UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

October 9, 2018

Return Receipt Requested
Certified Mail#:(b) (6) Privacy [redacted]

In Reply Refer to:
EPA Complaint No. 03D-16-R2

The Honorable Lovely Warren
Mayor
City Hall
30 Church Street, Room 307A
Rochester, NY 14615

Re: Resolution and Closure of Administrative Complaint

Dear Mayor Warren:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA) External Civil Rights Compliance Office (ECRCO) is resolving and closing, as of the date of this letter, a complaint filed against the City of Rochester, New York (Rochester). The complaint generally alleged that Rochester violated Section 504 of the Rehabilitation Act of 1973 and EPA's nondiscrimination regulation, at 40 C.F.R. Part 7.

On April 17, 2018, ECRCO accepted for investigation the following issues:

1. Whether the City of Rochester discriminated on the basis of disability in violation of Section 504 of the Rehabilitation Act of 1973 and EPA's implementing regulation at 40 C.F.R. Part 7, by failing to respond to and/or accommodate a reasonable accommodation request submitted to the City by a resident with a disability.

2. Whether the City of Rochester has implemented a nondiscrimination program and adhered to specific procedural safeguards to ensure meaningful access to all City programs and activities by all persons, including access by individuals with disabilities, in compliance with its nondiscrimination obligations set forth in 40 C.F.R. Parts 5 and 7.

On July 19, 2018 ECRCO facilitated an Early Complaint Resolution (ECR) Agreement, between the Complainant and Rochester. The enclosed ECR Agreement serves to resolve the first issue above. Thank you for Rochester's cooperation and participation in ECR.

With respect to the second issue above, ECRCO initiated an investigation of Rochester's nondiscrimination program relative to the requirements of federal nondiscrimination laws and EPA's nondiscrimination regulation at 40 C.F.R. Parts 5 and 7. Specifically, ECRCO reviewed Rochester's: continuing notice of nondiscrimination; grievance procedures that assure the prompt and fair resolution of complaints which allege a violation of EPA's nondiscrimination regulation; and the designation of at least one person to coordinate its efforts to comply with its nondiscrimination obligations. ECRCO also reviewed whether Rochester has in place policies and procedures to ensure it provides meaningful access for persons with limited-English proficiency and persons with disabilities to all its programs and activities. In addition, ECRCO reviewed whether Rochester has in place a public participation policy and process.

During the pendency of this investigation, ECRCO communicated with Rochester on several occasions about the nondiscrimination program it had in place at the time this complaint was received. Specifically, on August 10, 2018, August 16, 2018, and September 6, 2018, ECRCO conferred with Rochester about the nondiscrimination and access requirements discussed above. ECRCO provided technical assistance and identified areas of deficiency in light of the regulatory requirements, which Rochester has addressed during the pendency of this investigation. Based on ECRCO's review of Rochester's current nondiscrimination program, including changes it has made to its Website, ECRCO finds insufficient evidence of noncompliance with EPA's nondiscrimination regulation at 40 C.F.R. Parts 5 and 7. This complaint is closed as of the date of this letter.

ECRCO would like to thank Rochester for its assistance and cooperation during the investigation and resolution of this case. ECRCO also commends Rochester on its commitment to go beyond the minimum requirements of the regulation and to continue to work with ECRCO to refine its nondiscrimination program and its policies and procedures for ensuring meaningful access for persons with limited English proficiency and persons with disabilities. If you have questions about this letter, please feel free to contact Zahra Khan, Case Manager, at 202-564-0460, by email at khan.zahra@epa.gov, or by mail at U.S. EPA External Civil Rights Compliance Office (Mail Code 2310A), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460.

Sincerely,

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

Enclosure: ECR Agreement between Complainant and Rochester

cc: Elise Packard
Associate General Counsel
Civil Rights & Finance Law Office

Richard Manna
Assistant Regional Administrator
Deputy Civil Rights Official
U.S. EPA Region 2

Yvette Green
Municipal Attorney
City of Rochester

Early Complaint Resolution

ECRCO Complaint No. 03D-16-R2

To resolve the allegations in U.S. Environmental Protection Agency, Office for General Counsel, External Civil Rights Compliance Office (ECRCO) Case No. 03D-16-R2, City of Rochester and (b) (6) Privacy (the Complainant) voluntarily and mutually agree to the following:

The parties agree that the speed hump located nearest to (b) (6) Privacy Rochester, NY will be removed. The hump will be relocated no less than 50 feet away from the current location in the direction of (b) (6) Privacy Avenue; and based on technical feasibility, the City of Rochester will strive to locate it farther than 50 feet away.

The City of Rochester agrees to notify the Complainant of all actions taken related to the removal and reinstallation of the speed hump.

The City of Rochester agrees to have the project completed by November 30, 2018.

This Agreement does not constitute an admission, by either party, of discrimination or wrongdoing, including any violation of law, policy, procedure, or right belonging to either party, or any other party.

The parties have been informed that the Early Complaint Resolution process is completely voluntary and that ECRCO will not monitor or enforce this Agreement. The parties understand that after ECRCO receives the signed Agreement, ECRCO will close (or partially close as relevant) its complaint investigation in this case. The parties agree to abide by the terms of the Agreement in good faith. However, if a breach occurs, the Complainant has the right to file another complaint and ECRCO will determine whether to investigate the original allegation, not the breach of the Agreement. To be considered timely, the new complaint must be filed either within 180 calendar days of the date of the original discrimination or within 60 calendar days of the date the Complainant obtains information that a breach occurred, whichever is later.

(b) (6) Privacy

Complainant

19. July, 2018

Date

Municipal Attorney
Yvette Green
City of Rochester

July 19, 2018

Date