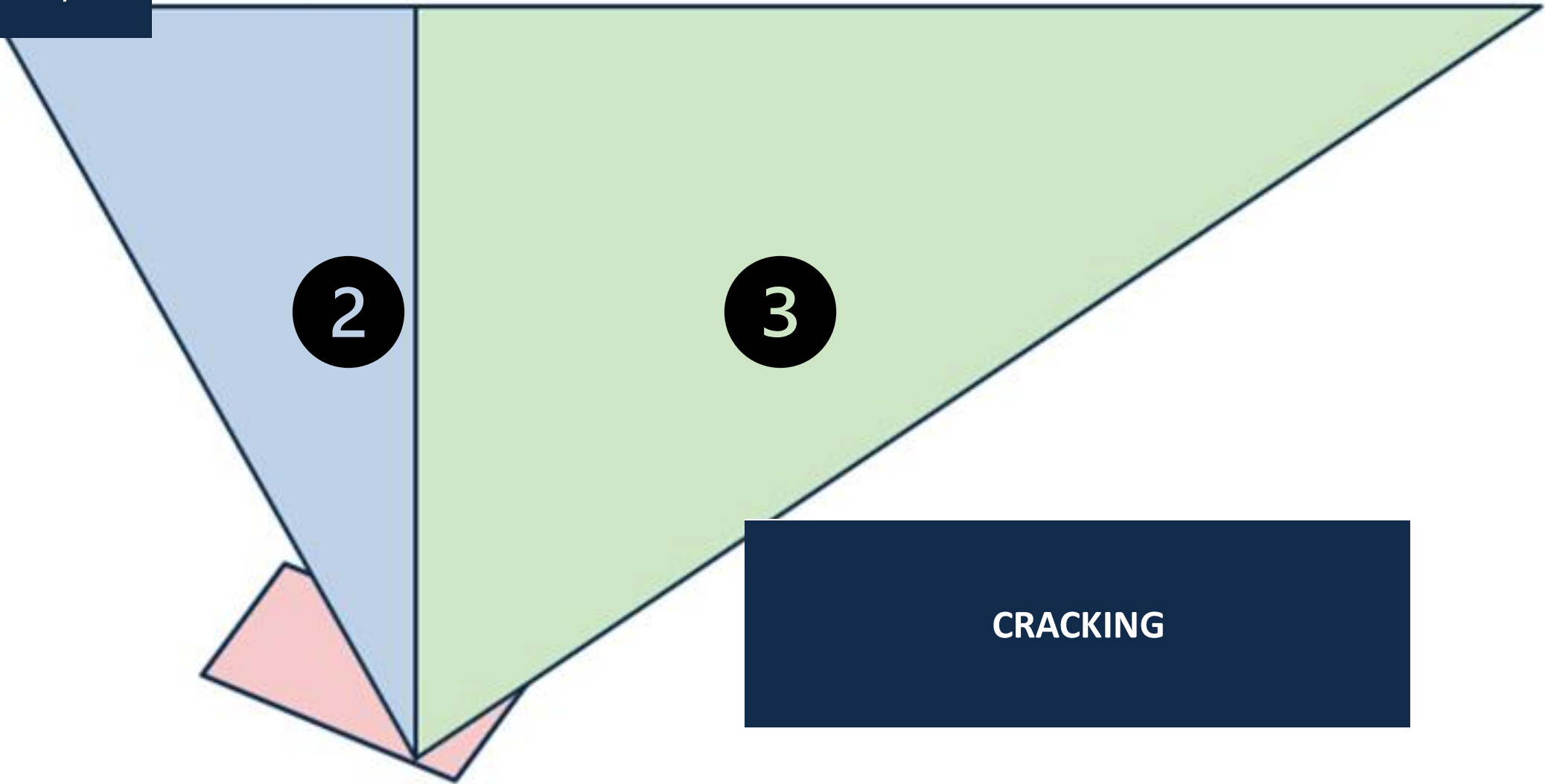
Primary Districts
(Pre-Settlement)

1

2

3

CRACKING



Risk Analysis

Portugal v. Franklin County

Case Study:
Franklin County

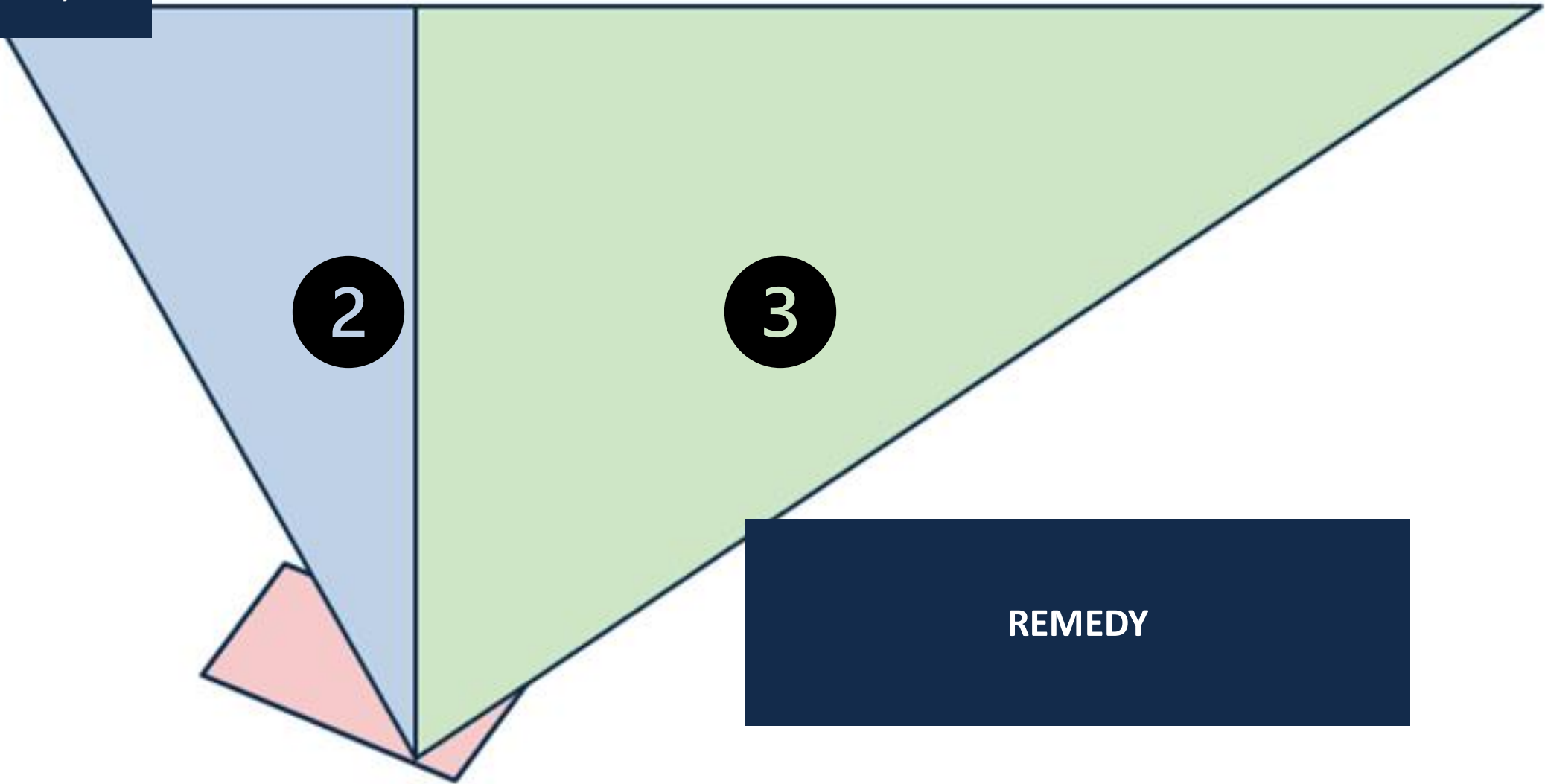
Primary Districts
(Pre-Settlement)

