MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

February 6, 2015

Ms. Karen McCarthy, Clerk
Erie County Legislature
92 Franklin Street. 4th Floor
Buffalo, New York 14202

Dear Ms. McCarthy:

In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	*Moorhouse, Norman v. Erie County, Department of Environment and Planning, Division of Sewerage Management*
Document Received:	NYS Division of Human Rights Charge of Discrimination
Name of Claimant:	Norman Moorhouse 1128 Sheree Drive Grand Island, New York 14072
Claimant's attorney:	Claimant is currently proceeding *pro se*.

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: Michelle Parker
Michelle M. Parker
First Assistant County Attorney

MMP:dld
Enc.

ANDREW M. CUOMO
GOVERNOR

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF HUMAN RIGHTS on the Complaint of NORMAN MOORHOUSE, Complainant, v. ERIE COUNTY, DEPARTMENT OF ENVIRONMENT AND PLANNING, DIVISION OF SEWERAGE MANAGEMENT, Respondent.	VERIFIED COMPLAINT Pursuant to Executive Law, Article 15 Case No. **10173320**

Federal Charge No. 16GB501402

I, Norman Moorhouse, residing at 1128 Sheree Dr., Grand Island, NY, 14072, charge the above named respondent, whose address is 95 Franklin St., 10th Floor, Buffalo, NY, 14202 with an unlawful discriminatory practice relating to employment in violation of Article 15 of the Executive Law of the State of New York (Human Rights Law) because of disability, opposed discrimination/retaliation.

Date most recent or continuing discrimination took place is 1/5/2015.

See attached complaint.

New York State Division of Human Rights Complaint Form

CONTACT INFORMATION

My contact information:

Name: Norman Moorhouse

Address: 1128 Sheree Drive Apt or Floor #:

City: Grand Island State: NY Zip: 14072

REGULATED AREAS

I believe I was discriminated against in the area of:

- ☑ Employment
- ☐ Education
- ☐ Volunteer firefighting
- ☐ Apprentice Training
- ☐ Boycotting/Blacklisting
- ☐ Credit
- ☐ Public Accommodations *(Restaurants, stores, hotels, movie theaters amusement parks, etc.)*
- ☐ Housing
- ☐ Commercial Space
- ☐ Labor Union, Employment Agencies

I am filing a complaint against:

Company or Other Name: Erie Cty., Dept. of Env. + Planning, Div. of Sewerage Mgmt.

Address: 95 Franklin Street, 10th Floor

City: Buffalo State: NY Zip: 14202

Telephone Number: 716 (area code) 858 8383

Individual people who discriminated against me:

Name: Charles Katra Name: See attached narrative

Title: Asst. Dept. Commissioner Title:

DATE OF DISCRIMINATION

The most recent act of discrimination happened on: 1 (month) 5 (day) 2015 (year)

BASIS OF DISCRIMINATION

Please tell us why you were discriminated against by checking one or more of the boxes below.

You do not need to provide information for every type of discrimination on this list. Before you check a box, make sure you are checking it only if you believe it was a reason for the discrimination. Please look at the list on Page 1 for an explanation of each type of discrimination.

Please note: Some types of discrimination on this list do not apply to all of the regulated areas listed on Page 3. (For example, Conviction Record applies only to Employment and Credit complaints, and Familial Status is a basis only in Housing and Credit complaints). These exceptions are listed next to the types of discrimination below.

I believe I was discriminated against because of my:

