

**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 **REDACT NAME** and her children,

Charging Party

v.

Alice S. Klundt Living Trust,  
Alice S. Klundt, and Terry Pollert,

Respondents.

OHA No. \_\_\_\_\_

FHEO No. 08-18-8210-8

**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

On September 4, 2018, Complainant **REDACT NAME** (“Complainant”) filed a complaint with the U.S. Department of Housing and Urban Development (“HUD”) in which she alleges that Respondents Alice S. Klundt Living Trust (“Respondent Trust”), Alice S. Klundt (“Respondent Klundt”), and Terry Pollert (“Respondent Pollert”) (collectively, “Respondents”) discriminated against her and two of her daughters, both minors at the time of the alleged discriminatory conduct, because of familial status in violation of the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 *et seq.* (the “Act”). Complainant amended the complaint on April 18, 2019, to correct Respondent Trust’s name from “Klundt Alice S. Living Trust” to “Alice S. Klundt Living Trust” and to specify that the complaint is filed against Respondent Klundt in both her individual capacity and as trustee for Respondent Trust.

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 (g)(2). The Secretary has delegated that authority to the General Counsel (*see* 24 C.F.R. § 103.400 and 103.405), who has redelegated that authority to the Regional Counsel. *See* 76 Fed. Reg. 42463, 42465 (July 18, 2011).

The Regional Director for the Office of Fair Housing and Equal Opportunity, Region VIII, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case

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and has authorized and directed the issuance of this Charge of Discrimination. 42 U.S.C. § 3610(g)(2).

**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 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), 100.50(b)(3), and 100.60(a).
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 familial status, or an intention to make any such preference, limitation, or discrimination. 42 U.S.C. § 3604(c); 24 C.F.R. §§ 100.50(b)(4), 100.75(a).
3. The term “familial status” is defined under the Act as “one or more individuals (who have not attained the age of 18 years) being domiciled with—(1) a parent or another person having legal custody of such individual or individuals; or (2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.” 42 U.S.C. § 3602(k); 24 C.F.R. § 100.20.
4. The term “aggrieved person,” as defined under the Act, includes “any person who ... claims to have been injured by a discriminatory housing practice.” 42 U.S.C. § 3602(i); 24 C.F.R. § 100.20.

**B. Parties and Subject Property**

5. The subject property (hereinafter referred to as the “Subject Property”), at all times relevant to this Charge, is a single-family dwelling located at **REDACT ADDRESS**, Billings, Montana 59101. The Subject Property is a “dwelling” within the meaning of the Act. 42 U.S.C. § 3602(b); 24 C.F.R. § 100.20.
6. Complainant is a single parent with physical and legal custody of two minor children, ages 13 and 17 at the time of the alleged discriminatory conduct. Complainant also has a daughter whose age was 18 years or older at all times relevant to this Charge. Complainant and her children who were minors at the time of the charged conduct are aggrieved persons as defined under the Act.

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7. Respondent Trust is the owner of record of the Subject Property.
8. Respondent Klundt is the trustee of Respondent Trust.
9. Respondent Pollert is a licensed realtor and serves as Respondent Klundt's rental agent with respect to the Subject Property and other properties. Respondent Pollert's responsibilities include advertising and showing rental properties and processing tenant applications for Respondent Klundt.
10. Respondents lease the Subject Property as a bi-level duplex. The ground level of the Subject Property is an individual dwelling unit with three bedrooms and two bathrooms. The basement level is a smaller individual dwelling unit with one bedroom and one bathroom. At all times relevant to this Charge, the basement level unit was rented to and occupied by a single man.

**C. Factual Allegations**

11. On or before May 23, 2018, Respondent Pollert posted a rental advertisement for the ground level unit at the Subject Property to the Billings, Montana, Craigslist Community.
12. Complainant observed the rental advertisement and sent a text message to Respondent Pollert on May 23, 2018, expressing her interest in and requesting the street address of the Subject Property. Respondent Pollert did not reply.
13. On June 4, 2018, Complainant sent a second text message to Respondent Pollert. Respondent Pollert replied to Complainant, confirming that the ground level unit of the Subject Property was for rent and providing the street address for the Subject Property.
14. Complainant and Respondent Pollert spoke by telephone on or around June 6, 2018, about Complainant's qualifications and references and scheduled a viewing of the ground level unit at the Subject Property for June 8, 2018.
15. On June 7, 2018, Respondent Pollert contacted Complainant to cancel the scheduled viewing of the ground level unit at the Subject Property. They exchanged the following text messages:

*Respondent Pollert:* "Hi **REDACT NAME**. The owner of the rental<sup>1</sup> on **REDACT STREET ADDRESS** has decided that she doesn't want to rent to more than three people, because of the

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<sup>1</sup> HUD understands that when Respondent Pollert refers to "owner of the rental on **REDACT STREET ADDRESS**" or similar designations, she is referring to Respondent Klundt.