1

2

3

REMEDY

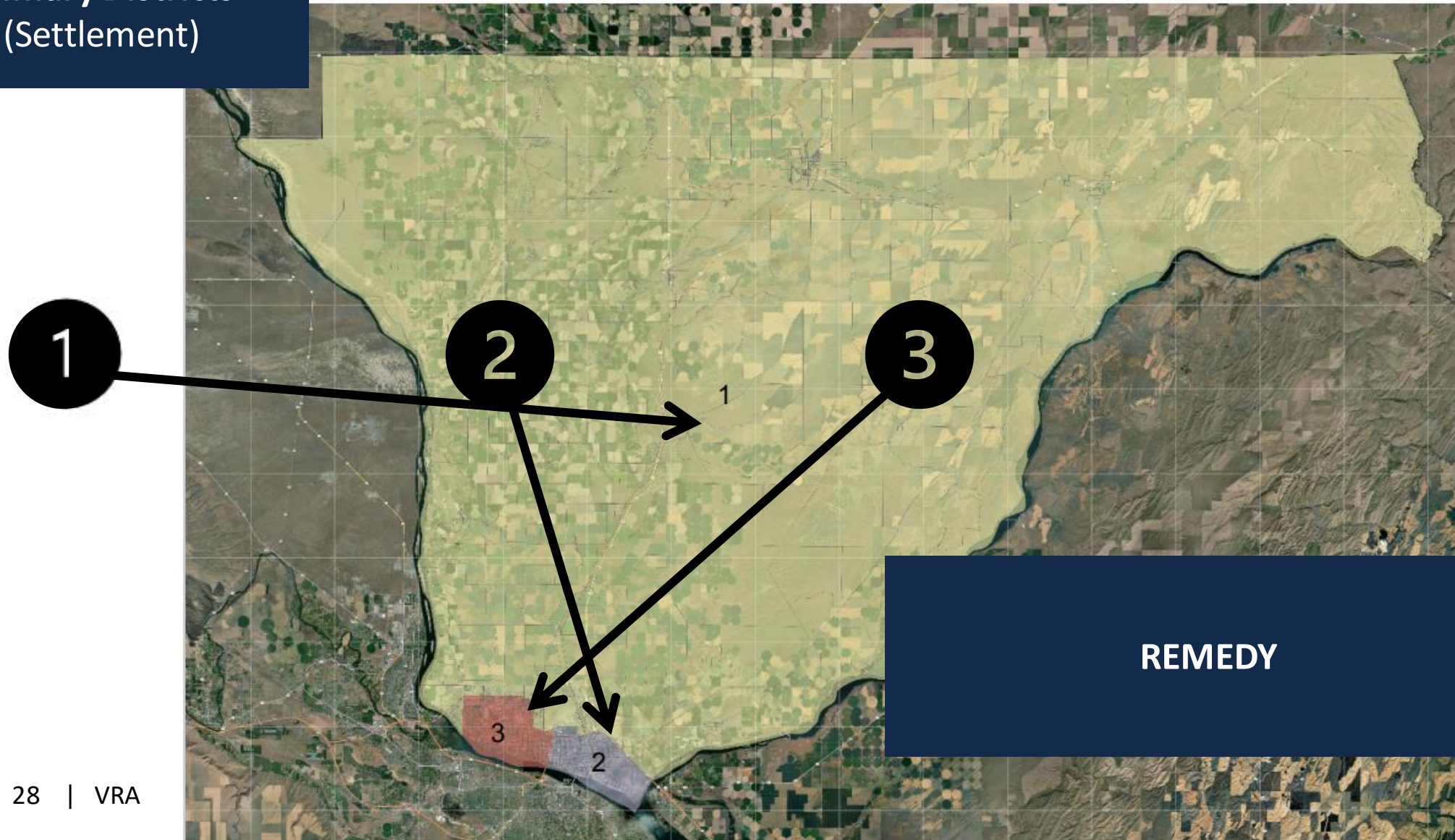


Risk Analysis

Portugal v. Franklin County

Case Study:
Franklin County

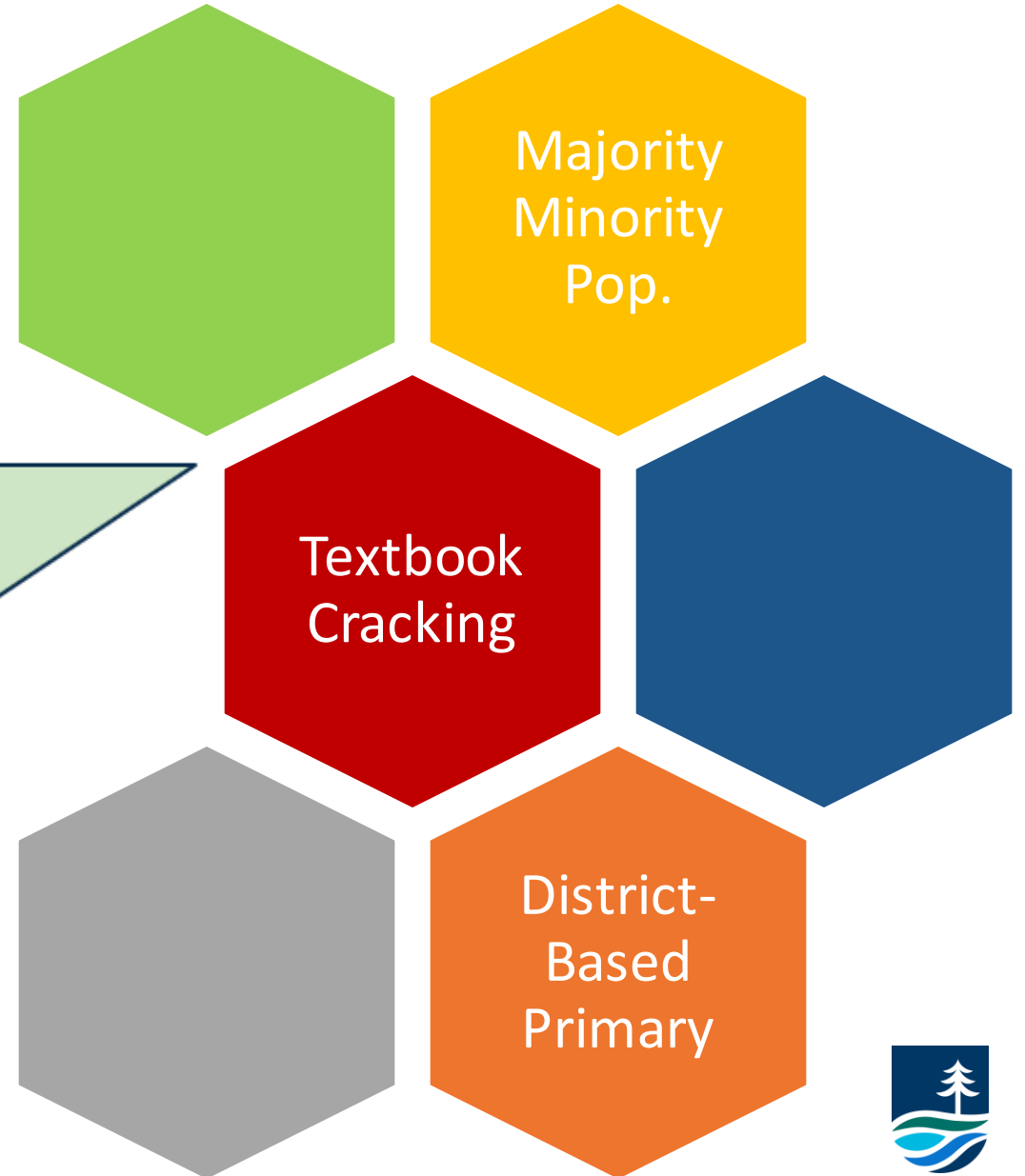
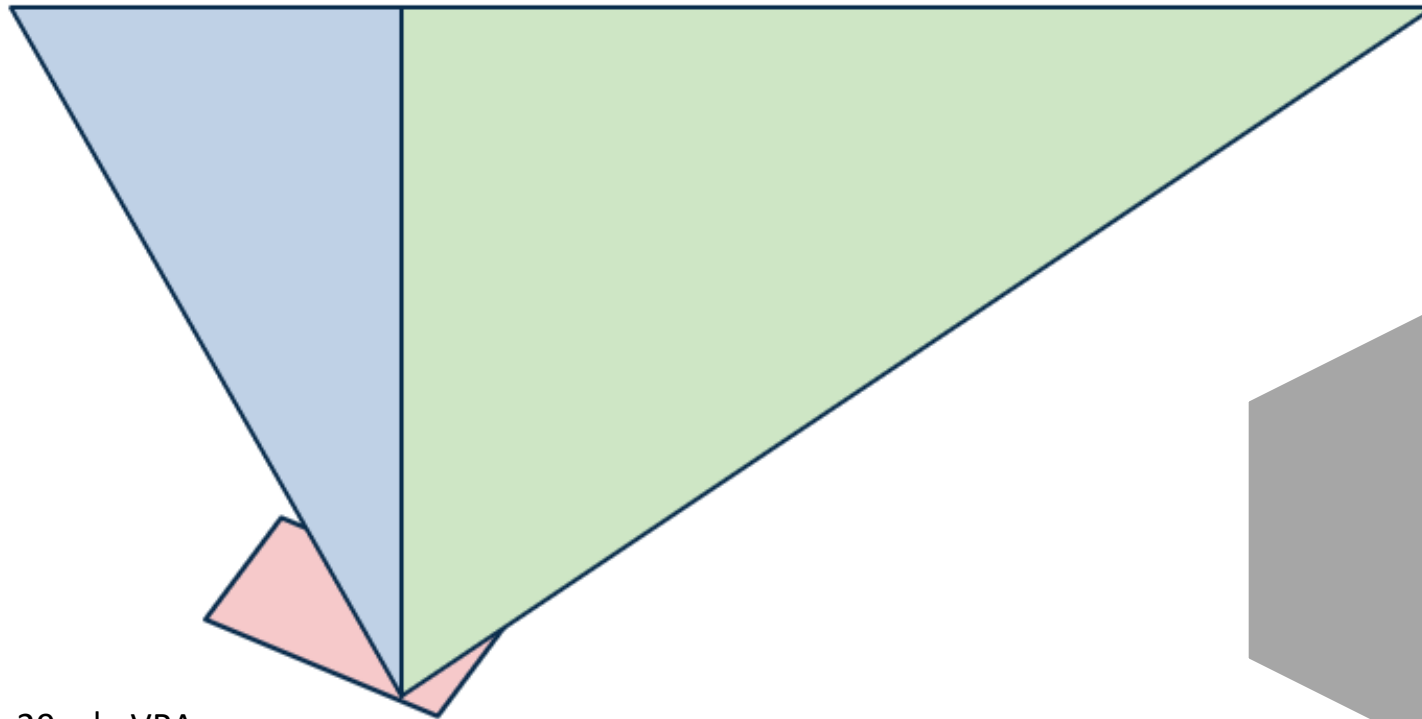
Primary Districts
(Settlement)



Risk Analysis

Portugal v. Franklin County

Contributive Factors





Vancouver

- (1) Risk of a successful VRA challenge in Vancouver is currently **very low**, however
