Create Control - Data Entry

Control Number: OCR-17-000-1907 Alternate Number:

Citizen Information

Citizen/Originator: 1). (b) (6) Privacy Barbourville, KY 40906 Search Citizen

Constituent: Search Constituent

Committee:

Sub-Committee:

Control Information

Status: Pending *

Letter Date: Nov 17, 2016 * Received Date: Nov 29, 2016

Contact Type: LTR (Letter) * Priority Code: Normal *

Addressee: (+) Addressee Org:

File Code: 401_127_a General Correspondence Files Record copy *

Signature: (+)

CC: Search CC

Signature Date: Nov 17, 2016

Primary Subject: Department of Justice referral of complaint to EPA's Section 504 the Rehabilitation Act (+) *

Secondary Subject: (+)

Instructions: (+) *

Instruction Notes:

General Notes:

*: Required field

(+): Lookup field, press space bar for complete list

Save Continue and Assign Cancel

U.S. Department of Justice

Civil Rights Division

Disability Rights Section - NYA
950 Pennsylvania Ave, NW
Washington, DC 20530

Contact if additional information is required:

Robin C. Deykes
Civil Rights Program Specialist
Disability Rights Section
Civil Rights Division
U.S. Department of Justice
(202) 307-1085
Robin.Deykes@crt.usdoj.gov

RECEIVED
NOV 29 2016
BY:

U.S. Department of Justice
Civil Rights Division

Disability Rights Section - NYA
950 Pennsylvania Ave, NW
Washington, DC 20530

Referral of Complaint for Appropriate Action

To: Mr. Rafael DeLeon,
Director, Office of Civil Rights
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Room 2450
Washington, D.C. 20460

NOV 17 2016

(b) (6) Privacy
Barbourville, KY 40906

From: Disability Rights Section, Civil Rights Division, U. S. Department of Justice

Reference: CTS# (b) (6) Privacy, regarding Department for Environmental Protection, Frankfort, KY; received by DOJ on June 5, 2016 and August 9, 2016

The Disability Rights Section has reviewed the enclosed complaint and determined that it raises issues that are more appropriately addressed by the U.S. Environmental Protection Agency under Section 504 of the Rehabilitation Act. We, therefore, are referring this complaint to that agency for appropriate action. This letter serves to notify that agency and the complainant of this referral. The Disability Rights Section will take no further action on this matter.

To check the status of the complaint, or to submit additional information, the complainant may contact the referral agency at the address above.

If the agency has any questions or concerns about this referral or believes that it raises issues outside the agency's jurisdiction, please do not hesitate to contact the Department of Justice at the address and phone number attached hereto.

DJ# (b) (6) Privacy

DEPARTMENT OF JUSTICE
Civil Rights Division
Disability Rights Section
Correspondence Tracking System

Complaint : For several months a car painting facility which moved within 20 feet of our house has been emitting fumes into the air which hare making me sicker. I called the Frankfort KY EPA office and gave the report. I was told that it would be assigned to an investigator and I would hear back. I did not hear anything and the fumes continued. I called back to Frankfort and was told the name of the investigator of David Shivel and my report number. They gave me the phone number for the London KY Office and said to call there because he had not made any notes. I called the number and spoke with Mr. Shivel. I told him I had a video of the fumes that I would like him to view. He gave me his email address and I sent the video url because the file was too large to email. http://www.gracemoore.net/paint.mp4 I asked if he would call me and let me know if he could view the video ok and if not we could make arrangements for some other option. I received no call back. I followed up with a couple of emails and still no response to the emails. In those, I just asked, please let me know if you can view the video and what are the steps going forward. Still nothing. I called again to the office and spoke to someone else since Mr. Shivel was unavailable. I explained the situation and asked the person on the phone if they would go to the url and see if the video was viewable. He did and said it was and he would have David call me. Mr. Shivel never returned the call. We took another video a couple of weeks later and I again called the London Office. Mr. Shivel did not want to come out he said. I said I was going to call the Frankfort Office back because I needed the fumes to stop. I told him of my (b) (6) Privacy issues and how difficult it would be to have to leave the house and stay with someone else. Later that day, an hour and a half or so, I was viewing the 2nd video on my computer and Mr. Shivel came to the door. There was a lady with him but she was not identified. My husband answered the door and asked them to come in that I wanted to speak with them and show them the video and because of (b) (6) Privacy issues I could not come out there. They came inside but after a minute or so and Mr. Shivel raising his voice in an angry manner, the lady said "I'm going outside" and Mr. Shivel said, "She's allergic to dogs." We have one pug in our home who was at the door before they ever entered. I replied, "I have not been able to file my complaint and offer the evidence I have and I would like to do that." Mr. Shivel said, "It's not paint" and walked out the door. I was given no alternate way to send the video and no one has still viewed it or taken my report. I requested records through pen Records and was sent only a few but nothing from Jan and February. I then was sent Mr. Shivel's report which had dates that did not match in his notice/report and testing. I kept emailing and asking why and was given a "few more records found by a colleague" I was told by Open Records clerk. I still have not received them all and feel they have been falsified and they are making up reports that never existed because I keep questioning. I feel because I have been denied because I wasn't able to go outside when she was allergic to dogs and they provided no reasonable accommodation to take my report, evidence that the office has been discriminatory. The Open Records requests have not been honored and many conflicting pieces of information come to me even though I requested "any and all" in my records request initially. The fumes are making my health worse and my health already is not well. It is discriminatory I think to not take my complaint and look at my information of what is going on because I could not go outside. Mr. Shivel did not state he was allergic to dogs, only that she was.

