



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

JUL 23 2013

OFFICE OF  
CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail# (b)(6) Privacy, (b)(7)(C) Enf. Privacy

**In Reply Refer to:**

EPA File No. 20R-12-R2

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

Newburgh, NY 12550 (b)(6) Privacy, (b)(7)(C) Enf. Privacy

**Re: Rejection of Administrative Complaint**

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

This is in regards to your complaint received by the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), on October 24, 2012, alleging that the New York Metropolitan Transit Authority (MTA) and the New York Waterway (NY Waterway) discriminated against you. Because OCR has responsibility for processing complaints alleging a violation of Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. §§ 2000d *et seq.*, and EPA's nondiscrimination regulations found at 40 C.F.R. Part 7, we have assumed for purposes of processing the complaint that this is why the complaint was filed with this office. On February 15, 2013, OCR received an email from the MTA which stated that the relevant MTA agency for this matter is Metro-North.

Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulations. First, the complaint must be in writing. Second, the complaint must describe an alleged discriminatory act that violates EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, or disability). Third, the complaint must be filed within 180 calendar days of the alleged discriminatory act. Finally, the complaint must be filed against an applicant for, or recipient of, EPA assistance that allegedly committed the discriminatory act. (A copy of EPA's nondiscrimination regulations is enclosed for your convenience.)

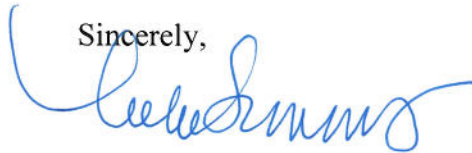
After careful review, OCR is rejecting your complaint because the allegations you describe do not meet EPA's jurisdictional requirements. In a letter dated January 31, 2013, OCR notified you that your complaint was received. In that letter, OCR also requested that you provide additional information within 15 calendar days to complete

the review needed to determine whether OCR can process your complaint. Specifically, EPA asked for clarification concerning whether you were alleging discrimination based on race, color, or national origin regarding the programs or activities of an EPA recipient of financial assistance. OCR has not received that requested information. As written, the complaint does not allege claims on the basis of race, color, national origin, sex, age, or disability or retaliation based on filing a Title VI complaint. Therefore, the complaint is not within EPA OCR jurisdiction to investigate, and OCR must reject the complaint for investigation.

In addition, another of OCR's jurisdictional requirements to be accepted for investigation is that the complaint must be filed against a recipient of EPA assistance that allegedly committed the discriminatory act(s). The Metro-North and the NY Waterway are not recipients of EPA financial assistance and therefore, are not within EPA OCR's jurisdiction to investigate, so OCR must reject the complaint for investigation.

If you have any questions about this letter, please contact Brittany Martinez at (202) 564-0727, via e-mail at [martinez.brittany@epa.gov](mailto:martinez.brittany@epa.gov), or via mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460.

Sincerely,



Vicki Simons  
Acting Director

Enclosure

cc: Stephen G. Pressman, Associate General Counsel  
Civil Rights & Finance Law Office (MC 2399A)

Mavis Johnson, EEO Officer  
USEPA Region 2

Alice Walker, Title VI Contact  
Water Policy Staff (MC 4101M)