- (2) Risk of “cracking” or “packing” is **heightened** during periods of rapid growth and land use change such as those on Vancouver’s 10-year horizon.



Vancouver City Council At-Large Election System

Risk of a successful VRA challenge in Vancouver is **very low** due to its:

- (a) 100% at-large electoral system (i.e., no district-based primaries),
- (b) demographic makeup, and
- (c) geographic dispersion.



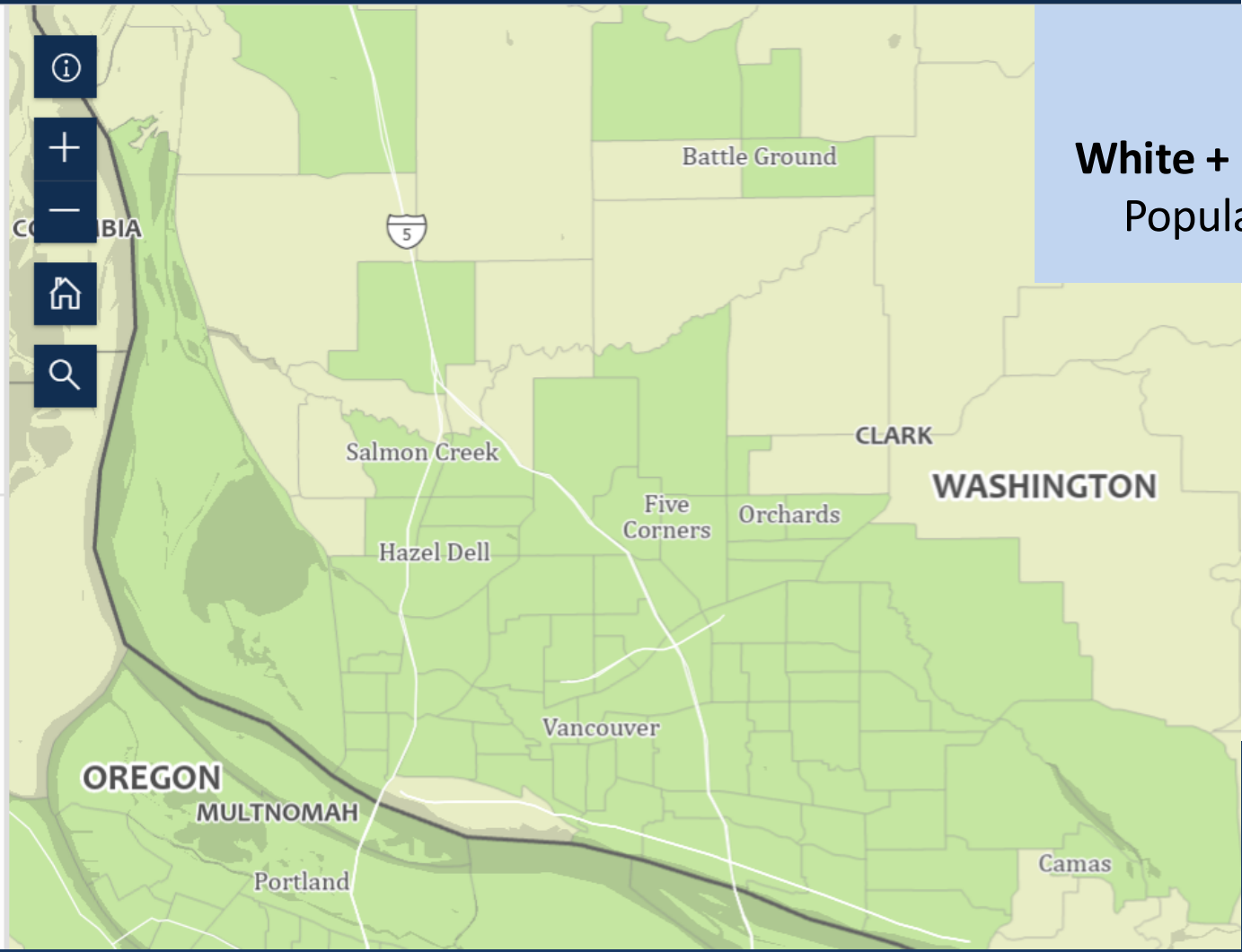
Demographic Makeup | Geographic Dispersion

