

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES**

The Secretary, United States Department
of Housing and Urban Development, on
behalf of Dawn Soto, Austin Callentine,
Blaise Soto and Layne Soto,

Charging Party, FHEO No. 10-07-0058-8

v.

Joy Anderson,

Respondent.

CHARGE OF DISCRIMINATION

I. JURISDICTION

On November 17, 2006, Complainant, Dawn Soto, an aggrieved person, filed a timely verified complaint with the United States Department of Housing and Urban Development (“HUD”) on behalf of herself and her minor children, Austin, Blaise and Layne, who are aggrieved persons. The complaint alleged that Respondent, Joy Anderson, discriminated against Complainant and her children on the basis of handicap by refusing to rent a house to Complainant because of her son Layne’s disability and by making discriminatory statements, in violation of the Fair Housing Act (“Act”), as amended, 42 U.S.C. §§ 3601-3619. Respondent owns four single-family houses.

The Act authorizes issuance of a charge of discrimination on behalf of the aggrieved person 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)-(2). The Secretary has delegated to the General Counsel (54 Fed. Reg. 13121), who has redelegated to the Regional Counsel (67 Fed. Reg. 44234), the authority to issue such a charge, following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee.

The Regional Director for Fair Housing and Equal Opportunity, Region X, has determined that reasonable cause exists to believe that discriminatory housing practices have occurred and authorized the issuance of this Charge of Discrimination.

II. SUMMARY OF THE ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the complaint and the attached determination of reasonable cause, Respondent is hereby charged with violations of the Act, specifically, 42 U.S.C. Sections 3604(c) and 3604(f)(1), as set forth below.

1. It is unlawful to discriminate in the rental of, or to otherwise make unavailable or deny, a dwelling to any renter because of a handicap of that renter or of any other person intending to reside in the dwelling after it is rented. 42 U.S.C. § 3604 (f)(1).
2. 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 handicap, or an intention to make any such preference, limitation or discrimination. 42 U.S.C. § 3604(c).
3. The term "handicap" is defined in the Act as a physical or mental impairment which substantially limits one or more of a person's major life activities, a record of having such an impairment or being regarded as having such an impairment.¹ 42 U.S.C. § 3602(h).
4. The subject property is a three-bedroom, one bath, single-family house located at 212 Monroe St., Twin Falls, Idaho.
5. At all times relevant herein, Complainant, Dawn Soto, resided with her minor children, Austin Callentine, Blaise Soto and Layne Soto, who were ages 14, 5 and 4, respectively, in October, 2006.
6. Complainant's son Layne Soto is a person with a handicap within the meaning of the Act. Layne has Down Syndrome, a developmental disability, which among other things substantially limits his ability to talk and learn.
7. At all times relevant herein, Respondent, Joy Anderson, was the owner and manager of the subject property.
8. In late September, 2006, Complainant began searching diligently for housing after receiving a notice that her rent was being raised from \$340 to \$750 per month.
9. About the same time, Complainant was notified by Idaho Housing and Finance Association ("IHFA") that she would receive a Section 8 Housing Choice Voucher subsidy after two years on the waiting list.

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¹ "Disability" is used interchangeably with "handicap" herein.

