



In Reply Refer to: HCR-20
DOT# 2021-0074

February 3, 2022

(b) (6)

Subject: Dismissal of Complaint DOT# 2021-0074

Dear (b) (6),

This letter is to inform you that the Federal Highway Administration (FHWA) Office of Civil Rights has determined that it will dismiss the above complaint, which alleges violations that may be related to Title VI of the Civil Rights Act of 1964, the U.S. Department of Transportation (USDOT) Title VI implementation regulations at 49 C.F.R. Part 21 and/or FHWA's Title VI regulations at 23 C.F.R. Part 200 (hereinafter Title VI). Title VI prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving Federal financial assistance.

To be accepted for investigation, a complaint must meet the jurisdictional requirements provided by 49 C.F.R. § 21.11. First, complaints must be filed within 180 calendar days of the alleged discriminatory act, unless the time for filing is extended by FHWA. Second, the matters must concern recipients of federal financial assistance for a program or programs authorized under a law administered by FHWA. Finally, the complaint must describe an alleged discriminatory act or acts that, if true, would fall under FHWA's jurisdiction and potentially violate FHWA's Title VI regulations.

You allege that the City of Ranson, West Virginia discriminated against the descendants of people buried at the Boyd Carter Memorial Cemetery and Methodist Cemeteries through zoning decisions. You allege that the City of Ranson did not consider potential impacts to the cemeteries when making zoning decisions that led to harmful construction activities. For example, you allege that gas pipeline construction activities by the Mountaineer Gas Company in 2019 disturbed areas in and around the Boyd Carter Memorial Cemetery. You also allege that zoning decisions enabled the (b) (6) to purchase property that contains more than 23 unmarked graves which extend beyond the undelineated historic boundaries of the cemeteries.

After careful consideration, FHWA has determined the allegations and facts in your complaint do not meet the minimum criteria under which FHWA could establish a case of disparate impact under Title VI. The available information is insufficient to show how the City of Ranson directly caused the harms alleged in the complaint. Furthermore, FHWA has determined that it lacks jurisdiction over your complaint because the allegations and facts in your complaint regarding industrial zoning are outside the subject-matter areas of statutes FHWA is responsible for

enforcing. For these reasons, the complaint will be dismissed by FHWA and closed with no further action.

The FHWA West Virginia Division Office will continue to conduct Title VI stewardship and oversight over the West Virginia Department Transportation and its subrecipients of FHWA financial assistance. These oversight activities include reviewing WVDOT's annual Title VI Goals and Accomplishments reports that summarize Title VI compliance reviews conducted for subrecipients.

If you have any questions, please contact Nichole McWhorter at (202) 366-1396.

Sincerely,

Nichole McWhorter

Nichole McWhorter
Title VI Team Leader
Office of Civil Rights

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