Race alone or in combination, Hispanic or Latino

White
This map shows the percentage of the total population that reported their race as White alone or in combination, Hispanic or Latino in the 2020 Census at the state, county, and census tract levels.

Legend
Percent White alone or in combination, Hispanic or Latino by census tract

- 50.0 or more
- 30.0 to 49.9
- 15.0 to 29.9
- 5.0 to 14.9



Vancouver
White + Hispanic/Latino/Spanish
Population combined: 15.4%



Demographic Makeup | Geographic Dispersion

combination, not Hispanic or Latino

White

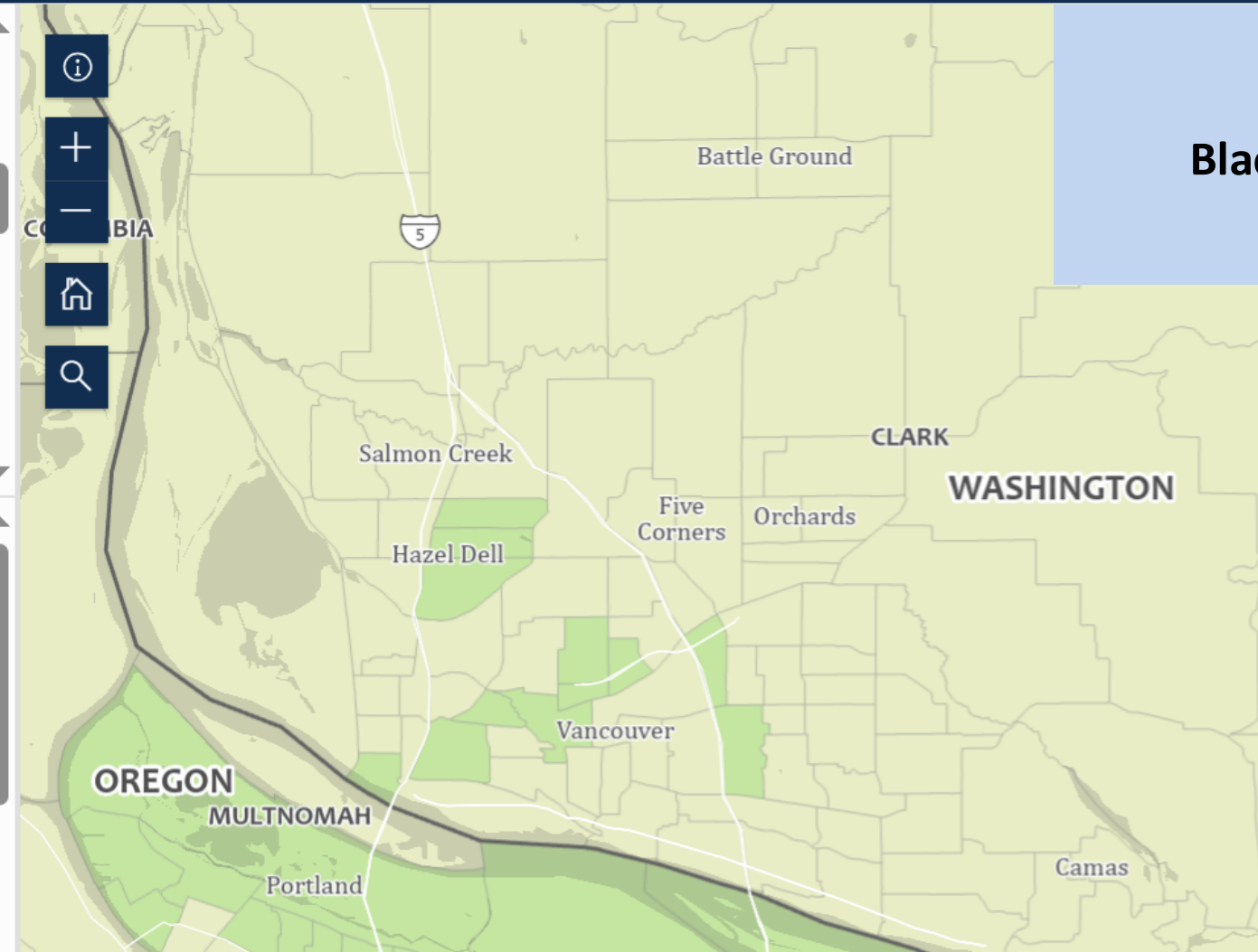
Black or African American
This map shows the percentage of the total population that reported their race as Black or African American alone or in combination, not Hispanic or Latino in the 2020 Census at the state, county, and census tract levels.

Legend

Percent Black or African American alone or in combination, not Hispanic or Latino by census tract