☐ **Age** *(Does not apply to Public Accommodations)* Date of Birth:	☐ **Genetic Predisposition** *(Employment only)* Please specify:
☐ **Arrest Record** *(Only for Employment, Licensing, and Credit)* Please specify:	☐ **Marital Status** Please specify:
☐ **Conviction Record** *(Employment and Credit only)* Please specify:	☐ **Military Status:** Please specify:
☐ **Creed / Religion** Please specify:	☐ **National Origin** Please specify:
☑ **Disability** Please specify: ADAAA, FMLA	☐ **Race/Color or Ethnicity** Please specify:
☐ **Domestic Violence Victim Status:** *(Employment only)* Please specify:	☐ **Sex** Please specify: ☐ **Female** ☑ **Male** ☐ **Pregnancy** ☐ **Sexual Harassment**
☐ **Familial Status** *(Housing and Credit only)* Please specify:	☐ **Sexual Orientation** Please specify:
☑ **Retaliation** *(If you filed a discrimination case before, or helped someone else with a discrimination case, or reported discrimination due to race, sex, or any other category listed above)* Please specify: Previously filed EEOC complaints based on ADAAA, union greivances.	

Before you turn to the next page, please check this list to make sure that you provided information *only* for the type of discrimination that relates to your complaint.

EMPLOYMENT DISCRIMINATION

Please answer the questions on this page only if you were discriminated against in the area of employment. If not, turn to the next page.

How many employees does this company have?

a) 1-3 b) 4-14 c) 15 or more d) 20 or more e) Don't know

Are you currently working for the company?

☑ **Yes**

Date of hire: (5 / 15 / 1989) (Month / day / year) What is your job title? Sewer Maint. Worker

☐ **No**

Last day of work: (____ / ____ / ____) (Month / day / year) What was your job title? _____

☐ **I was not hired by the company**

Date of application: (____ / ____ / ____) (Month / day / year)

ACTS OF DISCRIMINATION

What did the person/company you are complaining against do? Please check all that apply.

☐ Refused to hire me

☐ Fired me / laid me off

☐ Did not call me back after a lay-off

☐ Demoted me

☑ Suspended me

☐ Sexually harassed me

☑ Harassed or intimidated me (other than sexual harassment)

☐ Denied me training

☑ Denied me a promotion or pay raise

☑ Denied me leave time or other benefits

☐ Paid me a lower salary than other workers in my same title

☐ Gave me different or worse job duties than other workers in my same title

☑ Denied me an accommodation for my disability

☐ Denied me an accommodation for my religious practices

☑ Gave me a disciplinary notice or negative performance evaluation

☐ Other: _____

DESCRIPTION OF DISCRIMINATION - for all complaints *(Public Accommodation, Employment, Education, Housing, and all other regulated areas listed on Page 3)*

Please tell us more about each act of discrimination that you provided information about on Pages 3 and 4. Please include dates, names of people involved, and explain why you think it was discriminatory. PLEASE TYPE OR PRINT CLEARLY.

Please see attached narrative.

If you need more space to write, please continue writing on a separate sheet of paper and attach it to the complaint form. ***PLEASE DO NOT WRITE ON THE BACK OF THIS FORM.***

1. I am a Caucasian male with a date of birth of July 19, 1969.

2. I reside in the State of New York and am a citizen of the same.

3. Respondent is the Erie County Division of Sewerage Management, a division of Erie County's Department of Environment and Planning, and is a sub-entity of Erie County. The Department of Environment and Planning is located at 95 Franklin Street, 10th Floor, Buffalo, New York 14202.

4. I was hired by the respondent on May 15, 1989. My most recent position with the respondent is that of Sewer Maintenance Worker.

5. My compensation consists of a base salary of USD 49,000 annually, with occasional overtime. Additionally, I am compensated in terms of benefits which include health insurance, retirement, and paid vacation.

6. My job responsibilities include responding to issues related to the function of the sewers within Erie County. This often entails using a work truck to drive to a work-site, and making repairs there with the assistance of other employees of the respondent.

7. Initially, respondent gave me occasional, positive feedback regarding my work product. I had few, if any, disciplinary actions taken against me.

8. In October of 2007 I was injured on duty when a hose coupling failed, detached, and struck me.

9. This injury formed the basis for my classification as disabled under the law.

10. This injury required surgery to correct. As a result of this injury I was duly awarded with worker's compensation, and additionally filed a third-party lawsuit.

11. Despite the requirement for surgery to heal my injury, I worked until I had the surgery.

12. I had the required surgery, and remained out of work until I healed from the surgery. This meant that I was out of work for approximately six months after the surgery.

