UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

May 17, 2018

Return Receipt Requested
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In Reply Refer to:
EPA No: 24RD-17-R3

Mr. Donald Musacchio
Chairman, Board of Commissioners
Norfolk Redevelopment and Housing Authority
555 E. Main Street
Norfolk, Virginia 23510

Re: Rejection of Administrative Complaint

Dear Commissioner Musacchio:

On August 16, 2017, the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) received a complaint alleging that the Norfolk Redevelopment and Housing Authority has violated Title VI of the Civil Rights Act of 1964 based on race, and Section 504 of the Rehabilitation Act of 1973 based on disability regarding the approval of a plan to demolish and redevelop the Young Terrace housing development. The complaint further alleges that the demolition and redevelopment with heavy equipment will expose this community to adverse health impacts, from large amounts of dust particulates, poisonous coal byproducts and poly nuclear aromatic hydrocarbons (PAHS). ECRCO has determined that it cannot accept this administrative complaint for investigation.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 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. *See* 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. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.

In addition to the above factors, ECRCO will also consider other factors as well. If ECRCO obtains information from EPA regional offices, the complainant, the potential recipient or other credible sources leading ECRCO to conclude that an investigation is unjustified for prudential

reasons, ECRCO may reject a complaint allegation. Such prudential factors include, but are not limited to, when an allegation is not ripe for review because it is speculative in nature and anticipates future events that may or may not unfold as outlined in the complaint, so a meaningful review of the allegations cannot be conducted at the time ECRCO receives the complaint.

After careful consideration, ECRCO cannot accept this complaint for investigation because the discrimination alleged is not "ripe" for investigation. Specifically, the plan to demolish the Young Terrace public housing project contains contingencies that make it too speculative to investigate at this time. For example, the US Department of Housing and Urban Development (HUD) has not yet approved the City of Norfolk's plan. Please be advised that this complaint is being rejected without prejudice. The Complainant may re-file this complaint within 180 days of a subsequent act or event that raises an allegation of discrimination.

If you have any questions about this letter, please contact Samuel Peterson, Case Manager, at (202) 564-5393, by e-mail at peterson.samuel@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: Elisa Packard
Associate General Counsel
Civil Rights & Finance Law Office

Cecil Rodrigues
Deputy Regional Administrator
Deputy Civil Rights Official
US EPA Region 3