- 70.0 or more
- 40.0 to 69.9
- 20.0 to 39.9
- 6.0 to 19.9

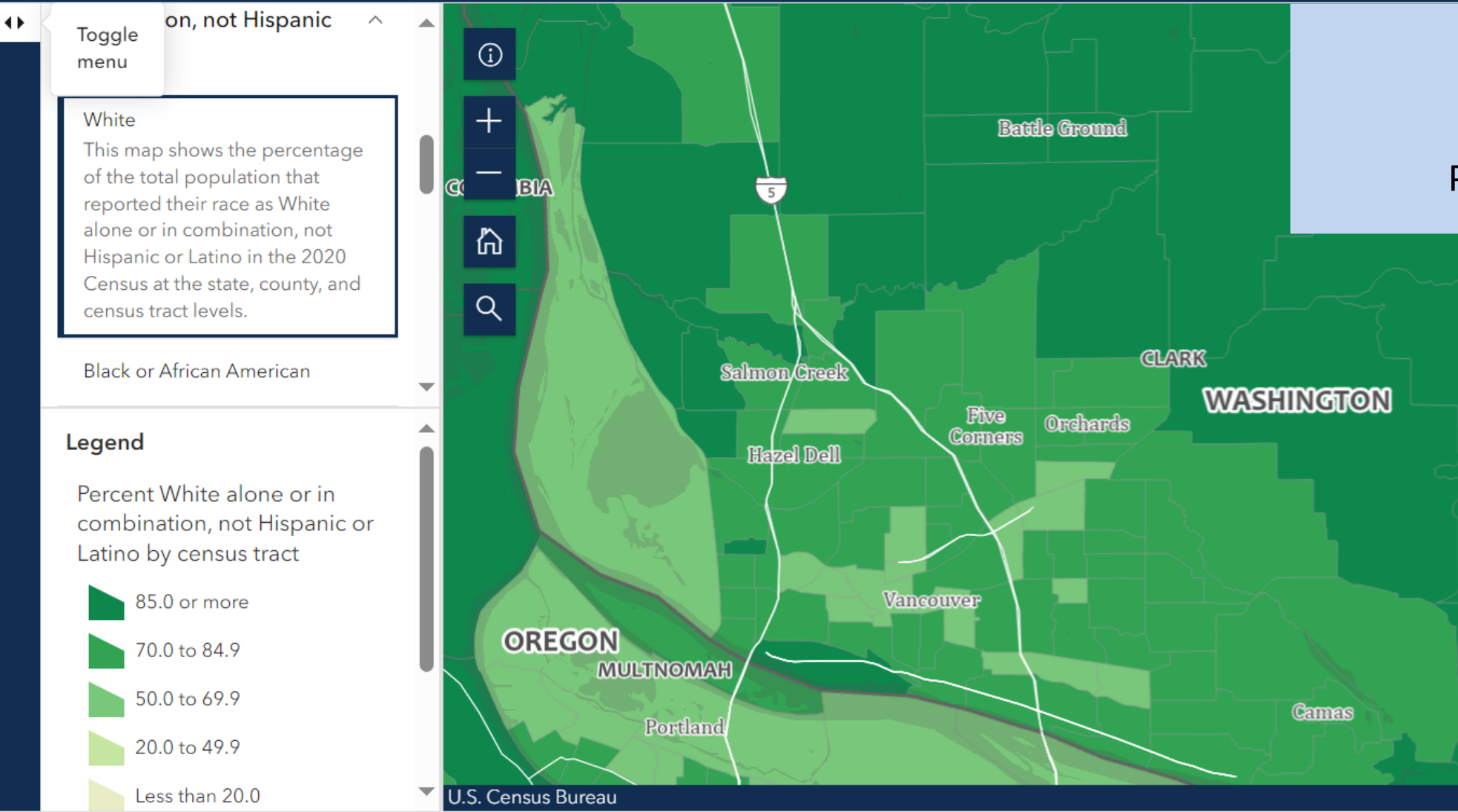
U.S. Census Bureau



Vancouver
Black/African American
Population: 2.7%



Demographic Makeup | Geographic Dispersion

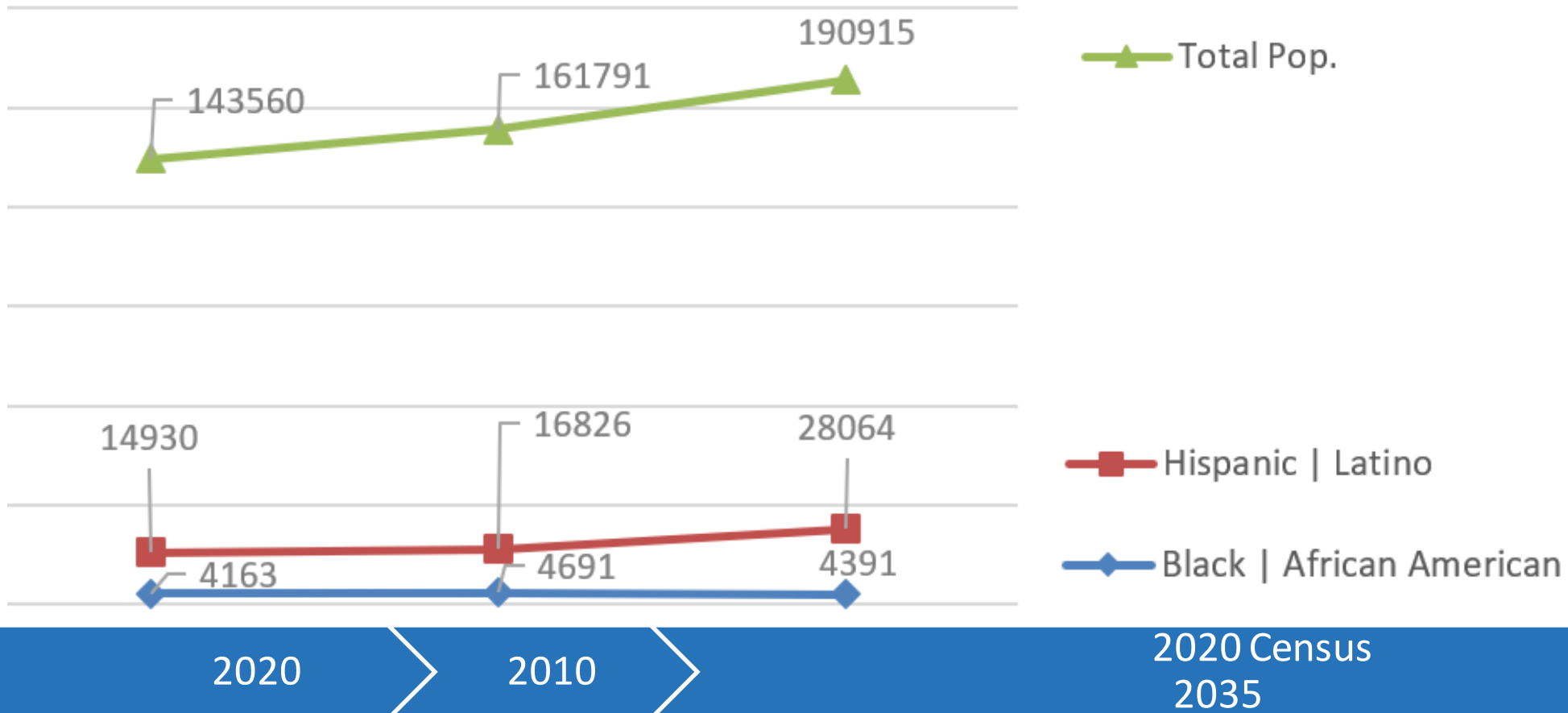


Vancouver
White
Population: 73.5%



Vancouver: 10-Year Horizon

Estimated Growth in Communities of Color Per 2000 – 2010 – 2020 Vancouver Census



Vancouver: 10-Year Horizon

Federal Voting Rights Act

2025 Comprehensive Plan

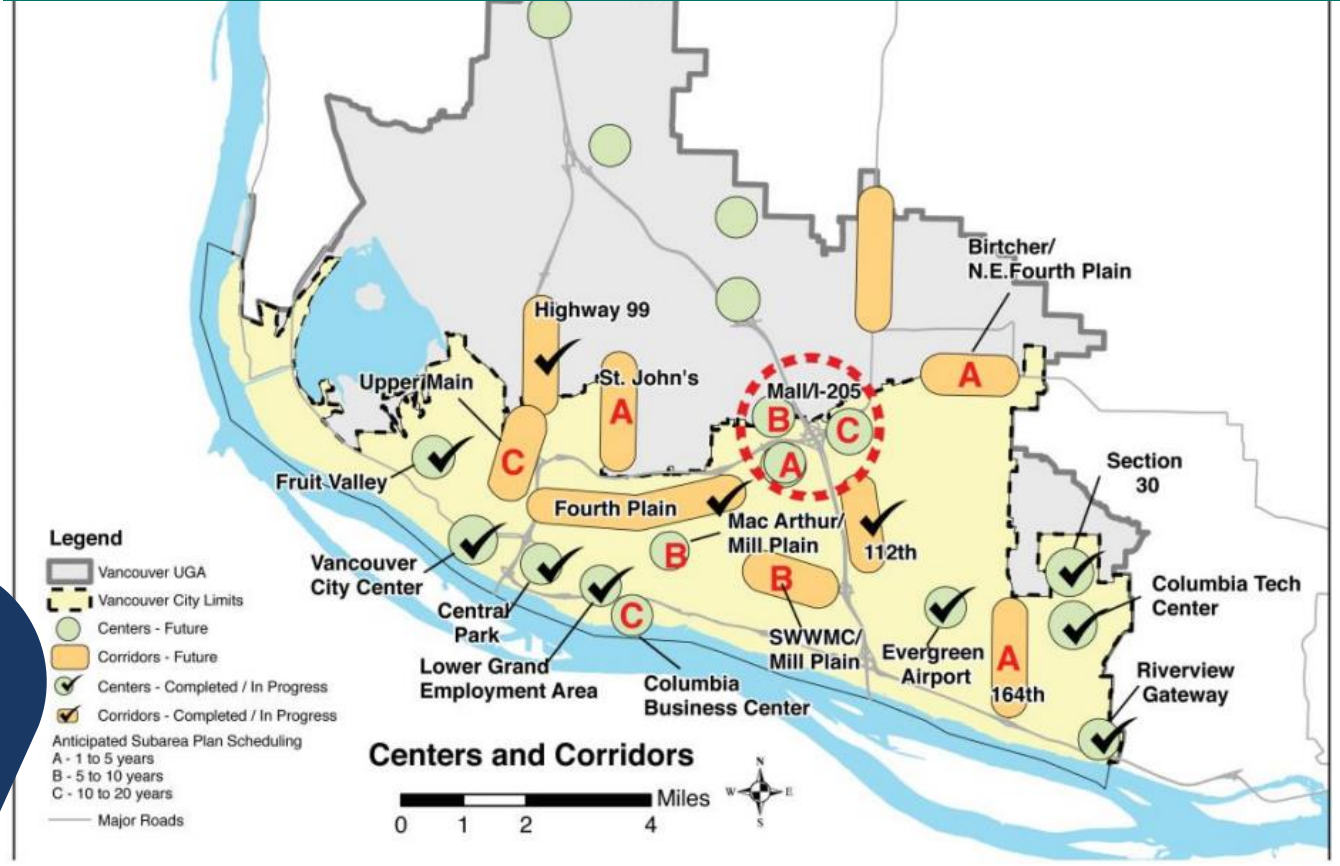


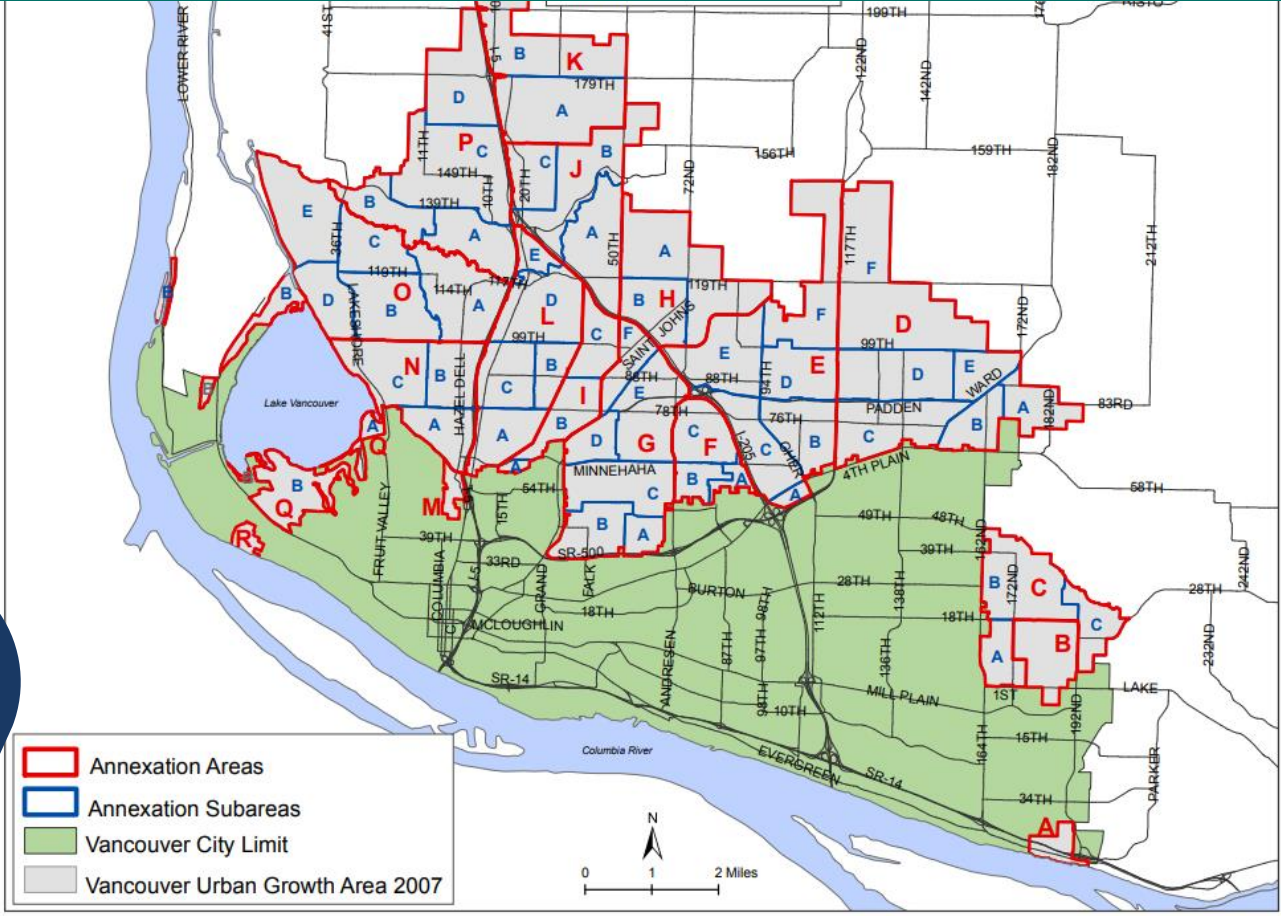
Figure 1-2. Comprehensive land use map showing designated types and intensities of land use allowed throughout the City of Vancouver. Source: City of Vancouver GIS.



Vancouver: 10-Year Horizon

Federal Voting Rights Act

Annexation Plan



1965 - 2023

2024

2035





Legal Opinions

- **Gerrymandering** has been used by those with political/economic power to the disadvantage of historically marginalized communities.
- The VRA – though nearly 60 years old – remains in a state of **flux**.
- Due to a variety of factors (e.g., incumbency bias), **inadequate legal remedies** exist to fully repair harm caused by Voting Rights Act violations.





Legal Opinions

- Risk of successful VRA challenge, in view of demographic makeup and geographic dispersion of Vancouver, is **very low**.
- Risk of “**cracking**” or “**packing**” through non-legislative means (e.g. economic development) is **heightened** during periods of rapid change such as annexation and/or comprehensive plan changes attendant to HB 1110.





Questions | Discussion

Jonathan Young | City Attorney
city.attorneyemails@cityofvancouver.us
360.487.8500



Discussion: Subcommittee Report-out



Subcommittee Report-Out

Signatures for Petition

- **Problem:** The current signature requirements in the Charter limit accessibility for Vancouver community members collecting signatures for a petition.
- **Proposed Solution:** Update the Charter language to allow for electronic signature collection.



