



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

February 11, 2016

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested

Certified Mail#: 7009 2820 0002 1759 1735

In Reply Refer to:

EPA File No.: 20R-14-R4

Robert H. Colby, Director
City of Chattanooga-Hamilton County
Air Pollution Control Bureau
6125 Preservation Drive South
Chattanooga, Tennessee 37416-3438

Re: Rejection of Administrative Complaint

Dear Mr. Colby:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), is rejecting a complaint referred by the U.S. Department of Justice on November 6, 2014, alleging that the City of Chattanooga and the Chattanooga-Hamilton County Air Pollution Control Bureau (APC) misused federal funds that resulted in racial discrimination. The OCR is responsible for processing complaints that allege discrimination by recipients of EPA financial assistance in violation of Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 United States Code (U.S.C.) §§ 2000d, *et seq.*, and EPA's nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R.) Part 7.

The subject complaint alleged that “while completing a construction demotion contract” APC employees made false accusations against the complainant, resulting in racial discrimination. Further, the complaint alleged that there was a “misuse of federal funds in a fashion that encourages, entrenches, subsidizes, or results in racial discrimination.” The complaint is rejected for investigation and the case closed as of the date of this letter.

Pursuant to the EPA’s nondiscrimination administrative regulations, the OCR conducts a preliminary review of administrative complaints for acceptance, rejection, or referral to the appropriate agency. (*See* 40 (C.F.R.) § 7.120(d)(1)). For a complaint to be accepted for investigation, it must meet the jurisdictional requirements described in the EPA’s nondiscrimination regulations. First, the complaint must be in writing. (*See* 40 C.F.R. §7.120(b)(1)). Second, the complaint must describe an alleged discriminatory act that, if true, may violate the EPA’s nondiscrimination regulations (*i.e.*, an alleged

discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, the complaint must be filed within 180 calendar days of the alleged discriminatory act. (*See* 40 C.F.R. §7.120(b)(2)). Finally, the complaint must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. (*See* 40 C.F.R. §7.15). For your reference, a copy of the EPA's nondiscrimination regulations is enclosed.

After careful review of the information provided to the OCR in the subject complaint, the EPA is rejecting it because the allegations described therein do not meet the EPA's jurisdictional requirements. The complaint does not clearly explain the alleged discriminatory acts and does not state when those alleged discriminatory acts occurred. Specifically, the complaint does not identify any alleged discriminatory act that occurred within 180 days of its filing. The alleged falsified Demolition Permit was issued on September 24, 2004. The trial in which the complainant alleges false testimony was provided occurred in January 2012. Neither of the events occurred within 180 days of September 18, 2012, when the complaint was submitted to the U.S. Department of Justice. Accordingly, the EPA lacks jurisdiction over the complaint.

If you have questions regarding the OCR's decision, please contact Helena Wooden-Aguilar of the OCR's External Compliance Program, at (202) 564-0792, via electronic mail at wooden-aguilar.helena@epa.gov, or by mail at U.S. EPA, Office of Civil Rights, (Mail Code 1201A), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460-1000.

Sincerely,



Velveta Golightly-Howell
Director
Office of Civil Rights

cc: Elise Packard
Associate General Counsel
Civil Rights & Finance Law Office

Ken Lapierre
Deputy Civil Rights Official
Assistant Deputy Regional Administrator
Region IV