10. On or about October 9, 2006, Complainant and her son Austin were driving around looking for housing when they saw a "For Rent" sign at the subject property. Complainant and her son entered and viewed the vacant house, which was open because workers were inside completing renovations. They both loved the house and wanted to rent it. Complainant took a rental application from the counter.
11. On or about October 9, 2006, Complainant called the number on the "For Rent" sign and spoke to Respondent. Complainant told Respondent that she had seen the house and wanted to rent it. Complainant informed Respondent that she would be getting her rent subsidy voucher from Idaho Housing the next day and she had been approved for \$650, which was more than the \$600 rent at the subject property.
12. At some point in this conversation, Complainant told Respondent that she was pleased that the house has a fenced yard. Respondent asked why it mattered to her that the yard was fenced, to which Complainant replied that her four-year-old son has a disability. Respondent then asked the nature of the disability, and Complainant stated that her son has Down Syndrome.
13. Respondent immediately stated that she did not want to rent to anyone with Down Syndrome. Respondent said she had a brother with Down Syndrome who used to stuff things down the toilet and cause problems. She did not want those problems at her property. Complainant assured Respondent that her son was not destructive. Respondent then said she would wait to see the child before deciding whether she would rent to Complainant.
14. Complainant was very upset by this conversation. She could not believe that someone would not want to rent to her because of her disabled child. She worried that she would not find a place for her family to live.
15. On or about October 10, 2006, Complainant received her rent voucher from IHFA.
16. On or about October 11, 2006, Complainant called Respondent and arranged to meet her at the subject property that day so Respondent could meet her disabled son, Layne. Upon arriving at the house, Complainant gave her completed rental application to Respondent.
17. Also present at this meeting was Layne's developmental therapist, Loel Sweet. Ms. Sweet told Respondent that Layne does not have issues with bad behavior. Respondent proceeded to describe her brother's behavioral problems, including writing on the walls, messing up the carpet and throwing things down the toilet. Respondent stated that she did not want to rent to Complainant because she did not want those problems.
18. Ms. Sweet explained that Layne has a "high-functioning-type" of Down Syndrome. Respondent did not reply, but later asked why he was having therapy. Ms. Sweet answered that Layne has therapy because he is developmentally delayed.

19. Respondent never spoke to Layne and barely looked at him the entire time they were at the house.
20. Respondent questioned whether the property would qualify for an IHFA subsidy because there was no railing on the cellar stairs. The cellar door was located in the floor of one of the bedrooms and had a latch. Complainant told Respondent that she believed the property would qualify. The investigation confirmed that the cellar door would have passed inspection with a simple lock.
21. Respondent stated that she would make a decision on Complainant's rental application by Monday, October 16. Respondent never contacted Complainant.
22. Complainant was shaking and visibly upset when they left the subject property.
23. On or about Saturday, October 14, 2006, a young, unmarried couple applied to rent the subject property. Respondent rented the house to these applicants the same day.
24. Complainant had wanted to move her family into a house with a fenced yard, but was unable to find another house that met her needs in the time she had to locate replacement housing. Complainant subsequently obtained less desirable and more expensive housing: she rented a two-bedroom apartment without a fenced yard in a large apartment complex for \$650 per month.
25. Respondent committed unlawful discrimination by refusing to rent the subject property to Complainant and her family because of her son's disability, in violation of 42 U.S.C. § 3604 (f)(1).
26. By subjecting Complainant to detailed accounts of the problems she had growing up with a brother with Down Syndrome and stating she did not want to rent to Complainant because she did not want those problems at her property, and by other actions set forth above, Respondent attempted to discourage Complainant from continuing to seek to rent the subject property, with the intention of making the dwelling unavailable to her because of her son's disability, in violation of 42 U.S.C. § 3604 (f)(1).
27. Respondent committed unlawful discrimination by making oral statements to Complainant that indicated a preference, limitation or discrimination, or an intention to make such a preference, limitation or discrimination, based on handicap, including inquiring into the nature and severity of Layne Soto's disability, stating she would not rent to Complainant because Complainant's son has Down Syndrome, and describing her disabled brother's history of destructive behavior, in violation of 42 U.S.C. §3604(c).
28. As a result of Respondent's discriminatory conduct, Complainant and her minor children, Austin, Blaise and Layne, have suffered damages, including economic loss,

inconvenience, loss of an important housing opportunity, and physical and emotional distress.

III. PRAYER FOR RELIEF

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Regional Counsel for Region X, hereby charges Respondent with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604, and prays that an order be issued pursuant to 42 U.S.C. § 3612(g)(3) that:

1. Declares that the discriminatory housing practices of Respondent, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-3619;
2. Enjoins Respondent, her agents, employees, successors, and all other persons in active concert or participation with her from discriminating on the basis of handicap in any aspect of the rental of a dwelling;
3. Awards such damages as will fully compensate Complainant, Dawn Soto, and her minor children, Austin Callentine, Blaise Soto and Layne Soto, for their damages caused by Respondent's discriminatory conduct;
4. Awards a civil penalty against Respondent for each violation of the Act committed; and,
5. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

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