Subcommittee Proposed Language (1 of 2)

Signatures for Petition

Section 10.03: All petition ~~papers~~ circulated for the purposes of an initiative or referendum shall be uniform in ~~size and~~ style. Initiative petitions ~~papers~~ shall contain the full text of the proposed ordinance. Petitions shall be in a form prescribed by the City Clerk, and may be approved in advance as to form by the City Attorney. Before gathering signatures, any proposed initiated ordinance must be filed with the City Clerk. Within twenty working days after filing, the City Attorney shall evaluate the initiative proposal and express his/her opinion as to whether or not the initiative proposal is within the scope of a legally permissible local initiative. The signatures to initiative or referendum petitions ~~need not all be appended to one paper, but to each separate petition there~~ shall ~~be attached~~ include a statement of the circulator thereof as provided by this section. Each signer of any such petition ~~paper~~ shall sign ~~in ink or indelible pencil and shall~~ indicate after such signer's name, the signer's place of residence by street and number, or other description sufficient to identify the place. On each petition shall appear the names and addresses of the same five registered voters of the city, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. ~~Printed on~~ Included with each separate petition ~~paper~~ there shall be an affidavit of the circulator thereof, affirmed under penalty of perjury, that said circulator personally circulated the foregoing ~~document paper~~, that it bears a stated number of signatures, that all the included signatures ~~appended thereto~~ were made in the circulator's presence, and that the circulator believes them to be the genuine signatures of the persons whose names they purport to be.



Subcommittee Proposed Language (2 of 2)

Signatures for Petition

Section 10.04: All petition ~~papers~~ **components** comprising an initiative or referendum petition shall be assembled and filed with the city clerk as one instrument. Petition ~~s pages~~ must be filed no later than February 1 of the same year as the Municipal General Election is held. Within ten days after a petition is filed, the city clerk shall determine whether each of **component** ~~paper~~ the petition has a proper statement of the circulator and shall convey the valid signed petition **components** ~~pages~~ to the officer responsible for the verification of the sufficiency of the signatures to the petition under state law for such verification. The city clerk shall declare any petition ~~paper~~ **component** entirely invalid and not submit said petition ~~page~~ **component** for verification, which does not ~~have printed thereon~~ **include** an affidavit affirmed under penalty of perjury signed by the circulator thereof. If a petition ~~paper~~ **component** is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded, and the City Clerk shall strike out the excess signatures. If a petition ~~paper~~ **component** is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing examination of the petition, and after receiving verification of the sufficiency of such petition signatures from the officer responsible for verification of the sufficiency of signatures under state law, the city clerk shall certify the result thereof to the city council at its next regular meeting. If the clerk certifies that the petition is invalid or has insufficient signatures, the clerk shall set forth in a certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of such findings.



Subcommittee Report-Out

Mechanism for Obsolete Language

- **Problem:** There is out of date information in the Charter that has become obsolete.
- **Proposed Solution:** Include language in the Charter that allows City of Vancouver legal and communications staff to review the charter every five years. Include direction for the Charter Committee to review City Staff suggestions at the beginning of each Charter Review process.



Subcommittee Proposed Language (1 of 2)

Mechanism for Obsolete Language

Section 2.01: “...If any seated councilmember seeks a different council position, including mayor, that person is required to provide notice of ~~his/her~~ **their** intention to do so and to resign ~~his/her~~ **their** current position effective as of the end of that calendar year. The notice of intent must be filed with the city clerk at least thirty days prior to the filing deadline for the council position being sought. The clerk shall provide a copy of the notice to the Elections Officer of the County Auditor.”

Section 2.18: “No member shall be removed during ~~his-or-her~~ **their** term of office unless for cause of incapacity, incompetence, neglect of duty or malfeasance in office or for a disqualifying change of residence.”

Section 9.03: “(3) Instant runoff voting defined: Instant Runoff Voting (IRV) allows the majority will of the voters to be determined in a single election. Instead of a voter indicating a single choice, each voter indicates ~~his-or~~ **her** **their** first choice, second choice, and so on, for up to as many choices as there are candidates.”

Section 10.03: “Within twenty working days after filing, the City Attorney shall evaluate the initiative proposal and express ~~his/her~~ **their** opinion as to whether or not the initiative proposal is within the scope of a legally permissible local initiative.”



Subcommittee Proposed Language (2 of 2)

Mechanism for Obsolete Language

Section 2.06: An office, either appointive or elective, becomes vacant upon failure to qualify within the time limited by law; upon the death or removal from office or resignation of the incumbent, or removal from or absence from the city for sixty days without leave of the city council, or ~~upon an adjudication of insanity by virtue of a mental health condition that renders the person substantially incapable of doing their duty; by a conviction of drunkenness;~~ or by any permanent disability, preventing the proper discharge of duty; by ceasing to be a resident of the city; by conviction of ~~an infamous crime a felony or qualifying misdemeanor,~~ or any crime involving a violation of official oath; by refusal or neglect to take the oath of office, or to give or renew the official bond or deposit such oath or bond within the time prescribed by law; a decision of a court of competent jurisdiction declaring void the election or appointment; or whenever a judgment is obtained against such officer for breach of condition of the official bond.



Subcommittee Report-Out

Councilmember Pay

- **Problem:** Salary rate for Vancouver councilmembers creates barriers to running for council and can limit the time councilmembers can dedicate to their duties.
- **Proposed Solution:** Add language providing parameters for a base salary for councilmembers and expand the position to full-time.



Subcommittee Proposed Language (1 of 1)

Councilmember Pay

2.18 h: “h. Set a salary that is commensurate with the duties of the position, favorable to attracting quality candidates, and competitive with equivalent roles in similar sized cities.”

Section 2.18d Committee Approved Amendment: *The commission may adopt a schedule of (annual) salary increases (the same way the City adjusts fees and charges to reflect an increase up to the change in the Consumer Price Index equal to an average of the prior two complete calendar years (Two-Year Average Adjustment).) ~~at the Consumer Price Index for Wage Earners and Clerical Workers (CPI-W) for the West region as established by the Bureau of Labor Statistics for the prior two years. If the Bureau of Labor Statistics discontinues publishing such index, the most similar index as determined by the city chief financial officer shall be applied.~~ The commission may propose a schedule of salary increases of more than ~~CPI-W~~ the (Two-Year Average Adjustment) provided that such schedule shall be submitted to the voters for approval. In the event the voters reject such greater increase, the increase within the foregoing limits shall go into effect. The commission may decrease salaries, provided that such decreases shall not be effective until the commencement of a new term of office. The commission may also choose not to adopt any salary change. The commission shall file its schedule of salary adjustments, if any, for the positions of Mayor, Mayor Pro Tempore, and Councilmember with the City Clerk by ~~May~~ (July) 1 of the applicable year, so as to coincide with the City budget cycle.*



Subcommittee Report-Out

Districting

- **Problem:** City Council lacks geographic diversity, and city wide representation creates barriers for representation in lower-income and historically underserved communities.
- **Proposed Solution:** Shift to district representation on City Council with four districted councilmembers, two at-large councilmembers, and a citywide mayor.