13. In March 2009 and after the surgery, I attempted to return to work.

14. Accordingly, I requested light duty as a reasonable accommodation.

15. On May 4, 2009, respondent denied my request for light duty as a reasonable accommodation.

16. On May 11, 2009 and subsequent to this denial, I filed a complaint with the Equal Employment Opportunity Commission (EEOC) regarding allegations of disability discrimination. This matter went to mediation, where the respondent and I agreed to settlement terms on June 26, 2009.

17. In July 2009, respondent posted an opening for the position of Sewer Inspector. I was qualified for this position, which would have been a promotional opportunity for me. Although I applied for this position, I was not chosen for this position.

18. Respondent's failure to hire me was retaliatory in nature, and/or a form of disability discrimination.

19. In September of 2009, respondent posted an opening for the position of Senior Sewerage Facilities Mechanic. I was qualified for this position, which would have been a promotional opportunity for me. Although I applied for this position, I was not chosen for this position.

20. Respondent's failure to hire me was retaliatory in nature, and/or a form of disability discrimination.

21. On October 19, 2009, respondent posted an opening for the position of Sewer Repair Supervisor. I was qualified for this position, which would have been a promotional opportunity for me.

22. On October 30, 2009, respondent notified me that I was not selected for the position of Sewer Repair Supervisor. At a later date, I am informed by the respondent that it appointed Karl Milletello pursuant to Civil Service Law 65.1.

23. Upon information and belief, Milletello was not qualified for this position by reason of his failure to take the required civil service exam.

24. Respondent's failure to hire me was retaliatory in nature, and/or a form of disability discrimination.

25. On December of 2009 I filed a complaint with the EEOC alleging disability discrimination and retaliation for filing my previous EEOC complaint.

26. In October of 2010 the respondent and I agreed to settlement terms.

27. In late 2011, respondent posted an opening for the position of Safety Manager. I was qualified for this position, which would have been a promotional opportunity for me. Although I applied for this position, I was not chosen for this position.

28. In fact, respondent hired Jim Lavell for this position.

29. Respondent's failure to hire me was retaliatory in nature, and/or a form of disability discrimination.

30. On May 28, 2013 respondent posted a notice of mandatory training for its employees.

31. I was scheduled for training on 6/13/13. This date conflicted with a doctor's appointment I had previously scheduled.

32. I spoke with my supervisor, Roger Lalli regarding the time conflict. I asked for the training date to be rescheduled, to which Lalli agreed to do.

33. Subsequently, I saw that the notice of mandatory training had been modified. I also saw, however, that where my training date was moved had been scratched out, and my name was back to the original training date.

34. This reestablished my time conflict between this training date and my doctor's appointment.

35. I spoke again to Lalli about the time conflict, and specifically asked why my request was granted, and then denied. Lalli informed me that Assistant Deputy Commissioner Charles Katra was "waiting for [me] to pull the 'FMLA card' and was not going to switch [me] out."

36. I was further informed that Katra stated if I didn't attend the training I would have to make it up on my own time, I will have to pay for it, and I would be subject to discipline.

37. I responded to Lalli that this was a violation of the FMLA. Despite this violation, I rescheduled my doctor's appointment to accommodate the training date, and attended the training.

38. In June of 2013, and as a result of this violation of my FMLA rights, I contacted the Erie County Office of Equal Employment Opportunity and complained.

39. On December 12, 2013 I was called into a preliminary investigative meeting regarding allegations of misconduct. At this meeting were Larry Kreug, an employee of the respondent, and Katra.

40. The allegations involved a GPS unit on respondent's vehicle that I used. Kreug and Katra stated that, according to the GPS unit, I was slow to complete my job duties, and left the vehicle standing for some time.

41. I denied these allegations and made specific, factual allegations to demonstrate my points.

42. In January of 2014, Lavell left his position as Safety Manager, creating a vacancy.

43. On January 29, 2014, respondent posts the vacant position for Safety Manger.

44. On the same date I confirmed with respondent's personnel department that I was still on the list for the position, and was -in fact- first in line for this position. Although I should not have to, I reapplied for this position.

