



# Affordable Housing Settlement

# The Allegation

- County sued under 1863 False Claims Act
- Charged with not meeting terms of federal grants
- Did not study whether race is a factor in housing
- Case settled in 2009

*No admission of guilt or finding of fact against county*

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# Key Settlement Requirements

\$51.6 million

750 Units

31 Eligible  
Communities

Market to  
Diverse  
Households

7 Years

# 2014 Progress to Date

Units with Financing

Building Permits

Goal	Today
450	406

Goal	Today
350	401

# Analysis of Impediments: Requirements

*Section 32:* The county shall **“complete”**  
an Analysis of Impediments that is  
**“deemed acceptable by HUD”**

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# Analysis of Impediments: Progress

- **Eight** separate submissions by county
  - **Thousands** of pages of data and analysis
  - Entire county examined **all 853** zoning districts
  - Extensive **Huntington** and **Berenson** reviews
  - **Hundreds** of recommendations and action steps
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# Analysis of Impediments: Conclusion

**No evidence of exclusionary zoning  
based on race or ethnicity**

- Supported by separate study by Pace University
  - Federal Monitor has not disputed findings
  - Could not build housing if zoning was exclusionary
-

# Analysis of Impediments: HUD's Response

## County must change its conclusion

- Holding CBDG funds hostage to force capitulation
  - Hurting the communities it claims to help
  - Most outside the “31” municipalities
-

# What's Going On?

Without an “Exclusionary” finding, HUD has no basis to change local zoning

- Controlling local zoning is critical to HUD’s national ambitions
  - Spelled out in new AFFH rules
  - House just passed a bill to stop HUD
-

# BOL's Proposal

## Re-opens and rewrites settlement

- “Replaces” county’s AI with one by HUD
  - New version written by Monitor and Pratt team
  - Undermines local home rule
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# Key Concerns

HUD will define  
“restrictive zoning  
practices”

- HUD, March 13, 2013

- Size of lot
- Size of development
- Number of bedrooms



U.S. Department of Housing and Urban  
Development  
New York State Office  
Jacob K. Javits Federal Building  
26 Federal Plaza  
New York, New York 10278-0068  
<http://www.hud.gov/local/nyn/>

March 13, 2013

*By email*

Kevin J. Plunkett  
Deputy County Executive  
Westchester County  
148 Martine Avenue, 9th Floor  
White Plains, NY 10601

Re: *Westchester County Action Plan Certifications*

Dear Mr. Plunkett:

This letter addresses our review of the County's supplemental zoning submissions to the Monitor since our April 20, 2012 letter.<sup>1</sup> We undertook the review to determine whether the submissions, together with the County's earlier submissions discussed in our April 20 letter, provide sufficient evidence to support the County's certifications that it will affirmatively further fair housing ("AFFH"). As you know, federal law requires a satisfactory and accurate AFFH certification to receive community planning and development formula grants from HUD.

Upon review, HUD has determined that the supplemental zoning submissions do not provide sufficient evidence to support the County's AFFH certification. Specifically, the County has failed to conduct a proper analysis of exclusionary zoning practices and to develop a clear strategy to overcome such practices, including litigation. In this regard, the County refuses to apply established legal precedent in examining whether a zoning ordinance has a discriminatory or segregative impact. In addition, the County failed to analyze five out of the six restrictive zoning practices identified by the Monitor for examination. With respect to the one practice reviewed by the County, single-family zoning districts with certain minimum lot size/area requirements, the data examined by the County is too limited to support its conclusions.

<sup>1</sup> HUD undertook a review of the County's responses to the Monitor's May 14, 2012 letter, the District Court's July 26, 2012 Order (the "July 26 Order"), and the Monitor's follow-up requests. The submissions reviewed include all documents sent by the County to the Monitor and HUD on July 6, 2012, July 31, 2012, August 7, 2012, August 8, 2012, August 15, 2012, August 27, 2012, September 6, 2012, September 21, 2012, October 5, 2012, November 21, 2012, and November 22, 2012, and a zoning analysis methodology proposed by the Monitor and accepted by the County on August 7, 2012.

<b>Municipality</b>	<b>Allocation</b>
Village of Ardsley	81
Town of Bedford	301
Village of Briarcliff Manor	92
Village of Bronxville	101
Village of Buchanan	56
Town of Cortlandt	202
Village of Croton-on-Hudson	98
Village of Dobbs Ferry	105
Town of Eastchester	104
Town/Village of Harrison	756
Village of Hastings-on-Hudson	76
Village of Irvington	152
Village of Larchmont	54
Town of Lewisboro	239
Town of Mamaroneck	125
Town of Mount Pleasant	975
Town of New Castle	252
Town of North Castle	666
Town of North Salem	78
Town of Ossining	113
Village of Pelham	71
Village of Pelham Manor	101
Village of Pleasantville	76
Town of Pound Ridge	172
City of Rye	140
Village of Rye Brook	123
Village/Town of Scarsdale	160
Town of Somers	150
Village of Tarrytown	45
Village of Tuckahoe	50
Town of Yorktown	209
<b>TOTAL</b>	<b>5,847</b>

# Key Concerns

**Could make Rutgers study a formal part of the Settlement**

**Expands units from 750 to 5,847**

# Administration's Response

- NO on any reopening or rewriting of settlement
- Monitor has NO authority to replace AI
- OPPOSED to any action by BOL to give monitor authority

**County best served by developing its own  
block grant program**

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# Discussion

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# What You Can Do

#1

Stay in touch.

Call: (914) 995-2900

CE@westchestergov.com



Facebook.com/robastorino



@robastorino

#2

Ask questions.

#3

Spread the word.