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July 31, 2013

BY EMAIL AND FEDERAL EXPRESS

The Honorable Maurice Jones
Deputy Secretary
US Department of Housing and Urban Development
451 7th Street, SW
Washington, DC 20410

The Honorable Robert P. Astorino
County Executive
Westchester County
148 Martine Avenue
9th Floor
White Plains, NY 10601

**United States ex rel Anti-Discrimination Center of Metro New York, Inc. v. Westchester County, New York (No. 06 Civ. 2860 (DLC))**

Dear Mr. Jones and Mr. Astorino:

In a series of information requests, and pursuant to the U.S. District Court's July 27, 2012 Order compelling the County to respond, the Monitor directed the County to conduct an analysis of certain restrictive zoning practices in the 31 communities eligible under the Settlement and Order of Stipulation and Dismissal ("Settlement") entered in this case on August 10, 2009; specify a strategy to overcome exclusionary zoning practices, where they exist; and identify the types of zoning practices that would, if not remedied, require the County to pursue legal action. The County reached the conclusion that there is no evidence of exclusionary zoning in any of the 31 eligible communities in Westchester County and based its conclusion on its analysis of approximately 780 pages of maps, tables and other data concerning municipal zoning. The County affirmed its conclusion in seven subsequent submissions to HUD and the Monitor.

Enclosed is the Monitor's Report on Westchester County's Analysis of Municipal Zoning (the "Monitor's Report") that evaluates the County's response to the Monitor's

information requests concerning municipal zoning. The review was conducted with the assistance of a team of experts from the Pratt Graduate Center for Planning and the Environment ("Housing Consultants") and used as its primary source of information data provided by the County. The Monitor solicited additional information from the 31 municipalities eligible under the Settlement, each of which had an opportunity to review and comment on draft summaries of data pertaining to their respective municipalities. Twenty-four of the municipalities responded. All of the information from the municipalities was evaluated and, where appropriate, incorporated into the Monitor's findings.

After an extensive review, the Monitor has concluded that the County's assertion that exclusionary zoning does not exist in Westchester County is not supported by the data, including data submitted by the County. The Report makes a number of key findings based on the data provided:

- Zoning regulations in 24 out of the 31 municipalities are not exclusionary. In fact, four municipalities have zoning codes that are commendable in terms of their efforts to provide meaningful opportunities for affordable housing.

- The zoning codes of seven municipalities are exclusionary on the basis of socioeconomic status. These include restrictions on multifamily housing, lack of incentives and mandates for affordable housing, and restrictions on alternative sources of affordable housing. In addition, these municipalities have not addressed in a significant way the regional need for affordable housing.

- Although a more searching analysis by the parties is necessary, the data shows that zoning restrictions in some of the seven municipalities may serve to perpetuate segregative housing patterns and may have a disparate impact on racial and ethnic minorities, and therefore may violate federal law.

This report is limited by the fact that the Monitor does not have authority to compel the production of information or documents from municipalities. Nor does the Monitor have the authority to order municipal officials to be interviewed. The caliber of the data is therefore limited and may be less or different from what could be discerned in a compulsory process.

Under paragraph 32 of the Settlement, the County has a legal obligation to address impediments to fair housing posed by exclusionary zoning. The County has taken steps to promote zoning reform through its separate obligation under the Settlement

The County has the benefit of four municipal zoning codes from three different regions in the County that provide exemplary efforts to provide opportunities for affordable housing. The County should engage further with the municipalities who have exclusionary provisions to enact zoning reform pursuant to its duty under the Settlement as well as under state and federal law.

The Monitor's Report will be filed with the U.S. District Court on August 30, 2013. Both HUD and the County will have until August 27, 2013 to raise objections, if any, to the Report. I think it would be appropriate for me to meet with both the County Executive and an appropriate representative of the Department of Housing and Urban Development. I am happy to make myself available to do so whether jointly or in separate meetings.

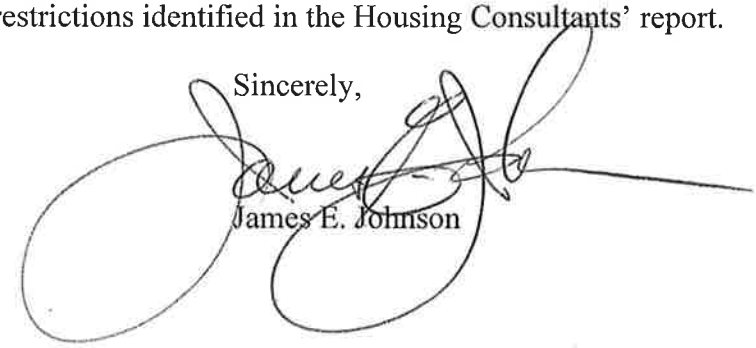
Information Requests

Pursuant to paragraph 13 and 32 of the Settlement, the County is requested to identify steps it will take to ensure that the following seven municipalities address the restrictive practices identified in the Housing Consultants' report, which accompanies the Monitor's zoning Report: Village of Croton-on-Hudson; Town and Village of Harrison; Town of Lewisboro; Town of Mamaroneck; Town of Ossining; Village of Pelham Manor; Town of Pound Ridge (the "Listed Municipalities"). These steps include, but are not limited to, the measures listed in the "Implications" section of the Housing Consultants' report for each municipality.

The County is directed to summarize its written and oral communications with the Listed Municipalities concerning their efforts to provide reasonable opportunities for affordable housing. The first such summary is due on August 27, 2013. Thereafter, the County shall include, in a separate section of the quarterly report, summaries of its communications with the Listed Municipalities during the quarter. The County should, of course, continue to engage with the other eligible municipalities. As the Housing Consultants' report makes clear their remains room for improvement in most of the other eligible municipalities efforts to provide affordable housing.

Pursuant to authority affirmed in Judge Gorenstein's Order dated March 16, 2012, the County is further directed to identify priority steps that each of the Listed Municipalities should take to provide reasonable opportunity for affordable housing, including dismantling the restrictions identified in the Housing Consultants' report.

Sincerely,



James E. Johnson

Enclosures

cc: Glenda L. Fussá, Deputy Regional Counsel, New York Office, HUD
Robert F. Meehan, County Attorney, Westchester County
Kenneth W. Jenkins, Chairman of the Westchester County Board of Legislators
David J. Kennedy, Assistant U.S. Attorney (S.D.N.Y.)
Benjamin H. Torrance, Assistant U.S. Attorney (S.D.N.Y.)
Lara K. Eshkenazi, Assistant U.S. Attorney (S.D.N.Y.)