45. I remained qualified for this position.

46. On January 31, 2014, I was notified that I was required to attend a meeting for discipline regarding the prior preliminary investigative meeting that was previously held.

47. On February 3, 2014, I attended the disciplinary meeting. Katra and Lalli attended this meeting and stated that I was given a written warning regarding the allegations of misconduct.

48. This warning goes into my personnel file and threatened that the next violation would result in my termination.

49. Upon information and belief, two other employees present during this alleged misconduct received only verbal warnings. I was singled out for punishment by respondent.

50. This punishment was retaliatory in nature, or a form of disability discrimination. Moreover, upon information and belief, this discipline was imposed specifically to prevent my promotion to any other position.

51. On February 7, 2014 I grieved the discipline I received on February 3, 2014. Subsequently, Katra summarily denies my grievance.

52. In March of 2014 I inquired about the availability of a transfer to other positions. I was told that I was on the transfer list, and would be transferred automatically based upon my seniority.

53. During the summer of 2014, I was working on a site with Richard Rehac, the respondent's Sewer District Manager.

54. I told Rehac of my hopes of promotion to the Safety Manager position to which Rehac responded: "You will never get promoted. They hate you because you file all kinds of charges against them. They would love to fire you."

55. I understood "they" to mean Glenn Absalom, respondent's Sewer Chief, Joe Fiegel, respondent's Deputy Commissioner, Katra, and Kreug.

56. This statement by Rehac was *prima facie* evidence of the discriminatory and or retaliatory animus of the respondent.

57. In July of 2014 I asked Katra if I would receive an interview for the Safety Manager position.

58. Katra responded that respondent had interviewed all candidates for the position who were eligible and whose qualifications best matched the needs of the division.

59. Upon information and belief, I was qualified and could meet the needs of the position.

60. This was the first I knew that I was not selected for the position of Safety Manager. Upon information and belief, this position was given to Samantha Mascia.

61. Respondent's failure to hire me was retaliatory in nature, and/or a form of disability discrimination.

62. In September of 2014 I received a notice of a vacancy in the Sewer Repair Supervisor position. I was qualified for this position, which would have been a promotional opportunity for me. Although I applied for this position, I was not chosen for this position.

63. Respondent's failure to hire me was retaliatory in nature, and/or a form of disability discrimination.

64. On October 8, 2014 I received orders from my supervisor, Tommy Herr, to report to a site and inspect a sanitary sewer. In order to fulfill my duty, I drove off the road and by doing so, created tracks in the earth with the respondent's vehicle.

65. On that same date, I subsequently was relieved by a separate crew. Upon information and belief, this crew also created tracks in the earth to fulfill their duty.

66. Subsequently, I was required to attend a meeting with Herr and Rehac. Rehac asked me to explain what I did on October 8, 2014 without giving me notice of any charges.

67. When I was done explaining what I had done on October 8, 2014, Rehac gave me a prepared memo of counseling.

68. I disputed the appropriateness of disciplining me for anything I was alleged to have done on that date, and denied that I committed any misconduct.

69. This discipline was initiated by respondent for discriminatory and/or retaliatory purposes.

70. Subsequently, I was called into another meeting by respondent. At this meeting, Katra and Rehac told me that I failed to mention that I had created tracks in the earth.

71. Upon information and belief, there is no policy to report making tracks, or ruts, in the earth.

72. Despite this, respondent notified me that I would be suspended. My union representative disputed this additional discipline especially in light of the previous memo of counseling I had received for the events of the same date.

73. On October 28, 2014 I received notice that I was suspended for five (5) days.

74. This discipline was initiated by respondent for discriminatory and/or retaliatory purposes.

75. I grieved this issue on the same date that I received notice of my suspension.

76. Also on October 28, 2014 I injured my back. I filed a worker's compensation claim which was investigated by Timothy Gannon.