DEPARTMENT OF JUSTICE
Civil Rights Division
Disability Rights Section
Correspondence Tracking System

Person #: 200030967
Type : CW - Correspondent/Writer
Title :
Name : (b) (6) Privacy
Address : [redacted]
Barbourville KY ,40906
Organization :

Contact By : PHON
Disability : (b) (6) Privacy
Phone : [redacted]
E-Mail :

200030968
Type : RS - Respondent/Subject
Title :
Name :
Address : 300 Fair Oaks Ln
Frankfort KY ,40601
Organization : Department for Environmental Protection

Contact By : PHON
Disability :
Phone : 502-564-2150 (O)
E-Mail : n/a

McGowan-Bransome, Sharon (CRT)

From: (b) (6) Privacy
Sent: Monday, August 08, 2016 3:52 PM
To: crt.forms@usdoj.gov
Subject: Re: ADA complaint (b) (6) Privacy filed with the U.S. Department of Justice
Attachments: IMG_7874[1].JPG

Get Outlook for iOS

On Sun, Jun 5, 2016 at 6:48 PM -0400, "CRT.Forms@usdoj.gov" <CRT.Forms@usdoj.gov> wrote:

This serves as confirmation that the Disability Rights Section has received your complaint. Please be assured that your receipt of this email means that we have received your complaint and are processing it. You will hear from us when we have made a determination about the disposition of your complaint. This is an automatic response generated electronically. Please keep a copy of this response for your records.

If you would like to attach files to your complaint, you can submit them by replying to this message and inserting the files as attachments to the message. Do not alter the subject line of the reply to ensure the timely processing of the additional files. Additionally, do not put any text in the body of your message. The body of the message WILL NOT be read – only the attachments.

We will review the information you have submitted and will notify you of any action this office will take with respect to the issues you have raised. Please be advised that this office receives a large volume of correspondence from the public, and it may be some time before we have finished reviewing your complaint. If you would like to check on the status of your complaint, you may call the ADA Information Line at 800-514-0301 (voice); or 800-514-0383 (TTY).

To expedite processing of your status check, please retain your complaint number, (b) (6) Privacy, and your reference number, (b) (6) Privacy for use when corresponding about this complaint.

Thank you for bringing these matters to our attention.

Disability Rights Section Staff

DEPARTMENT OF JUSTICE
AUG 2016
RECORD
CIVIL RIGHTS DIVISION

(b) (6) Privacy

ADA Complaint

The Incident Description Reports that were provided to you as part of your Open Records Request listed that the initial complaint filed on March 24, 2016, was from an anonymous caller, it also listed a complaint that was called in on April 12, 2016, where the caller was again identified as anonymous. On April 21, 2016, and May 4, 2016, a complaint was called in that referenced (b) (6) Privacy (b) (6) Privacy as a private citizen who was reporting fumes (paint or otherwise) escaping on (b) (6) Privacy

The information on the Incident Description Reports shows the date and time that the investigation started. Our departmental data base shows the start time and date for an investigation and the end time and date for an investigation. Those records indicate an odor survey was performed at the facility adjacent to your residence on April 12, 2016, and there was no violation found. Supporting documentation also shows a visit to the facility was done on April 13, 2016. During that timeframe the inspector witnessed painting being done at the facility and documented that no violations were found. A letter was sent to the facility on April 18, 2016, indicating there were no violations found during the inspection that was conducted on April 13, 2016.

