



U.S. Department
of Transportation
Federal Highway
Administration

1200 New Jersey Avenue, SE,
Washington, DC 20590

JUN 17 2009

In Reply Refer To: HCR-40
DOT #2009-0052

(b) (6)

Dear **(b) (6)**:

This is in reference to your complaint of discrimination, dated July 10, 2008, against Washington County alleging violations of Title VI of the Civil Rights Act of 1964 (Title VI). In your complaint, you alleged that Washington County discriminated against the African American community with regard to road paving activities. You specifically alleged that Washington County refused to pave all roads in the African American community, namely, Colvin Road; the remainder of Harge Road; and Iron Bridge Road.

Since Washington County is a sub-recipient of Federal-aid funds through the Texas Department of Transportation (TxDOT), your complaint was received and investigated by the TxDOT in accordance with the Federal Highway Administration's (FHWA) complaint processing procedures. State recipients can conduct Title VI investigations of its sub-recipients or contractors and make a recommended finding to the Federal decision-making authority. However, the Department of Justice has determined that a Title VI finding of violation or no violation is a Federal decision that cannot be delegated. All FHWA recipients must submit their proposed dispositions to FHWA for a final agency decision.

The TxDOT has completed its investigation and forwarded its investigative report to this office for review and issuance in accordance with the FHWA's procedures. The evidence submitted by the TxDOT shows the following:

- Washington County takes the following factors into consideration when making road paving selections:
 - Utilizing the County's "Road Construction-Paving Program Policy;"
 - Coordinating with the County Road and Bridge Administrator to conduct traffic counts, making sure there is plenty of right-of-way, checking for drainage problems, etc.;
 - Feedback from County motor grader operators to ascertain the type of traffic on roads (i.e., residential traffic, oil-field traffic, large gravel trucks, etc.);
 - Physical verification of the condition of roads; and
 - Periodic requests received from residents to either pave or not pave their roads.
- After taking the above into consideration, the County tries to connect paved roads with State roads and pave roads leading to cemeteries.

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- Records show that throughout the years, you requested paving for Iron Bridge Road, the remainder of Harge Road, Colvin Road, Fischer Road, and Ben Tap Road.
- Records show that a soil test and a traffic count were performed to determine whether Iron Bridge Road was suitable for paving. The results confirmed that the road was not eligible for paving.
- Investigation disclosed that during the time Harge Road was partially paved, the procedure used by the County's Road and Bridge Department to pave roads included using its own equipment, which only had the capacity to bring materials to the site to pave approximately 1 mile of road. The remainder of the road has not been paved due to the existence of numerous oil-field operations. However, the County has posted "No Thru Trucks" signs on the partially paved road to prevent the oil-field traffic from destroying the road.
- Investigation disclosed that Colvin Road was not paved because there was a rock and sandpit business where 18-wheelers and dump trucks constantly used the road. The business is still in operation.
- Records show that Fischer Road and Ben Tap Road were paved in 2004.
- Investigation disclosed that during the time period of January 1, 2006 – January 1, 2009, the County received an estimate of over 100-150 periodic requests (in person or by telephone) from minority and non-minority residents to either pave or not pave their roads.
 - In 2006, 1.69 miles of road was paved in a non-minority community.
 - In 2007, 5.062 miles of roads was paved in non-minority and minority communities.
 - In 2008, 2.882 miles of roads was paved in minority communities.

The evidence presented in the TxDOT's investigative report does not support a finding of race discrimination, as alleged in your complaint. The FHWA agrees with the TxDOT's finding.

This concludes processing of this matter and no further action will be taken. However, this does not preclude you from pursuing a private right of action by filing in the appropriate U.S. District Court.

Sincerely yours,



Brenda F. Armstead
Director, Investigations and Adjudications

cc:

(b) (6)

Ms. Janice Brown, Division Administrator, FHWA (HDA-TX)
Mr. Mark Arrington, Civil Rights Specialist, FHWA (HDA-TX)