

**UNITED STATES OF AMERICA  
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
OFFICE OF HEARINGS AND APPEALS**

Secretary, United States Department of )  
Housing and Urban Development, on behalf of )  
Redacted Redacted )  
Redacted and their seven children, )  
Charging Party, )  
v. ) OHA No. \_\_\_\_\_  
Dwight Stephen Ott, Elizabeth M. Ott, and ) FHEO No.10-15-0173-8  
Seth Ethan Ott, )  
Respondents. )

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**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

On March 23, 2015, Complainants Redacted and Redacted Complainants") filed a complaint with the U.S. Department of Housing and Urban Development ("HUD") alleging that Respondents Dwight Stephen Ott, Elizabeth M. Ott, and Seth Ethan Ott ("Respondents") discriminated against Complainants based on familial status in violation of the Fair Housing Act ("Act"), as amended, 42 U.S.C. §§ 3601-19.<sup>1</sup> Complainants' seven children were also named as aggrieved persons.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination on behalf of aggrieved persons following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. § 3610(g)(1) and (2). The Secretary has delegated that authority to the General Counsel (24 C.F.R. §§ 103.400 and 103.405), who has re-delegated the authority to the Regional Counsel. 76 Fed. Reg. 42463, 42465 (July 18, 2011).

The Regional Director for Fair Housing and Equal Opportunity, Region X, on behalf of the Assistant Secretary, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case and has authorized and directed the issuance of this Charge of Discrimination. 42 U.S.C. § 3610(g)(2).

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Complainants also alleged discrimination based on Mr. Redacted disability. A Determination of No Reasonable Cause was issued on the disability discrimination claim.

## II. SUMMARY OF FINDINGS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned complaint and the Determination of Reasonable Cause, Respondents Steve Ott, Elizabeth Ott, and Seth Ott are hereby charged with violating the Act as follows.

### A. Legal Authority

1. It is unlawful to refuse to rent after the making of a bona fide offer, or to refuse to negotiate for the rental of, or otherwise make unavailable or deny a dwelling to any person because of familial status. 42 U.S.C. § 3604(a); 24 C.F.R. § 100.50(b)(1), (3); 24 C.F.R. § 100.60(a).
2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection therewith, because of familial status. 42 U.S.C. § 3604(b); 24 C.F.R. § 100.50(b)(2); 24 C.F.R. § 100.65(a); 24 C.F.R. § 100.70(b).
3. It is unlawful to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the rental of a dwelling that indicates any preference, limitation, or discrimination based on familial status, or an intention to make such preference, limitation, or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.50(b)(4); 24 C.F.R. § 100.75(a).
4. The term "familial status" is defined by the Act as one or more individuals (who have not attained the age of 18 years) being domiciled with a parent or other person having legal custody of such individual or individuals or the designee of such parent or person having custody. 42 U.S.C. § 3602(k); 24 C.F.R. § 100.20.

### B. Parties and Subject Property

5. Complainants **Redacted** and **Redacted** a married couple. In December 2014, Complainants resided together in Glens Ferry, Idaho, with their seven minor children, who were then ages 16, 14, 11, 10, 7, 5, and 2. Complainants and their children are aggrieved persons as defined by the Act. 42 U.S.C. § 3602(i).
6. Respondents Dwight Stephen "Steve" Ott and Elizabeth M. Ott are a married couple who reside in Casper, Wyoming. At the time of the alleged discrimination, Respondents Steve and Elizabeth Ott were the owners of four single-family houses, including the subject property. Steve and Elizabeth Ott established the rental policies and drafted the lease for the subject property, including the limit on the number of occupants.
7. Respondent Seth Ethan Ott is the son of Respondent Steve Ott and Elizabeth Ott. At the time of the alleged discrimination, Seth Ott handled the rental duties for the two rental properties his parents owned in Nampa, Idaho, including the subject property. Among his duties, Seth Ott advertised vacancies at the properties, showed units to prospective applicants, collected rent payments, and handled some repairs.

8. The subject property is a 2,482-square-foot, four-bedroom single-family house on a 13,000-square-foot lot located at 3119 S. Kokomo Drive, Nampa, Idaho ("subject property"). The subject property is a "dwelling" within the meaning of the Act. 42 U.S.C. § 3602(b).