As a citizen of the Commonwealth we value your input and your diligence in reporting incidents that you feel may be in violation of air quality regulations. However, in this incident there have been no documented violations of air quality regulations.

Any future reports will continue to be handled and addressed in accordance with Departmental Business Rules and Standard Operating Procedures for Complaints.

Sincerely,

Nick Hackensmith, Assistant Director
Division of Environmental Program Support

McGowan-Bransome, Sharon (CRT)

From: (b) (6) Privacy [redacted]
Sent: Monday, August 08, 2016 4:17 PM
To: CRT.Forms@usdoj.gov
Subject: Re: ADA complaint (b) (6) Privacy [redacted] filed with the U.S. Department of Justice
Attachments: IMG_7872[1].JPG

From: CRT.Forms@usdoj.gov <CRT.Forms@usdoj.gov>
Sent: Sunday, June 5, 2016 6:48:32 PM
To (b) (6) Privacy [redacted]
Subject: ADA complaint 100036376 filed with the U.S. Department of Justice

This serves as confirmation that the Disability Rights Section has received your complaint. Please be assured that your receipt of this email means that we have received your complaint and are processing it. You will hear from us when we have made a determination about the disposition of your complaint. This is an automatic response generated electronically. Please keep a copy of this response for your records.
If you would like to attach files to your complaint, you can submit them by replying to this message and inserting the files as attachments to the message. Do not alter the subject line of the reply to ensure the timely processing of the additional files. Additionally, do not put any text in the body of your message. The body of the message WILL NOT be read -- only the attachments.
We will review the information you have submitted and will notify you of any action this office will take with respect to the issues you have raised. Please be advised that this office receives a large volume of correspondence from the public, and it may be some time before we have finished reviewing your complaint. If you would like to check on the status of your complaint, you may call the ADA Information Line at 800-514-0301 (voice); or 800-514-0383 (TTY).
To expedite processing of your status check, please retain your complaint number, (b) (6) Privacy [redacted], and your reference number, (b) (6) Privacy [redacted], for use when corresponding about this complaint.
Thank you for bringing these matters to our attention.
Disability Rights Section Staff

Edit and reply

ENERGY AND ENVIRONMENT CABINET

Matthew G. Bevin
Governor

DEPARTMENT FOR ENVIRONMENTAL PROTECTION
300 FAIR OAKS LANE
FRANKFORT, KENTUCKY 40601
PHONE (502) 564-2150
www.dep.ky.gov

Charles G. Snai
Secretar

May 27, 2016

Dear [redacted] (b) (6) Privacy

On May 2, 2016, I spoke to you regarding an American's with Disabilities (ADA) complaint t you had previously made to Sherry Butler, Energy and Environment Cabinet EEO Coordinator. T Department for Environmental Protection has reviewed the matter and there does not appear to be a ADA violation.

In reference to the ADA complaint you stated that you made a complaint to the Division for A Quality on April 20, 2016, regarding an odor from an auto body paint shop located next to your residence On that day David Shivel and Laura Sproles came to your residence in response to the complaint. Due t the fact that you wanted them to view a video and you told them you ha [redacted] (b) (6) Privacy issues they entered you home.

There are verbal policies within the agency that an inspector is not to enter a private resident's when responding to a complaint even though they are not required to do so. Mr. Shivel and Ms. Sproles entered your residence. While the inspectors didn't watch the video in its entirety they had watched a previous video that you had sent to the Department for Environmental Protection, London Regional Office. In reference to that video the inspectors relayed to you that they can't quantify emissions from viewing a video. That response remains the same regardless of whether or not another video was provided.

The inspectors did visit the facility and do an odor survey and witnessed what takes place when a vehicle is being painted. You stated that you thought the inspector should come into your backyard and measure or survey the odor they were coming from the body shop. It is a documented standard procedure that they measure for pollutant or odor surveys at the property line of the facility. If the pollutants for concern (PA[illegible]) are not detected at the property line or are not observed to exceed one mile (or [illegible]) from the source location the [illegible]

[illegible]