

A Journal News editorial: Astorino shirks housing duty

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In both deed and stubborn word, Westchester County Executive Rob Astorino has made plain that he has no plans to honor key provisions of the False Claims Act/fair housing settlement brokered with Washington before he took office. The questions now: How far will his obstinance go; how much will it cost county residents — in dollars and prestige; and how long before Westchester ends up in federal court again? It would seem to be just a matter of time.

Some partial answers took shape in a press briefing Friday, where Astorino announced that the federal Department of Housing and Urban Development had rejected, for the fifth time, the administration's required analysis of impediments to fair housing choice in Westchester. That failure, according to the administration, stands to cost Westchester some \$7 million in federal housing funds; the figure could surely grow, based upon fresh comments from Astorino. He excoriated HUD officials, accusing them of "unprecedented bureaucratic overreaching," and disavowed key settlement provisions.

The latter will have reverberations beyond the press briefing room. Notwithstanding Astorino's objections, both HUD and James E. Johnson, the federal monitor charged with overseeing implementation of the settlement, have been criticized for not doing enough to ensure that Westchester meets its settlement obligations, which include promoting fair housing choice and building 750 units of affordable housing, largely in overwhelmingly white communities that have shunned or discouraged such housing.

The nonprofit Anti-Discrimination Center of Metro New York, the fair housing group that prompted the litigation against Westchester, has a motion pending in U.S. District Court to re-enter the case. Among other things, it questions whether some of the housing units approved by the monitor — Astorino states that 164 units have been OK'd — meet the objectives of the settlement and consent decree, the "overarching goal" of which is "building a more integrated Westchester," as monitor Johnson has said. While the housing is available to all income-eligible applicants, the county must affirmatively market the units to minorities.

"The county executive," said Craig Gurian, ADC executive director, "couldn't have more thoroughly rejected a court order if he had stood on the schoolhouse steps and said, 'Segregation now, segregation forever.'"

Astorino cries foul

The duties over which Astorino bristles arise from a settlement and consent decree brokered in 2009 by the Andrew Spano administration and HUD and approved by the U.S. District Court. HUD entered the picture after the Anti-Discrimination Center successfully argued in a lawsuit that Westchester had failed to discharge its fair-housing obligations, despite accepting millions of dollars in federal funds and pledging that it had. Astorino opposed the settlement during his successful run for county executive in 2009, but acknowledged his duty to implement it. He has since cast doubt on that pledge.

On Friday, Astorino accused HUD of "demanding things it has no right to ask for, that go beyond the settlement, its own guidelines, state and federal law, as well as common sense and basic economics." He cited HUD's requiring Westchester to prioritize development in areas with "above average schools" and

calling for the county to make 50 percent of the housing three-bedroom units, a mandate Astorino said would push the county's cost to \$94.3 million. These are new concerns; Astorino also rehashed others.

As he has before, Astorino rejected specific settlement commitments that Westchester hold uncooperative communities accountable for policies and practices that restrict housing choice. He continues to maintain that Westchester is powerless to affect local zoning laws; in the settlement, however, Westchester specifically acknowledges that it is far from impotent. Indeed, as a condition of accepting federal funds, it promises to challenge entities that stand in the way of fair housing. Long-settled state and federal law also empowers Westchester to intervene. The trouble is, it just hasn't done so.

The same mistakes

The county executive also disavowed a specific settlement promise to support legislation barring source-of-income discrimination against otherwise qualified housing-seekers in Westchester; fair-housing advocates have long asserted that bias against certain sources of income — i.e., government disability payments or housing vouchers — is often a proxy for racial discrimination. The Board of Legislators approved such a prohibition; Astorino vetoed it. He stated Friday that the prior administration's support for such a ban satisfied the settlement terms. Both HUD and the monitor have questioned Astorino's stance, but neither has asked the court to enforce this settlement provision — or any other. They should.

As he has before, Astorino also downplayed the role that race has played in affecting housing choices in Westchester. He complained that HUD wants the county to "claim" that Westchester is "racist and segregated"; he highlighted demographics that show Westchester is the fourth "most diverse" county in New York — in aggregate. Those figures, however, have nothing to do with why Westchester is in this fix: The issue is the long-established patterns of racial segregation throughout Westchester, which exist at every income level; why those patterns persist; and what the county will do to overcome barriers to housing choice.

Astorino made plain Friday that his head remains in the sand, much like his predecessor's. But Astorino should know better by now — considering the hefty price Westchester has already paid for denial. U.S. District Judge Denise Cote, who issued the summary judgment order in 2009 that set the stage for the settlement, has already chided Westchester for failing to discharge its fair-housing duties — obligations not limited to building homes.

Cote concluded that Westchester "utterly failed" to "affirmatively further fair housing." She noted that Westchester was obliged to analyze "impediments to fair housing choice within the jurisdiction" and take "appropriate actions to overcome the effects of any impediments." The due-diligence failures, she wrote, "meant that the County did not analyze how its placement of affordable housing affected segregation and racial diversity, and in fact that the County's (subsequent) production and placement of affordable housing increased segregation" in Westchester.

The noncompliant county executive is entitled to believe what he wants about race, housing choice and segregation in Westchester; he is not entitled to thumb his nose at the federal court and disavow obligations under HUD guidelines and the consent decree. The sooner HUD, the monitor and, ultimately, the U.S. District Court hold him accountable, the better for Westchester and fair-housing choice throughout the county.