

UNITED STATES DEPARTMENT OF AGRICULTURE

2015 NOV 17 PM 1: 02

BEFORE THE SECRETARY

RECEIVED

Docket No. 16-0002

In re:

EDDIE WISE and DOROTHY WISE,

Complainant.

ORDER DISMISSING COMPLAINT**I. PROCEDURAL HISTORY**

On October 6, 2015, Eddie and Dorothy Wise (“Complainants”) filed a complaint alleging that the United States Department of Agriculture, Farm Service Agency (“USDA”; “FSA”) discriminated against them on the basis of their race by denying their application for loans, which ultimately resulted in the entry of a foreclosure judgment against them on September 28, 2015.

II. DISCUSSION

1. OALJ Lacks Jurisdiction to Hold a Hearing to Review Complainants’ Complaints of Discrimination

7 C.F.R. Part 15d sets forth the nondiscrimination policy of USDA regarding programs or activities in which agencies of USDA provide benefits directly to persons, and establishes the process for administrative review of complaints of discrimination. 7 C.F.R. §15d.1. Individuals who believe that they have been subjected to discrimination on the grounds of race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, disability, or financial status may file a written complaint with the Secretary or an Agency, which shall be referred to the Director of the Office of Civil Rights, USDA (“OCR”). 7 C.F.R. §15d.4(a). The

Director is authorized to investigate complaints and make final determinations as to the merits of the complaint and to order corrective actions arising from the complaints. 7 C.F.R. §15d.8(b).

Complainants' allegations in the instant matter fall within the scope of Part 15d, as they contend that they were discriminated against by USDA employees who denied their eligibility for farm loans because of their race. The prevailing regulations do not provide the right to a hearing before the Office of Administrative Law Judges regarding the OCR's conclusions, and the rules specifically state that the OCR "will make final determinations as to the merits of complaints. . .and as to the corrective actions required to resolve program complaints." 7 C.F.R. §15d.4(b). Congress may authorize agencies to promulgate such regulations deemed necessary to implement a statute. U.S. Const., Article I, Section 8, Clause 18.

V. CONCLUSION


I find that OALJ is without jurisdiction to grant Complainants' request for a hearing. The matter shall be forwarded to the Director of the Office of Civil Rights for resolution pursuant to prevailing regulations.

ORDER

Petitioners' petitions for a hearing are hereby DISMISSED.

The Hearing Clerk shall forward all documents associated with this case to the Director of the Office of Civil Rights for the Farm Service Agency, 202-401-7164.

So ORDERED this 17th day of November, 2015, in Washington, D.C.


Janice K. Bullard
Administrative Law Judge