77. Eventually, my claim for worker's compensation was denied based upon the false investigation by Gannon.

78. This bogus investigation was motivated by respondent's discriminatory and/or retaliatory animus.

79. At some point in late 2014 I applied for a transfer to a position in the Highway Department on Harlem Road.

80. On November 5, 2014 I inquired as to the status of that transfer to the respondent's personnel department.

81. On November 17, 2014 Katra emails me and several other employees of respondent a denial of my grievance.

82. On this same date, respondent's personnel office informed me that I could not be transferred because there were disciplines on my personnel record that were still open.

83. Subsequently, I made a specific request for FMLA leave. Previously, I had been on intermittent FMLA leave during this year.

84. On November 25, 2014, Rehac calls me into his office. Rehac asks me what the FMLA leave was for. Upon hearing my answer, Rehac states that he didn't like my explanation for my FMLA leave and that it "sounds like bullshit."

85. This statement by Rehac was intended to dissuade me from using my right to FMLA leave.

86. In late 2014, I became aware of a vacancy for the Supervising Maintenance Mechanic at the Rath Building. I was qualified for this position, which would have been a promotional opportunity for me.

87. In January of 2015 I spoke with an employee regarding a position that I had applied for as a Supervising Maintenance Mechanic. This person informed me that he wasn't aware if they hired someone, but knew that the respondent was still looking to fill the position.

88. This employee stated that he knew that because my name had come up. When my name was mentioned in consideration of this position, Michael Inglefinger, a supervisor for the respondent, stated that they 'would not hire me because of all the complaints I had filed, and that they did not need that downtown.'

89. Upon information and belief, this position was filled by Andrew Park.

90. Respondent's failure to hire me was retaliatory in nature, and/or a form of disability discrimination.

91. In the early 2015, respondent posted a vacancy for the position of Sewer Repair Supervisor. I was eligible for this position and should be considered for it automatically, as I had previously taken the appropriate civil service exam for the position.

92. On January 5, 2015, respondent posted a notice that Todd Hicks had filled the Sewer Repair Supervisor. Upon information and belief, Hicks had not taken the civil service exam for the position, and was therefore, unqualified.

93. Respondent's failure to hire me was retaliatory in nature, and/or a form of disability discrimination.

NOTARIZATION OF THE COMPLAINT

Based on the information contained in this form, I charge the above-named Respondent with an unlawful discriminatory practice, in violation of the New York State Human Rights Law.

By filing this complaint, I understand that I am also filing my employment complaint with the United States Equal Employment Opportunity Commission under the Americans With Disabilities Act (covers disability related to employment), Title VII of the Civil Rights Act of 1964, as amended (covers race, color, religion, national origin, sex relating to employment), and/or the Age Discrimination in Employment Act, as amended (covers ages 40 years of age or older in employment), or filing my housing/credit complaint with HUD under Title VIII of the Federal Fair Housing Act, as amended (covers acts of discrimination in housing),as applicable. This complaint will protect your rights under Federal Law.

I hereby authorize the New York State Division of Human Rights to accept this complaint on behalf of the U.S. Equal Employment Opportunity Commission, subject to the statutory limitations contained in the aforementioned law and/or to accept this complaint on behalf of the U.S. Department of Housing and Urban Development for review and additional filing by them, subject to the statutory limitations contained the in aforementioned law.

I have not filed any other civil action, nor do I have an action pending before any administrative agency, under any state or local law, based upon this same unlawful discriminatory practice.

I swear under penalty of perjury that I am the complainant herein; that I have read (or have had read to me) the foregoing complaint and know the contents of this complaint; and that the foregoing is true and correct, based on my current knowledge, information, and belief.

Norm Moorhouse
Sign your full legal name

Subscribed and sworn before me
This 7th day of January, 2015

Signature of Notary Public

County: Erie Commission expires: 5/18/2017
02HA6206409

Please note: Once this form is notarized and returned to the Division, it becomes a legal document and an official complaint with the Division of Human rights. After the Division accepts your complaint, this form will be sent to the company or person(s) whom you are accusing of discrimination.

