



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

JUL 18 2014

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested

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

In Reply Refer to:

EPA File No.: 21D-12-R4

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

Greenup, Kentucky 41144 (b)(6) Privacy, (b)(7)(C) Enf. Privacy

Re: REJECTION OF ADMINISTRATIVE COMPLAINT

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

This letter is in regards to your father's complaint, originally filed with the U. S. Department of Justice (DOJ), Civil Rights Division, on August 4, 2011, alleging discrimination on the basis of disability against the City of Greenup and the Commonwealth of Kentucky, Energy and Environment Cabinet, Department for Environmental Protection (KY DEP) in violation of Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973. Specifically, the complaint alleges that a stream construction permit that was issued by the KY DEP and approved by the City of Greenup is having a discriminatory impact on the individuals with disabilities. The permit at issue allegedly resulted in a sidewalk being covered and, therefore, rendered unusable. The U. S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), received this complaint on April 30, 2012. The OCR received clarifying information from you on July 17, 2012 and August 9, 2012.

Pursuant to the EPA's nondiscrimination regulations pertaining to Section 504 of the Rehabilitation Act of 1973 and Title VI of the Civil Rights Act of 1964, 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, the complaint must meet all of 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, the EPA's financial assistance that allegedly

committed the discriminatory act (see 40 C.F.R. § 7.15). For your reference, we have enclosed a copy of the EPA's nondiscrimination regulations.

After careful review, OCR is rejecting your complaint because it does not meet all of the jurisdictional requirements described in EPA's nondiscrimination regulations. As stated in the jurisdictional requirements, allegations of discrimination will only be accepted for investigation if the complaint is filed against a recipient of EPA financial assistance. As of the date of submission of your complaint (and of this date), the City of Greenup does not receive financial assistance from the EPA. Another jurisdictional requirement is that the complaint must be filed within 180 calendar days of the alleged discriminatory act. Because the City of Greenup took final action on the stream construction permit on November 13, 2007, and the complaint was not filed with DOJ until August 4, 2011, the allegation against the City of Greenup is untimely, as well.

Although EPA has jurisdiction over KY DEP as KY DEP is a recipient of EPA's financial assistance, the allegation regarding KY DEP is also untimely. KY DEP issued the stream construction permit on November 1, 2007, and, as noted above, the complaint was filed with DOJ on August 4, 2011. Therefore, OCR is rejecting your complaint against KY DEP because the complaint was not filed within 180 calendar days of the alleged discriminatory act.

If you have any questions, please contact Jonathan Stein at (202) 564-2088, via e-mail at Stein.Jonathan@epa.gov.

Sincerely,



Delveta Golightly-Howell
Director

Enclosure

cc: Mr. Ken Redden, Acting Associate General Counsel
Civil Rights and Finance Law Office (MC 2399A)

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