

Create Control - Data Entry

Control Number: OCR-10-000-3724

Alternate Number:

Citizen Information

Citizen/Originator: 1). Kappelhoff, Mark J. - 950 Pennsylvania Avenue, N.W., Washington, DC 20530

Search Citizen

Constituent: Search Constituent

Committee:

Sub-Committee:

Control Information

Status: Pending

Letter Date: Mar 2, 2010

Received Date: Mar 12, 2010

Contact Type: LTR (Letter)

Priority Code: Normal

Addressee: Karen Higginbotham

Addressee Org: USEPA/OCR

File Code: 403-256_541_a Equal Employment Opportunity (EEO) Records Official discrimination complaint case files with related c

Signature: (+)

CC: Search CC

Signature Date: Date

Primary Subject: Submittal of a letter for from the Coordination & Review Section of the Civil Rights Division of DOJ.

(+)

Secondary Subject: (b)(6) Privacy, (b)(7)(C) Enf. Privacy

(+)

Instructions: NRN-No Response Necessary

(+)

Instruction Notes:

General Notes: This control is assigned to the title VI team for appropriate action.

: Required field

(+): Lookup field, press space bar for complete list

Save

Continue and Assign

Cancel



U.S. Department of Justice
Civil Rights Division

Coordination and Review Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

MAR 02 2010

Ms. Karen Higginbotham
Director
Office of Civil Rights
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1201A
Washington, D.C. 20460

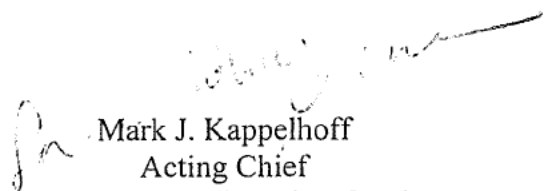
Dear Ms. Higginbotham:

Enclosed for your review is a letter from Representative Kurt Schrader on behalf of his constituent, (b)(5) Privacy, (b)(7)(C) Ent. Privacy, of Salem, Oregon. The letter was referred to the Coordination and Review Section of the Civil Rights Division, U.S. Department of Justice for response. (b)(5) Privacy, (b)(7)(C) Ent. Privacy alleges that the City of Salem promised, in 2004, that an urban renewal project in her neighborhood, which has a substantial Latino population, would include mixed residential and commercial zoning. She states that, in 2009, the City of Salem changed the project to only commercial zoning and alleges that this will cause substantial environmental problems for the residents of her neighborhood.

Because your office may have jurisdiction over these alleged environmental concerns, we are referring the letter to your office for review and appropriate disposition. We have also forwarded this matter to the Office of Fair Housing, U.S. Department of Housing and Urban Development.

Thank you for your assistance in this matter.

Sincerely,


Mark J. Kappelhoff
Acting Chief
Coordination and Review Section
Civil Rights Division

Enclosure

(b)(5) Privacy, (b)(7)(C) Ent. Privacy
MAR 12 2010 (EPA)



U.S. Department of Justice

Civil Rights Division

Assistant Attorney General
950 Pennsylvania Avenue, NW - RFK
Washington, DC 20530

The Honorable Kurt Schrader
Member, U.S. House of Representative
112 8th Street
Oregon City, OR 97045

Dear Congressman Schrader:

This responds to your letter, dated January 11, 2010, to the Office of Legislative Affairs on behalf of your constituent, (b)(6) Privacy, (b)(7)(C) Enfr. Privacy of Salem, Oregon. You forwarded a letter from (b)(6) Privacy, (b)(7)(C) Enfr. Privacy in which she alleges that the City of Salem promised in 2004 that an urban renewal project in her neighborhood, which has a substantial Latino population, would contain a mix of residential and commercial zoning. (b)(6) Privacy, (b)(7)(C) Enfr. Privacy further states that, in 2009, the City of Salem changed the project to totally commercial zoning, removed low-income housing, and did not provide replacement housing. She also alleges that the new project will cause environmental problems in her neighborhood.

Your letter was forwarded to the Civil Rights Division and assigned to the Coordination and Review Section (COR). COR investigates complaints against recipients of financial assistance from the Department of Justice under Title VI and other civil rights statutes. COR also serves as a clearinghouse for receiving and referring complaints to other federal agencies. It is the responsibility of the federal agency providing the federal funds and administering the programs to respond to inquiries about the status of complaints that are referred to the agency and to investigate complaints against its recipients.

Because the U.S. Department of Housing and Urban Development (HUD) has jurisdiction over housing and urban renewal projects, COR is referring (b)(6) Privacy, (b)(7)(C) Enfr. Privacy complaint against the City of Salem to HUD's Office of Fair Housing and Equal Opportunity. Because (b)(6) Privacy, (b)(7)(C) Enfr. Privacy also alleged environmental concerns with the proposed project, COR is also referring (b)(6) Privacy, (b)(7)(C) Enfr. Privacy complaint to the Environmental Protection Agency's Office of Civil Rights.