Respondent Contact Information

Return to:
NYS Division of Human Rights
Buffalo Regional Office
65 Court Street, Suite 506
Buffalo, New York 14202

Re: Norman Moorhouse v. Erie County, Department of Environment and Planning, Division of Sewerage Management
SDHR NO: 10173320

Correct legal name of Respondent: _____

_____

Federal Employer Identification Number (FEIN): _____

Contact person for this complaint:

Name: _____ Title: _____

Street Address: _____

City/State/Zip: _____ Telephone No: (_____)_____

E-mail address: _____

Is the firm a publicly traded corporation, privately owned, or a d/b/a? If yes, please indicate:

____ Publicly traded corporation ____ Privately owned corporation ____ d/b/a

If privately owned or d/b/a, list names and addresses of all individuals who have an ownership interest in the Respondent (attach additional sheets if necessary)

_____

_____

Do you have an attorney for this matter: Yes____ No____ If yes:

Attorney Name: _____

Firm: _____

Street Address: _____

City/State/Zip: _____ Telephone No: (_____)_____

Will you participate in settlement/conciliation? Yes___ No___ If yes, for this purpose please contact:

Name: _____ Telephone No: (_____)_____
(Settlement discussions will not delay the investigation and participation in settlement does not provide good cause for an extension of time to respond to the complaint.)

_____ _____
Signature Date

NEW YORK STATE
DIVISION OF HUMAN RIGHTS
WALTER J. MAHONEY STATE OFFICE BUILDING
65 COURT STREET, SUITE 506
BUFFALO, NEW YORK 14202

(716) 847-7632
Fax: (716) 847-7625
www.dhr.ny.gov

ANDREW M. CUOMO
GOVERNOR

HELEN DIANE FOSTER
COMMISSIONER

INFORMATION FOR RESPONDENTS

CONCERNING COMPLAINT PROCEDURES OF NEW YORK STATE DIVISION OF HUMAN RIGHTS

The New York State Division of Human Rights is a State agency mandated to receive, investigate and resolve complaints of discrimination under N.Y. Executive Law, Article 15 ("Human Rights Law"). The Division's role is to fairly and thoroughly investigate the allegations in light of all evidence gathered.

WHAT TYPES OF COMPLAINTS ARE HANDLED BY THE DIVISION OF HUMAN RIGHTS?

The Human Rights Law forbids discrimination in employment, apprenticeship and training, purchase and rental of housing and commercial space, places of public accommodation, certain educational institutions, and credit transactions. If a person feels that he or she has been discriminated against by of reason of race, color, creed, sex, age (not public accommodation), disability, national origin, marital status, familial status (housing only), conviction or arrest record (employment only), genetic predisposition (employment only), military status, or sexual orientation, or because he or she has opposed any practices forbidden under the Human Rights Law, that person may file a complaint with the State Division of Human Rights.

HOW DOES A PERSON FILE A COMPLAINT?

Persons wishing to file a complaint of discrimination may contact the nearest regional office of the Division of Human Rights. The Human Rights Law requires that they must file such a complaint within one year of the alleged unlawful discriminatory act.

WHAT IS THE INVESTIGATIVE PROCEDURE?

The Division represents neither the Complainant nor the Respondent. The Division pursues the State's interest in the proper resolution of the matter in accordance with the Human Rights Law. Complainant and Respondent can retain private counsel to represent them during the investigation, but such representation is not required.

Upon receipt of a complaint, the regional office will:

- Notify the Respondent(s). (A Respondent is a person or entity about whose action the Complainant complains. An employer must have four or more employees for the Human Rights Law to apply.)
- Resolve issues of questionable jurisdiction.

