



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

JUN 06 2008

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested

Certified Mail #7004-1160-0002-3622-6499

In Reply Refer to:

EPA File No. 02R-06-R5

John Phillips, Attorney
Communities United for Action
9521 Montgomery Road
Cincinnati, OH 45242

Re: Rejection of Administrative Complaint

Dear Mr. Phillips:

This letter is in response to your administrative complaint filed with the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR). EPA received your complaint on April 20, 2006. Your complaint generally alleges that the Ohio Environmental Protection Agency (OEPA) and the Cincinnati Board of Health (CBOH) violated Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. §§ 2000d *et seq.*, and EPA's nondiscrimination regulations found at 40 C.F.R. Part 7.

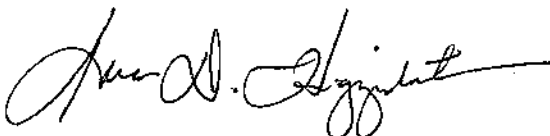
Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review of the complaint to determine acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulations. First, it must be in writing. Second, it must describe an alleged discriminatory act that, if proven true, may violate EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex or disability). Third, it must be filed within 180 calendar days of the alleged discriminatory act. Finally, it must be filed against an applicant for, or a recipient of, EPA financial assistance that committed the alleged discriminatory act.

After careful consideration, OCR has concluded that it cannot accept this allegation for investigation because it does not meet the jurisdictional requirements described in EPA's nondiscrimination regulations. For the reasons explained below, OCR must reject your complaint.

Your complaint states that the initial issuance and renewal of the Solid Waste Facility License by OEPA and CBOH constituted discriminatory conduct because concerns raised about the placement of the waste transfer station in the Winton Hills Community were ignored by both agencies. However, concerns surrounding the placement of the waste transfer station were vetted and determined during the review of the facility installation permit, which was issued on February 28, 2001. Thus, while your complaint asserts that the issuance of the license was discriminatory, your allegations concern the location of the facility, which had been decided years prior, when the installation permit was issued. Issues surrounding the location of a facility are outside the scope of the considerations taken into account when issuing an operating license. Therefore, any allegation of discriminatory conduct surrounding the placement of the facility in the Winton Hills Community is untimely under EPA's jurisdictional requirements. As such, OCR will not accept this allegation for investigation.

If you have any questions, please contact Thomas Walker of the OCR External Compliance Program, by telephone at (202) 343-9680, by e-mail at walker.tom@epa.gov, or by mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Ave. NW., Washington, D.C. 20460.

Sincerely,



Karen D. Higginbotham
Director

cc: Chris Korleski, Director
Ohio Environmental Protection Agency
122 South Front Street
Columbus, Ohio 43215

Noble A-W Maseru, Health Commissioner
Cincinnati Board of Health
Cincinnati Health Department
3101 Burnet Avenue, Suite 111
Cincinnati, Ohio 45229

Alan Walts, Title VI Coordinator
EPA Region 5

Stephen G. Pressman, Associate General Counsel
Civil Rights and Finance Law Office (MC 2311)