December 1, 2009

United States Department of Justice
Civil Rights Division
Coordination and Review Section - NWB
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

(b)(6) Privacy, (b)(7)(C) Enf. Privacy

JAN 3 4 2010

RE: Title VI - Environmental Justice Complaint - Executive Order 12898
No response to written Environmental Justice Complaint
Urban Renewal Development at (b)(6) Privacy, (b)(7)(C) Enf. Privacy Salem, Oregon

Neighbors of Highland Neighborhood and I are requesting a review on an urgent Title VI - Environmental Justice issue for the following reasons:

- 1) The City of Salem never responded to a complaint made against Title VI Environmental Justice issues dated June 22, 2009 related to the urban renewal development property located at (b)(6) Privacy, (b)(7)(C) Enf. Privacy Salem, Oregon.
- 2) The City of Salem did not deliver the Urban Renewal Project that was presented by the City of Salem staff at public hearings in 2004. Neighbors were told they were going to get an urban renewal project with mixed use commercial/residential housing to replace the residences taken by the City of Salem through eminent domain. What they got in 2009 was a purely commercial development inside a residential neighborhood with no residences to replace what was taken.
- 3) The high volume traffic, noise, light, and air pollution from the commercial businesses when completed will cause disproportionately high and adverse impacts to the neighborhood and increased danger to grade school children at the end of the block.
- 4) Only neighbors within 250 feet were notified of the change from the original urban renewal project - that equaled 3 individual residences only and did not include the apartments located within 250 feet directly behind the proposed development (a drive-through) or any of the other residents on (b)(6) Privacy, (b)(7)(C) Enf. Privacy (b)(6) Privacy, (b)(7)(C) Enf. Privacy which are facing disproportionately high and adverse impacts from the commercial development the City of Salem allowed in place of what they told neighbors they were going to build.
- 5) Despite neighbors' demands for action for the City to protect the neighbors, the City has shut the neighbors out of any discussions that would allow them to participate in the mitigation process to protect the neighbors from these impacts.

6) This low-income neighborhood includes elderly, disabled, non English speakers, and a Catholic grade school. These neighbors have been discriminated against in this process because they were excluded from the process.

BACKGROUND

In 2004, the City of Salem took a private residential home located on [REDACTED] apartments on [REDACTED] and a small business from the neighborhood under eminent domain in order to piece together five small pieces of land under Urban Renewal. The City of Salem and Urban Renewal became the owners. A meeting was held in 2004 where the City of Salem and Portland architects showed the neighbors pictures and plans for mixed use buildings with small business on the bottom and apartments on the top. Neighbors were told that the plan would include apartments to replace the private residence and apartments that were lost by eminent domain because the development would be inside the residential neighborhood.

In March of 2009, a developer attended the Highland Neighborhood Association meeting to announce his development of a drive-thru Subway on the lot as well as a second, unnamed business with entry/exit only on [REDACTED] a narrow, local street. This was the first neighbors had heard that they were not going to get the urban renewal project they had been told they were going to get. When the neighbors protested at the meeting, the developer said that he could not make enough money with a design with apartments on the top. He said the City of Salem had already approved the new plan and it was a done deal and there was nothing the neighbors could do about it. The City pulled a "Bait and Switch" on the neighbors, making the original 2004 public hearings a sham. These neighbors were discriminated against because the project was, in fact, in a low-income neighborhood.

On June 22, 2009 I wrote a complaint letter regarding the Environmental Justice issues addressed to the City of Salem Mayor Janet Taylor and the City Council. The letter was also copied and mailed to Marilyn Johnston of the City of Salem (the person I was told received such complaints), as well as to the offices of Senator Merkley and Representative Schrader. In addition, I hand delivered a copy to the City Recorder and read the letter into the record in front of council during the public meeting on June 22, 2009.

In October, I contacted Marilyn Johnston as I had received no response regarding the complaint. She said she hadn't received a copy of my letter. I directed her to the June 22 hearing record. A copy of the letter is attached.

As of today's date, I have received no response from the City of Salem regarding my complaint.

In May and again in June of 2009, both the administrative Hearings Officer and the City Council recognized the adverse impacts on the neighborhood and required the developer, under his conditional use request for a drive-thru to:

- Construct a berm and a five foot masonry sound barrier between the development and the next property (10 feet away).
- Use cut-off lights
- Limit hours of operation from 8 a.m. to 10:00 pm
- The city council further recognized the obvious traffic issue that the entry/exit would cause. Therefore, City Council required the entry/exit be moved from (b)(6) Privacy, (b)(7)(C) Enf. Privacy

Within two weeks of the June final decision by City Council, the developer "withdrew" his conditional use request for the drive-thru. The neighbors received no notice of this decision. They found out in September when construction began. Neighbors were told by the City it was no longer a public process and, therefore, there was no way for them to participate.