- Forward a copy of the complaint to the U.S. Equal Employment Opportunity Commission (EEOC) or the U.S. Department of Housing and Urban Development (HUD), where applicable. Such federal filing creates a complaint separate and apart from the complaint filed with the Division, although in most cases only one investigation is conducted pursuant to work-sharing agreements with these federal agencies.
- Investigate the complaint through appropriate methods (written inquiry, field investigation, witness interviews, requests for documents, investigatory conference, etc.), in the discretion of the Regional Director. The investigation of the complaint is to be objective.
- Allow the parties to settle the matter by reaching agreement on terms acceptable to the Complainant, Respondent and the Division. The Division will allow settlement from the time of filing until the matter reaches a final resolution.
- Determine whether or not there is probable cause to believe that an act of discrimination has occurred, if the matter cannot be settled prior to that Determination. The Division will notify the Complainant and Respondent in writing of the Determination.

You, or your attorney, may review the Division's file in this matter, and may copy by hand any material in the file, or obtain photocopies at a nominal charge. The Complainant in this matter has the same right to review the file.

WHAT IS THE DIVISION'S POLICY ON ADJOURNMENTS AND EXTENSIONS?

It is the Division's policy to investigate all cases promptly and expeditiously. Therefore, you are expected to cooperate with the investigation fully and promptly. No deadlines will be extended at any time during the investigation, unless good cause is shown in a written application submitted at least five (5) calendar days prior to the original deadline. Failure to comply could result in an adverse finding against you, which would be shared with, among others, the Secretary of State and the applicable State licensing agencies that govern your business.

WHAT IS THE PROCEDURE FOLLOWING THE INVESTIGATION?

If there is a Determination of no probable cause, lack of jurisdiction, or any other type of dismissal of the case, the Complainant may appeal to the State Supreme Court within 60 days.

If the Determination is one of probable cause, there is no appeal to court. The case then proceeds to public hearing before an Administrative Law Judge. Under Rule 465.20 (9 N.Y.C.R.R. § 465.20), the Respondent may ask the Commissioner of Human Rights within 60 days of the finding of probable cause to review the finding of probable cause. Such application should be sent to the General Counsel of the Division and to the Complainant, and Complainant's attorney, if any.

WHAT IS A PUBLIC HEARING?

A public hearing, pursuant to the Human Rights Law, is a trial-like proceeding at which relevant evidence is placed in the hearing record. It is a hearing de novo, which means that the Commissioner's final decision on the case is based solely on the content of the hearing record. The public hearing is presided over by an Administrative Law Judge, and a verbatim transcript is made of the proceedings.

The hearing may last one or more days, not always consecutive. Parties are notified of all hearing sessions in advance, and the case may be adjourned to a later date only for good cause.

Respondent can retain private counsel for the hearing, and, if Respondent is a corporation, is required to be represented by legal counsel. The Complainant can retain private counsel for the hearing, but is not required to do so. If Complainant is not represented by private counsel, the Division's counsel prosecutes the case in support of the complaint. Attorneys for the parties or for the Division may issue subpoenas for documents and to compel the presence of witnesses.

At the conclusion of the hearing sessions, a proposed Order is prepared by the Administrative Law Judge and is sent to the parties for comment.

A final Order is issued by the Commissioner. The Commissioner either dismisses the complaint or finds discrimination. If discrimination is found, Respondent will be ordered to cease and desist and take appropriate action, such as reinstatement, training of staff, or provision of reasonable accommodation of disability. The Division may award money damages to Complainant, including back pay and compensatory damages for mental pain and suffering, and in the case of housing discrimination, punitive damages, attorney's fees and civil fines and penalties. A Commissioner's Order may be appealed by either party to the State Supreme Court within 60 days. Orders after hearing are transferred by the lower court to the Appellate Division for review.

WHAT IS A COMPLIANCE INVESTIGATION?

The compliance investigation unit verifies whether the Respondent has complied with the provisions of the Commissioner's Order. If the Respondent has not complied, enforcement proceedings in court may be brought by the Division.

NOTICE PURSUANT TO PERSONAL PRIVACY PROTECTION LAW

Pursuant to the Human Rights Law, the Division collects certain personal information from individuals filing complaints and from those against whom a complaint has been filed. The information is necessary to conduct a proper investigation; failure to provide such information could impair the Division's ability to properly investigate the matter. This information is maintained in a computerized Case Management System maintained by the Division's Director of Information Technology, who is located at One Fordham Plaza, Bronx, New York, (718) 741-8365.