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possibility of too much noise for the tenant of the basement apartment. So, I need to cancel our appointment for Friday. Sorry. Thanks, Terry Pollert.”

*Complainant:* “Oh Okay. That’s very considerate. My older daughter will be returning to Columbia University in August and it will be just myself and two daughters then. If she still is seeking a tenant please get ahold of me. The location and cost are perfect for my research thesis work in proximity to Yellowstone Art Museum. Thanks, **REDACT NAME**.”

*Respondent Pollert:* “The owner was also concerned about your daughters being home alone. Or do you work from home?”

*Complainant:* “I will [be] writing my thesis from home, but they are 14 and 17 so they definitely are capable of being alone when I work out of the house. I understand though if the owner has this many concerns it’s probably best. I just need a quiet safe spot to write do my research and they go to school.”

After Complainant further affirmed that neither lawn maintenance nor payment of rent would be a problem, Respondent Pollert wrote, “[o]kay, the owner is interested in renting to you. I will see you, tomorrow, at 1PM. Thanks.”

16. On June 8, 2018, Respondent Pollert showed Complainant the Subject Property and provided her with a rental application for the ground level unit at the Subject Property.
17. On June 11, 2018, Complainant submitted her rental application to Respondent Pollert via electronic mail (e-mail). Complainant listed herself and her three daughters in the “family group” section of the rental application.
18. On or around June 12, 2018, Respondent Pollert called Complainant and left the following voicemail message:

“Hey **REDACT NAME**, this is Terry Pollert. Thanks for your rental application. Everything checked out on it. You sound like you’d be a great renter. The landlord for the...uh owner of **REDACT NAME** found someone that, a couple that she thinks will work better. She hasn’t definitely rented to them yet but she’s just looking for maybe two people, a couple maybe with one child, something like that. She’s very picky because she’s had to put so much money into that place. So she wanted me to let you know that either way she’s gonna hold off until she finds something like. She’s just concerned about having teenage girls that are going to be alone quite often with that

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property. But she does have another property in the heights if you're interested in renting. It's a large 14-foot by 80-foot mobile home that she just put a...having a...it re-roofed, and it'll be done today and it's a nice home, 3 bedroom, a nice master suite on one end and then two bedrooms on the other end and it's got a garage also and a partial fenced yard, in a nice area on **REDACT STREET NAME** in the heights if you're interested in that. Uh, and I think it's a little bit less money I'll have to double-check with her on the rent so but...give me a call, 208-[XXXX]. Thank you."

19. On June 14, 2018, Complainant sent an e-mail to Respondent Pollert stating that the mobile home at **REDACT STREET ADDRESS**, in Billings, Montana, "just doesn't suit [her] taste or needs." Further, Complainant stated that the Subject Property is similar to her previous home and she liked the similarity of the Subject Property to her prior home.
20. On June 15, 2018, Respondent Pollert sent an e-mail to Complainant in which she stated that "[t]he owner and I really butted heads over you. Just because she had a lot of problems with one of her daughter's when she was younger, she thinks all daughters are that way."
21. Later the same day, Respondent Pollert sent an e-mail to Complainant, which stated the following:

"Sorry, **REDACT NAME**. Alice [Respondent Klundt] won't change her mind. Also, her two daughters, who are her business partners, agree with her opinion. Part of the issue is the basement apartment which can have noise issues with too many people living upstairs. But, Alice would love to rent her Heights trailer to you, if you change your mind. Thanks, Terry."
22. The Respondents and Complainant did not correspond further regarding Complainant's rental application for the Subject Property.
23. On August 27, 2018, Respondents rented the ground level unit at the Subject Property to a couple with no children.
24. Complainant was subsequently unable to locate other suitable housing near downtown Billings, Montana, within her price range.
25. As a result of Respondents' discriminatory conduct, Complainant and her children suffered actual damages including, but not limited to, emotional distress, loss of housing opportunity, inconvenience, and economic loss.

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**D. Legal Allegations**

26. As described above, Respondents discriminated against Complainant 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), 100.50(b)(3), and 100.60(a).
27. As described above, Respondents made multiple 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), 100.75(a).

**III. CONCLUSION**

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of 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) 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. Mandates that Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them, take all affirmative steps necessary to remedy the effects of the illegal, discriminatory conduct described herein and to prevent similar occurrences in the future;
4. Awards such damages as will fully compensate Complainant and her minor children;
5. 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
6. Awards such additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3).

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Respectfully submitted on this 17th day of September, 2019.

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Matthew Mussetter  
Regional Counsel, Region VIII

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Nicole Allard  
Associate Regional Counsel for Litigation

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Brian Stecker  
Attorney-Advisor  
U.S. Department of Housing and  
Urban Development  
Region VIII – Office of Counsel  
1670 Broadway, 25th Floor  
Denver, Colorado 80202  
Office: (303) 672-5093  
Email: [brian.h.stecker@hud.gov](mailto:brian.h.stecker@hud.gov)