



In Reply Refer to: HCR-20
DOT# 2021-0320

June 22, 2022



Subject: Resolution of Complaint #2021-0320

Dear 

The Federal Highway Administration (FHWA) has resolved your complaint against the Colorado Department of Transportation (CDOT). Your complaint, which was received by this office on September 27, 2021, alleged that CDOT violated Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations, including Title VI regulations administered by the United States Department of Transportation (49 C.F.R. Part 21) and FHWA (23 C.F.R. Part 200).

FHWA reached a voluntary resolution agreement with CDOT on May 31, 2022 (enclosed). The agreement pertains to the sale and maintenance of the CDOT property located at 4601 Washington Street, Denver, Colorado 80216. This letter closes FHWA's inquiry of your complaint.

Please be advised that no one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. Any individual alleging such harassment or intimidation may file a complaint with the FHWA.

Sincerely,



Nichole McWhorter
Title VI Team Leader
Office of Civil Rights

Enclosure:
Title VI Voluntary Resolution Agreement

cc: John Cater, Division Administrator, FHWA Colorado Division Office
Andrew Wilson, Deputy Division Administrator, FHWA Colorado Division Office
Nicole Bumpers, Civil Program Manager, FHWA Colorado Division Office
Jim Esselman, Senior Attorney-Advisor, FHWA Office of Chief Counsel
Irene Rico, Associate Administrator, FHWA Civil Rights Office
Irene Marion, Director, Departmental Office of Civil Rights
Yvette Rivera, Associate Director, Equity and Access Division, Departmental Office of Civil Rights
Barbara Dougherty, Deputy Director, Departmental Office of Civil Rights
Sara Kluberdanz, Lead Program Analyst, Departmental Office of Civil Rights



Voluntary Resolution Agreement

I. Purpose

The Federal Highway Administration (FHWA) and the Colorado Department of Transportation (CDOT) hereby enter into this Voluntary Resolution Agreement (Agreement) regarding the property located at 4601 Washington Street, Denver, Colorado 80216 (identified as 300-R, 301-R, 302-R, 303-R and 304-R of the Department of Transportation, State of Colorado containing 40,145sq. ft. (0.922 acres)), to resolve allegations against CDOT of noncompliance with Title VI of the Civil Rights Act of 1964 (Title VI). In entering into this Agreement, FHWA is not making a noncompliance finding against CDOT, and CDOT is not admitting a violation of Title VI.

II. Background

A. On September 27, 2021, FHWA received a Title VI complaint regarding the property located at 4601 Washington Street (hereinafter referred to as “the property”) in the Globeville community of Denver. The complaint alleges that the property is not maintained and is full of garbage.

B. The property is vacant and has been owned by CDOT since the early 1990s. CDOT acquired the property for a project that received federal financial assistance.

C. The property is part of a parcel of land that includes an adjacent privately-owned property. An adjacent alley is owned by the City and County of Denver.

D. As prescribed by Colorado Revised Statute 43-1-210(5), CDOT began the process to dispose of the property in March 2022.

E. CDOT has undertaken a multi-year project to create a comprehensive geographic information system (GIS) map of all of its property ownership. CDOT hired a full-time Property Management GIS specialist to further and expedite the project. The end goal of the project is to have a publicly accessible map that shows all excess and remainder parcels available for sale that also aids the agency in tracking maintenance activities.

III. Applicability

Title VI provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. 42 U.S.C. 2000d. Title 49 of the Code of Federal Regulations (CFR), Part 21, implements Title VI for the U.S. Department of Transportation (DOT) and provides that DOT Recipients may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin. 49 CFR § 21.5(b)(2). CDOT is a Recipient of Federal financial assistance from the FHWA.