PENAL PROVISION OF THE HUMAN RIGHTS LAW

The Human Rights Law contains the following penal provision:

"Any person, employer, labor organization or employment agency, who or which shall willfully resist, prevent, impede or interfere with the division or any of its employees or representatives in the performance of duty under this article, or shall willfully violate an order of the division or commissioner, shall be guilty of a misdemeanor and be punishable by imprisonment in a penitentiary, or county jail, for not more than one year, or by a fine of not more than five hundred dollars, or by both; but procedure for the review of the order shall not be deemed to be such willful conduct." Human Rights Law § 299.

GENERAL INFORMATION

For a more detailed explanation of the process, see the Division's Rules of Practice (9 N.Y.C.R.R. § 465) available on our website www.dhr.ny.gov. If you have any additional questions about the process, the investigator assigned to the case will be available to answer most questions.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
New York District Office
33 Whitehall Street, 5th Floor
New York, New York 10004-2112

TO:
Erie County, Department of Environment and Planning, Division of Sewerage Management
Attn: Commissioner
95 Franklin St., 10th Floor
Buffalo, NY 14202

PERSON FILING CHARGE:
Norman Moorhouse
THIS PERSON (Check one):
Claims to be aggrieved [x]
Files on behalf of other(s) [ ]
DATE OF ALLEGED VIOLATION:
1/5/2015
PLACE OF ALLEGED VIOLATION:
Erie County
EEOC CHARGE NUMBER:
16GB501402
FEPA CHARGE NUMBER:
10173320

NOTICE OF CHARGE OF DISCRIMINATION WHERE AN FEP AGENCY WILL INITIALLY PROCESS

YOU ARE HEREBY NOTIFIED THAT A CHARGE OF EMPLOYMENT DISCRIMINATION UNDER

[ ] Title VII of the Civil Rights Act of 1964
[ ] The Age Discrimination in Employment Act of 1967 (ADEA)
[X] The Americans with Disabilities Act (ADA)

HAS BEEN RECEIVED BY: The New York State Division of Human Rights (FEP Agency) and sent to the EEOC for dual filing purposes.

While the EEOC has jurisdiction (upon expiration of any deferral requirements if this I a Title VII or ADA charge) to investigate this charge, EEOC may refrain from beginning an investigation and await the issuance of the FEP Agency's final findings and orders. These final findings and orders will be given weight by EEOC in making its own determination as to whether or not reasonable cause exists to believe that the allegations made in the charge are true.

You are therefore encouraged to cooperate fully with the FEP Agency. All facts and evidence provided by you to the Agency in the course of its proceedings will be considered by the Commission when it reviews the Agency's final findings and orders. In many instances the Commission will take no further action, thereby avoiding the necessity of an investigation by both the FEP Agency and the Commission. This likelihood is increased by your active cooperation with the Agency.

As a party to the charge, you may request that EEOC review the final decision and order of the above named FEP Agency. For such a request to be honored, you must notify the Commission in writing within 15 days of your receipt of the Agency's issuing a final finding and order. If the Agency terminates its proceedings without issuing a final finding and order, you will be contacted further by the Commission.

For further correspondence on this matter, please use the charge number(s) shown.

[ ] An Equal Pay Act investigation (29 U.S.C. §206(d)) will be conducted by the Commission concurrently with the FEP Agency's investigation of the charge.

[X] Enclosure: Copy of the Charge

BASIS FOR DISCRIMINATION: Disability, Opposed Discrimination/Retaliation

CIRCUMSTANCES OF ALLEGED VIOLATION:
SEE ATTACHED N.Y.S. DIVISION OF HUMAN RIGHTS COMPLAINT

DATE: February 3, 2015

TYPED NAME OF AUTHORIZED EEOC OFFICIAL:
Kevin J. Berry