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

FEB 18 2010

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested
Certified Mail #7009-2820-0002-1759-2732

In Reply Refer to:
EPA File No. 07R-09-R2

[redacted]

Re: Rejection of Administrative Complaint

Dear [redacted]

This letter is in response to your administrative complaint filed with the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR). On September 9, 2009, and November 17, 2009, the U.S. Department of Justice referred your administrative complaint to EPA for review. Your complaint alleges that the City of New York, New York City Department of Design and Construction, and New York City Department of Environmental Protection (NYDEP) violated 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 implementing Title VI found at 40 C.F.R. Part 7.

Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review of discrimination complaints to determine 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 Part 7 regulations. First, it must be in writing. Second, it must describe an alleged discriminatory act that, if true, would violate EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, or disability). Third, it must be filed within 180 days of the alleged discriminatory act. Finally, the complaint must be filed against an applicant for, or a recipient of, EPA assistance that committed the alleged discriminatory act. (A copy of EPA's nondiscrimination regulations is enclosed for your convenience.)

Your complaint alleges that the City of New York, New York City Department of

Design and Construction, and the NYDEP discriminated against you, as an African American, by damaging two of your properties on October 4, 2007. Specifically, your complaint states that you and your tenants were "exposed to poor air quality from pollution, black mold, unhealthy living conditions, loss of properties from negligence, human suffering, hardship and discrimination."[1] Additionally, you state that another property of yours was damaged "by public sewer and drainage back up" on or about April 15, 2007.[2]

This allegation is rejected for investigation because it does not meet all of EPA's jurisdictional requirements. The complaint is in writing and names two EPA financial assistance recipients (City of New York and NYDEP). However, the New York City Department of Design and Construction is not an EPA financial assistance recipient. Further, as stated above, EPA's implementing regulations require that a complaint describe an alleged discriminatory act that would violate EPA's nondiscrimination regulations and that it is filed within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120(b)(2). Here, the alleged discriminatory acts (the damage to your properties on October 4, 2007, and April 15, 2007) occurred more than 180 days before this complaint was filed on August 24, 2009 making this complaint untimely. Further, the complaint does not allege a discriminatory act. Therefore, OCR must reject this allegation for investigation.

Although your complaint was not accepted for investigation, OCR is providing you with information regarding your concern of possible "exposure to poor air quality from black mold." Mr. Christopher D'Andrea at the New York City Department of Health and Mental Health in the Environmental and Occupational Disease Epidemiology program may be able to assist you with your concerns regarding indoor air quality and black mold remediation. Mr. D'Andrea can be reached at (212) 442-6946 or via e-mail at cdandrea@health.nyc.gov.

If you have any questions, please contact Crystal Rennie at (202) 343-9389, via e-mail at rennie.crystal@epa.gov or via mail at U.S. EPA, Office of Civil Rights, Washington, D.C., 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Sincerely,

Karen D. Higginbotham
Director

Enclosure

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[1] Letter from [redacted], complainant, to Helena Wooden-Aguilar, Acting Assistant Director, External Compliance and Complaints Program, U.S. Environmental Protection Agency. (December 18, 2009).
[2] *Id.*

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

Mavis Johnson
EPA Region 2