IV. CDOT Actions

As a primary recipient of Federal-Aid Highway funding from FHWA, CDOT is responsible for implementing FHWA Title VI Program requirements. See 23 CFR § 200.3. CDOT is solely responsible for effectuating the actions described in this Agreement by taking the following actions:

A. CDOT shall complete steps outlined in C.R.S. 43-1-210(5) to dispose of or otherwise transfer ownership of the property located at 4601 Washington Street by October 1, 2022. When a disposal or transfer of ownership is completed, CDOT shall notify FHWA promptly in writing and identify the parties in the transaction. In the deed of sale or other similar instrument transferring property ownership, CDOT shall include Appendix C or Appendix D, as appropriate, of the Standard Title VI/Non-Discrimination Assurances pursuant to U.S DOT Order No. 1050.2A. If CDOT is unable to dispose of or otherwise transfer ownership of the property by October 1, 2022, CDOT shall notify FHWA promptly in writing. This written notification shall contain proposed alternative remedies for ensuring Title VI compliance. Any proposed alternative remedies are subject to final approval by FHWA.

B. CDOT shall periodically inspect and maintain the property located at 4601 Washington Street while it is still owned by CDOT. CDOT shall provide a written maintenance plan to FHWA by June 1, 2022. The maintenance plan will be subject to final approval by FHWA. The plan shall include:

1. A schedule in which the property is inspected at least twice per month;
2. A description of how CDOT plans to obtain and respond to requests from the public regarding issues with the property;
3. A description of maintenance activities that CDOT plans to perform at the property;
4. A description of how CDOT plans to document all inspection and maintenance activities that occur at the property.

C. CDOT shall create an inventory that lists all of its properties by December 31, 2022. The inventory shall include the location of each property, a description of the purpose of each property, and whether or not the property is vacant. The inventory shall be maintained and updated whenever CDOT acquires or loses property.

D. CDOT shall create standard operating procedures (SOP) for the inspection and maintenance of its properties by October 1, 2023. The SOP shall describe how and when CDOT will conduct inspection and maintenance activities. The SOP shall describe how properties will be prioritized for maintenance and how CDOT will use racial demographic data to inform its decisions to ensure properties are being prioritized in an equitable manner. The SOP will be subject to final approval by FHWA.

E. CDOT shall send a written progress report to FHWA by October 1, 2022. The progress report shall describe CDOT's efforts during the 2022 federal fiscal year toward implementing the requirements in this agreement. Further, CDOT will cooperate with FHWA regarding all additional requests for documentation, pursuant to 49 C.F.R 21.9, et seq.

E. CDOT shall send a written progress report to FHWA by October 1, 2023. The progress report shall describe CDOT's efforts during the 2023 federal fiscal year toward implementing the requirements in this agreement. Further, CDOT will cooperate with FHWA regarding all additional requests for documentation, pursuant to 49 C.F.R 21.9, et seq.

V. Modification of Agreement

This Agreement may be modified by mutual agreement of both FHWA and CDOT after negotiating in good faith and in writing.

VI. Intimidation or Retaliatory Acts Prohibited

Neither CDOT nor any entity or business party to an agreement to carry out the actions herein shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Section 601 of Title VI or 49 C.F.R. Part 21, or because such individual has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing pursuant to 49 C.F.R. Part 21.

VIII. Compliance

FHWA may review CDOT's compliance with this Agreement at any time. If FHWA believes CDOT has failed to comply in a timely manner with any requirement of this Agreement, FHWA will so notify CDOT in writing and will attempt to resolve the issue or issues in good faith.

IX. Abeyance

The FHWA will hold in abeyance conducting a formal investigation regarding the complaint filed in the matter (described above) during the performance of this Agreement. At any time, should CDOT not perform, or ensure performance, under this Agreement, FHWA will notify CDOT as stated in section VIII above. Should CDOT fail to remedy the noncompliance issue within 30 days of notification, FHWA may continue conducting a formal investigation regarding the issue and take such other actions as necessary to ensure CDOT's compliance with Title VI.

**JOHN MARTIN
CATER**

Digitally signed by
JOHN MARTIN CATER
Date: 2022.05.31
08:06:58 -06'00'

John Cater, Colorado Division Administrator
FEDERAL HIGHWAY ADMINISTRATION

Dated: _____



Shoshana M. Lew, Executive Director
COLORADO DEPARTMENT OF TRANSPORTATION

Dated: May 23, 2022