The purchase of the property was completed and the developer is not required to mitigate any negative effects on the neighborhood.

While the developer officially "withdrew" his request for the drive-thru, he has told neighbors and an attorney that he has every intention of making the site ready for the drive-thru and simply letting Subway fight the neighbors on getting the permit. The neighbors will be required to again fight for any kind of protections. The largest of these protections – the requirement from City Council that entry/exit be on (b)(6) Privacy, (b)(7)(C) Enf. Privacy will no longer be available because the developer has already constructed the building with entry/exit on (b)(6) Privacy, (b)(7)(C) Enf. Privacy only.

OTHER TITLE VI ENVIRONMENTAL JUSTICE ISSUES

- The businesses being placed here, a Subway and a US Market, both draw high volumes of traffic (the estimate for Subway alone was approximately 980 additional trips per day. An additional 285 trips were estimated for the second business before it was identified as US Market, which may increase trip numbers). (b)(6) Privacy, (b)(7)(C) Enf. Privacy carries 32,000 vehicles per day (City statistics). (b)(6) Privacy, (b)(7)(C) Enf. Privacy (b)(6) Privacy, (b)(7)(C) Enf. Privacy it (again, per City counter statistics) carries approximately 230 cars per day. (b)(6) Privacy, (b)(7)(C) Enf. Privacy is described by the City as "very quiet" and in "poor condition". Placing the only entry/exit on this local street is drawing traffic down into the small, local neighborhood. This small neighborhood is being asked to take the load of traffic several times more than what the street currently carries.
- A pre-K to 6th grade Catholic school is at the end of the block, which is poorly lit and has had no school signs. Parking is permitted only on one side of (b)(6) Privacy, (b)(7)(C) Enf. Privacy and the traffic jams up at the end of the street, where (b)(6) Privacy, (b)(7)(C) Enf. Privacy and (b)(6) Privacy, (b)(7)(C) Enf. Privacy meet, creating serious safety issues, which will only get worse with unimpeded traffic from the commercial development. School children will be in increased danger because of the large amount of additional traffic that will be pumped into the neighborhood because of the commercial development. The City of Salem used to provide 20 mph school zone signs and flashing lights around the school, but no longer do because City staff says it is a private school.

(b)(6) Privacy, (b)(7)(C) Enf. Privacy neighbors have made requests to the City to repaint the faded "school crossing" marking on the pavement but have been refused by the City of Salem.

- The City made no effort to work with a developer that would replace the residential units that have been lost to this low income neighborhood.
- Since approximately August of 2009, the City Council went into "executive session" regarding (b)(6) Privacy, (b)(7)(C) Enf. Privacy. Since then, neighbors have not been part of the discussion or planning to help mitigate the negative impacts to the neighborhood that were caused by the City of Salem.

The neighbors have asked repeatedly to sit down with planners and the developer to discuss mitigating the recognized impacts to one of the oldest neighborhoods in Salem. The City of Salem expects neighbors to wait and accept whatever solution the City of Salem staff comes up with. This is the same staff who stole the private residence from (b)(6) Privacy, (b)(7)(C) Enf. Privacy and took housing from this low-income neighborhood, who promised replacement housing but didn't deliver, who became the owner, seller, realtor, who gave variances to every request by the developer in order to complete the sale and gave the neighbors no true public involvement or input.

The neighbors in this neighborhood have been discriminated against by the City of Salem precisely because they are in a low-income neighborhood and they know the neighbors are too poor to fight them. This discriminatory treatment would not have occurred in the wealthier neighborhoods in the City of Salem. The City's discriminatory actions in this low income neighborhood have already caused great distress and hardship to elderly and disabled neighbors and are only expected to increase with the completion of the commercial development.

The neighbors want action taken immediately to protect them from the disproportionately high and adverse impacts and dangers they are now facing because of the discriminatory actions of the City of Salem.

If you just ask the City of Salem for their side of the story only, the neighbors are sure the City of Salem staff will tell you they have done nothing wrong. The neighbors think something is very wrong and that they are being discriminated against because they are low income that this why they are signing this Title VI- Environmental Justice Complaint.

Sincerely,

(b)(6) Privacy, (b)(7)(C) Enf. Privacy

Salem, OR 97301

(b)(6) Privacy, (b)(7)(C) Enf. Privacy

(Please leave a message if you are unable to reach me and I'll return the call.)

c: Senator Merkley and Representative Schrader

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