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

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE

November 3, 2017

**Return Receipt Requested**
Certified Mail #: (b) (6) - Privacy

**In Reply Refer to**:
EPA No: 41D-16-R4

The Honorable Lenny Curry
City of Jacksonville
Mayor's Office
City Hall at St. James Building
117 W. Duval Street, Suite 400
Jacksonville, Florida 32202

**Re: Rejection/Closure of Administrative Complaint**

Dear Mayor Curry:

On August 30, 2016, the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) received a complaint, forwarded from the Office of Attorney General, State of Florida alleging that the City of Jacksonville (the City), has violated Section 504 of the Rehabilitation Act of 1973 and the EPA's nondiscrimination regulation (*see* 40 C.F.R. Part 7, Subpart C) by building the Fairway Oaks housing development on a former landfill that caused the Complainant, a person with disabilities, and other disabled persons in the development, adverse health impacts and damage to homes in the complex from cracking slabs, mildew and mold. ECRCO has determined that it cannot accept this administrative complaint for investigation because it does not meet the jurisdictional requirements described in EPA's nondiscrimination regulation.

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. § 7.15.

After careful consideration, ECRCO has concluded that it cannot accept this complaint for investigation because the complaint that was filed is not considered timely filed, that is, it was not filed within 180 days of the alleged discrimination. Timely allegations may include those where the complainant alleges a continuing discriminatory policy or practice. In evaluating the allegations from a Complainant, ECRCO will determine whether there is a continuing discriminatory policy or practice. In order to accept allegations of a continuing policy or practice as timely, ECRCO must be able to identify, generally through clarification from the complainant, a discrete act that occurred within 180 calendar days of filing the correspondence. ECRCO also must be able to determine whether the continuing violation reflects a discriminatory act occurring within the 180-day period or is merely the consequences of a decision made earlier, because the latter would not constitute a continuing violation. In this instance, the concerns raised by the Complainant have been known to the Complainant since at least 2005. Given that, we are unable to accept a complaint filed as timely on the allegation raised. Therefore, ECRCO is closing the complaint as of the date of this letter.

We are aware that the Complainant might already be in contact with the Florida Department of Environmental Protection, but if not we did suggest that she may wish to raise her concerns with the (FDEP), Headquarters, by calling FDEP at (850)245-2118, or writing to FDEP at Department of Environmental Protection, Office of the Ombudsman & Public Services, 3900 Commonwealth Blvd., MS 49, Tallahassee, FL 32399. If you have any questions about this letter, please contact Debra McGhee, Team Lead, at (202) 564-6464, by e-mail at mcghee.debra@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,

Dale Rhines
Deputy Director
External Civil Rights Compliance Office
Office of General Counsel

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

Kenneth LaPierre
Assistant Deputy Regional Administrator
Deputy Civil Rights Official
Region IV