



U.S. Department
of Transportation
**Federal Highway
Administration**

1200 New Jersey Avenue, SE.
Washington, DC 20590

October 19, 2022

In Reply Refer to: HCR-40
DOT#2022-0375

Mark Baker
9450 SW Gemini Drive PMB 44671
Beaverton, OR 97008

Dear Mr. Baker:

This letter acknowledges receipt by the Federal Highway Administration (FHWA) Office of Civil Rights of the allegations you submitted to the US Department of Justice, which transferred your correspondence to the US Department of Transportation, against the cities of Ashland, OR, Little Canada, MN, and Penn Yan, NY (collectively, “the Cities”), alleging violations of the Americans with Disabilities Act (ADA) and/or Section 504 of the Rehabilitation Act of 1973. In particular, you allege that the Cities’ installation and use of Rapid Rectangular Flashing Beacons (RRFBs) discriminates against you and other individuals with disabilities by inducing disorientation, visual impairment, anxiety, fear, seizures, and/or other medical/health issues. After review and consideration, the FHWA has determined not to conduct further investigation and will dismiss the complaint.

In enacting revisions to its Title II ADA regulations in 2010, the US Department of Justice (DOJ) noted that there is no statutory requirement that every Title II complaint receive a full investigation. *See* Nondiscrimination on the Basis of Disability in State and Local Government Services, Final Rule, 75 Fed. Reg. 56163, 56228 (Sept. 15, 2010). An enforcement agency must consider a number of factors in deciding whether to conduct a full investigation, such as whether a violation may have occurred, whether the agency’s limited resources are best spent on one complaint or another, and whether particular enforcement action best fits the agency’s overall policies.

Based on an evaluation of these factors, FHWA has determined to dismiss this complaint without further investigation by the FHWA Office of Civil Rights. The allegations you have raised about the health impacts of RRFBs raise complex issues related to the regulation of all Light Emitting Diode (LED) lights, not just those used in RRFBs, that extend beyond FHWA’s authority.

Please note that you may file a private suit pursuant to Section 203 of the ADA at any time, regardless of the FHWA disposition of this matter, per 28 CFR 35.172(d).



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If you have any questions about this letter, please contact Sharon Field at sharon.field@dot.gov.

Sincerely,

Sharon J. Field
ADA Team Leader
FHWA Office of Civil Rights