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

SEP 26 2012

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested
Certified Mail# 7004-2510-0004-2241-7272

In Reply Refer to:
EPA File No.: 08R-12-R5

[redacted]
RecycleGuy, Inc.
115 N. East Street
Tipton, IN 46072-1741

Re: Rejection of Administrative Complaint

Dear [redacted]:

This letter is in response to your administrative complaint filed with the U.S. Department of Justice on June 5, 2011, and subsequently referred to the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR) on May 2, 2012. Your complaint alleges that the Board of Public Works and Safety of the City of Huntington, Indiana, discriminated against the company you currently manage (RecycleGuy, Inc.). Specifically, you allege that as a manager of RecyleGuy, Inc., you have lost business because city officials unfairly allow only a handful of companies to utilize the County owned landfill and to take advantage of the landfill's low gate fee charge. It appears that you may be alleging a violation of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d *et seq.*, and EPA's nondiscrimination regulations 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 nondiscrimination regulations. First, it must be in writing. Second, it must describe an alleged discriminatory act that, if true, may violate EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). Third, it must be filed within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120(b). Finally, the complaint must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15. (A copy of EPA's nondiscrimination regulations is enclosed for your convenience).

After careful review, OCR cannot accept your complaint for investigation because it does not meet all of the jurisdictional requirements described in EPA's nondiscrimination regulations. First, your complaint does not allege a discriminatory act that is based on race, color, national

origin, sex, age or disability that occurred within 180 days of filing your complaint. Second, the City of Huntington is not a recipient of EPA financial assistance. For these reasons, OCR must reject the allegations in your complaint.

Finally, you express concerns that city officials may retaliate against you for whistle blowing about the allegations in your complaint. You should be aware that no person or entity (*i.e.*, individual, applicant, recipient, non-recipient) may intimidate, threaten, coerce, or engage in other retaliatory conduct against anyone or group who has taken action or participated in an action to secure rights protected by the nondiscrimination statues EPA enforces. Any individual or group alleging such harassment or intimidation may file a complaint with EPA. 40 C.F.R. § 7.100. However, because you have not identified any evidence that you have been subject to any retaliatory action, OCR will not take any further action regarding any allegation of retaliation in your complaint.

If you have any questions about this letter, please contact Anthony Napoli of the OCR External Civil Rights Program via Federal Relay Service 866-377-8642, and provide the relay operator his telephone number 202-564-0728. He may also be reached via electronic mail at Napoli.Anthony@epa.gov, or by mail at: U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Ave., N.W., Washington, DC, 20460-1000.

Sincerely,

Rafael DeLeon
Director

Enclosure

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

Alan Walts, Director
Office of Enforcement and Compliance Assurance
U.S. EPA Region 5

Aaron Price, EEO Officer
U.S. EPA Region 5

The Honorable Mayor Brooks L. Fetters
Board of Public Works and Safety
City of Huntington, Indiana