### **C. Factual Allegations**

9. In November 2014, Complainants were forced to vacate their rental house in Caldwell, Idaho, due to flooding. Unable to find replacement housing quickly on their own, the Southwestern Idaho Cooperative Housing Authority ("SICHA") placed them in a small apartment in Glenns Ferry, Idaho, approximately 95 miles from Caldwell. Complainants immediately began searching for a rental house in the Caldwell/Nampa area, where Complainant **Redacted** was employed.
10. On or about December 19, 2014, Complainants saw a rental advertisement on Craigslist for the subject property, which was described as a "2600ft<sup>2</sup> — 4 bed 3 bath 2 living 2 bonus 3 car" home in Nampa for \$1,200. Complainants called the phone number for "Seth" listed in the ad to inquire about the rental requirements. Respondent Seth Ott confirmed that the property was available and stated that Respondents require first month's rent of \$1,200, a \$1,000 deposit, and last month's rent paid over six months in \$200 installments. Seth Ott stated that Respondents do not conduct a credit check.
11. On or about December 20, 2014, Complainant **Redacted** called Respondent Seth Ott to confirm that credit history would not be a barrier to rental, admitting that Complainants did not have good credit. After Seth Ott reiterated that credit was not an issue, Complainants arranged to view the property later that day.
12. On December 20, 2014, Complainants and two of their children drove 90 miles from their home in Glenns Ferry to inspect the subject property. Complainants had cash on hand to pay the deposit and first and last month's rent. Complainants toured the property with Respondent Seth Ott and concluded that it would work well for their family. As Complainants were completing the rental application, Respondent Seth Ott asked if the two children with them were their only children. Complainants replied that they had seven children. Seth Ott immediately gestured that they should stop completing the application and told Complainants that he did not want to waste their time, as his parents had set a maximum of four children for the rental. Complainant asked, "Who would fill the rooms?", under Respondents' policy. Respondent Seth Ott told them he was sorry, and Complainants left the property.
13. On the drive home, Complainant **Redacted** sent a text message to Respondent Seth Ott, stating that she was heartbroken, adding, "We are well-qualified and have the cash and income." Complainant wrote that the law does not allow a family to be turned away because of children or family size. Complainant then stated that the law says "two people per room" and, "[t]herefore, the house has more than enough space." Seth Ott replied, "Sorry. I am just following the contract my parents have written out."

14. Respondents rented the subject property to two adult women without minor children, who applied on December 28, 2014.
15. At all times relevant herein, Respondents' Rental Contract stated, "It is expressly understood that the resident's occupancy shall consist of ONE family, with a maximum of two adults and four children. The resident may NOT increase the number of occupants."
16. The City of Nampa, Idaho, does not have a square footage per person requirement for occupancy of single family houses. Nampa does restrict occupancy in multifamily units, using a formula that sets maximum occupancy by dividing the gross area of the unit by 200 square feet. If the multifamily formula were applied to this dwelling, 12 people could occupy the subject property.
17. The subject property has ample space for Complainants' family. The main floor has a large great room with family room, kitchen and dining area, three bedrooms ranging in size from 100 square feet to approximately 180 square feet, two full bathrooms, and a private office or den measuring approximately 173 square feet, according to the construction plans. The subject property has two rooms upstairs over the attached three-car garage, including the 121-square-foot fourth bedroom, and a 300-square-foot bonus room with a window well and a full bathroom in the basement. Upon information and belief, the three bedrooms on the main floor, the fourth bedroom over the garage, and the office/den meet all applicable requirements for use as a sleeping room.
18. Complainant Redacted felt hurt and humiliated by Respondents' discriminatory policies and treatment of her family, and she became discouraged from looking for housing. Complainants did not move back to the Nampa/Caldwell area for another six months, by which time Complainant Redacted had lost her caregiver positions as the 95-mile commute each way was not feasible.
19. As a result of Respondents' discriminatory conduct, Complainants suffered actual damages, including economic loss, emotional distress, and lost housing opportunity.

#### D. Legal Allegations


20. As described above, Respondents discriminated against Complainants by refusing to rent, refusing to negotiate for the rental of, or otherwise making a dwelling unavailable because of familial status. 42 U.S.C. § 3604(a); 24 C.F.R. § 100.50(b)(1), (3); 24 C.F.R. § 100.60(a).
21. As described above, Respondents discriminated against Complainants in the terms, conditions, or privileges of the rental of a dwelling because of familial status. 42 U.S.C. § 3604(b); 24 C.F.R. § 100.50(b)(2); 24 C.F.R. § 100.65(a); 24 C.F.R. § 100.70(b).
22. As described above, Respondents made written and oral statements with respect to the rental of a dwelling that indicate a preference, limitation, and discrimination based on familial status. 42 U.S.C. § 3604(c); 24 C.F.R. § 100.50(b)(4); 24 C.F.R. § 100.75(a).

III. CONCLUSION

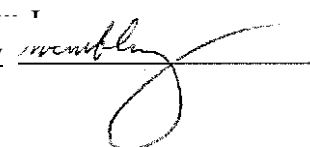
WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(a), 3604(b), and 3604(c), and requests that an Order be issued that:

1. Declares that the discriminatory housing practices of Respondents, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-19;
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them, from discriminating because of familial status against any person in any aspect of the sale or rental of a dwelling;
3. Awards such damages as will fully compensate Complainants and their minor children;
4. Assesses a civil penalty against each Respondent for each violation of the Act, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671; and
5. Awards such additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3).

Respectfully submitted on this 14th day of May, 2019.

  
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MONA A. FANDEL  
Regional Counsel

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