UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

May 1, 2017

Return Receipt Requested
Certified Mail #: 7015 3010 0001 1267 5553

In Reply Refer to:
EPA No: 46R-16-R4

Ralf Brookes, Esq.
Attorney for IPASS, Inc.
1217 E Cape Coral Parkway #107
Cape Coral, FL 33904

Certified Mail#: 7015 3010 0001 1267 5560

Matthew Farmer, Esq.
Farmer & Fitzgerald, P.A
102 W. Whiting St. Suite 501
Tampa, FL 33602

Re: Rejection of Administrative Complaint

Dear Mr. Brookes and Mr. Farmer:

On September 22, 2016, the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) received your complaint alleging that the Lee County School District in Bonita Springs, Florida has violated Title VI of the Civil Rights Act of 1964 by siting a new Title I high school that has a predominately minority student population (more than 50% Hispanic and Black) on a parcel of land that is contaminated by asbestos and diesel fuel, and that is located next to an extremely high-volume traffic roadway (I-75) generating additional air pollution. ECRCO has determined that it cannot accept your administrative complaint for investigation because it does not meet the jurisdictional requirements described in EPA's nondiscrimination regulation. As a result, this case is closed as of the date of this letter.

Pursuant to EPA's nondiscrimination regulation, ECRCO 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 the EPA's nondiscrimination regulation. First, the complaint must be in writing. 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation *(i.e.,* an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within

180 days of the alleged discriminatory act. 40 C.F.R. § 7.120(b)(2). Finally, it must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15.

After careful consideration, ECRCO has concluded that it cannot accept your complaint for investigation because Lee County School District is not an applicant for, nor a recipient of, EPA financial assistance. Therefore, ECRCO is closing this complaint as of the date of this letter. On April 17, 2017, ECRCO Case Manager, Ericka Farrell, contacted Mr. Brookes by telephone to inform him that ECRCO is closing this complaint due to lack of jurisdiction over Lee County School District. During the course of that conversation with Ms. Farrell, Mr. Brookes indicated that he may be filing a new complaint against a potential EPA recipient that was identified, but not named, in this current complaint that is being closed. ECRCO will act upon that complaint once it is received.

If you have any questions about this letter, please contact Ericka Farrell, Case Manager, at (202) 564-0717, by e-mail at farrell.ericka@epa.gov or by mail at U.S. EPA, Office of General Counsel, External Civil Rights Compliance Office, Mail Code 2310A, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Sincerely,

Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Kenneth Redden
Acting Associate General Counsel
Civil Rights & Finance Law Office

Vickie Tellis
Acting Assistant Regional Administrator
Deputy Civil Rights Official
U.S. EPA Region 4