Subcommittee Proposed Language (1 of 1)

Districting

Meeting Material: Election of Council members; Council member districts



Public Comment Instructions

To verbally ask a question or make a comment:

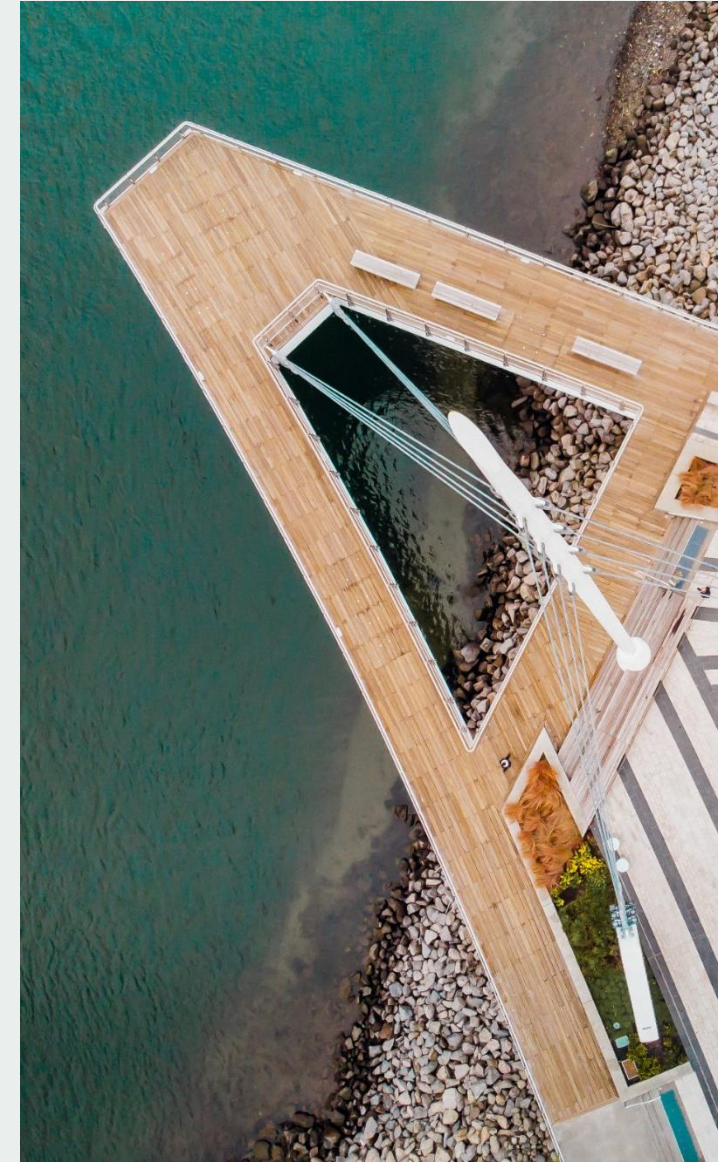
- If you have joined by Zoom, click “Raise Hand.”
- If you have joined by phone, press *9 to raise your hand.
- If you have joined in-person, raise your hand.
- The facilitator will call on participants. If you are joining virtually, you will receive an “unmute” request. Please accept it. If you are commenting by phone dial *6 to unmute.
- Please provide your name and any affiliation.
- Attendees will be allocated up to three minutes for public comment depending on the number of commenters.
- **If we run out of time and you have not had a chance to speak, you can still provide written comments after the meeting.**



Prep for April 15. Council Workshop

Memo to Council

1. What questions have the committee considered while evaluating this problem?
2. What potential solutions have been identified for this problem? What are pros, cons, impacts, unintended consequences to potential solutions?
3. *[If a recommended solution has been identified]* - Why is this the current leading solution?



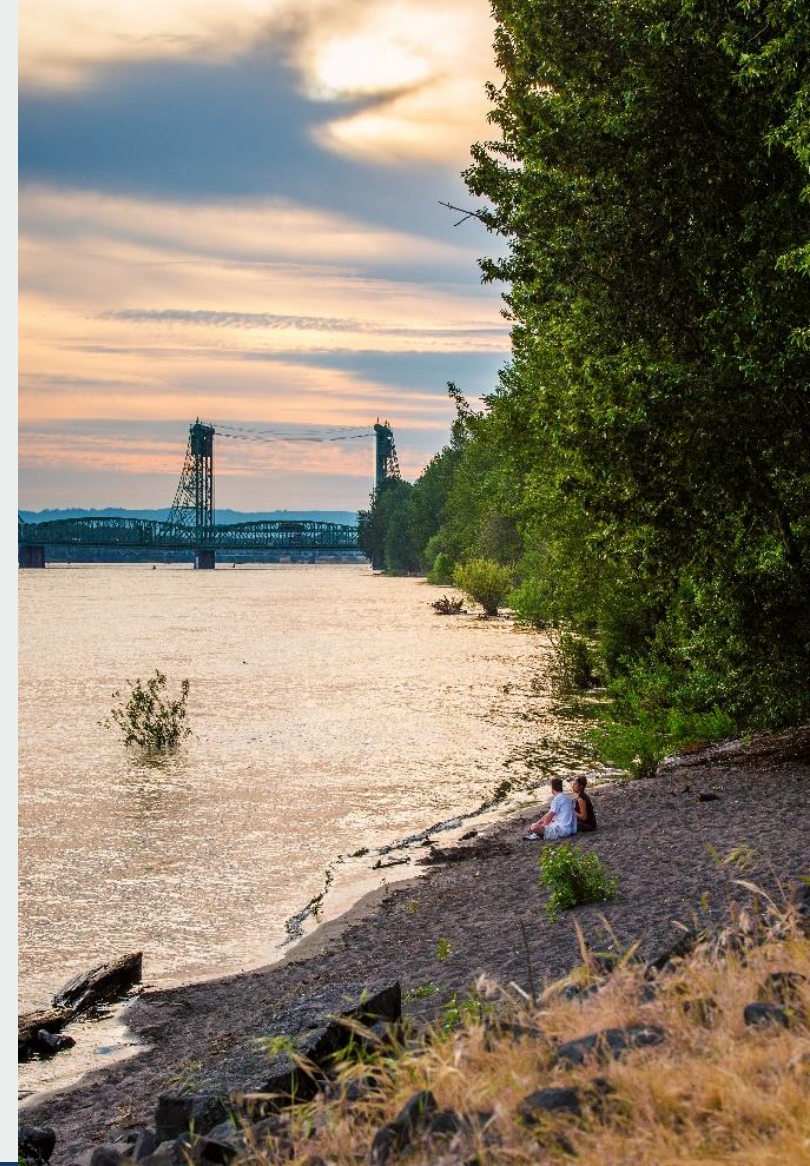
Prep for April 15. Council Workshop

Slides for Council Presentation

Slide 1: Identified problem/proposed solution

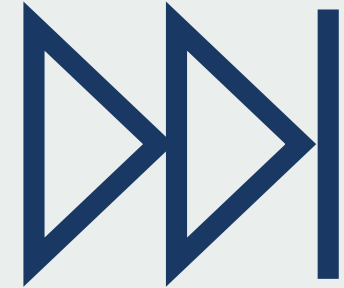
Slide 2: Draft language (or section and language considered for amendment)

Slide 3: Considerations/tradeoffs



Next Steps

- Committee members to share feedback on proposed amendments with Subcommittee Leads
- Subcommittees to draft Council Memo narrative and submit to Gilly **by 3/26**



Upcoming Dates

- **Interim update workshop** – *April 15, 5-6pm*
- **April Charter Review Meeting** – *April 23, 4-6pm*
- **May Charter Review Meeting** – *TBD; last week of April/first week of May*
- **Final Recommendations Workshop** – *May 20, 4-5 pm*
- **Public Hearing/Final Votes** – *June 3, 6:30 pm*



Thank You

