

A Journal News editorial: Housing foes embrace politics, shun history

Sep. 18, 2011 |

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Members of the Democratic-controlled Westchester County Board of Legislators have called for a unified response from the county government in hopes of ending a long-brewing dispute with Washington over implementation of a 2009 affordable-housing settlement.

Their plea lends new definition to eternal optimism. Republican County Executive Rob Astorino, charged with implementing an agreement he did not forge, has missed no opportunity to distort its meaning. GOP challengers for board seats have seized upon the racially tinged controversy as well, adopting some of the same convenient distortions. They make Westchester seem like a county of small-minded people, with the caustic political leadership to match.

There no doubt is much political opportunity in "holding firm" against Washington housing officials, as Astorino recently pledged on national TV. The dense federal housing policy and legal issues that gave rise to the settlement are not easily digestible — and thus highly susceptible to distortion. Further, neither the Astorino administration nor its predecessor has clearly set forth — or even acknowledged — the wrongful conduct that precipitated the settlement, which requires the county to build 750 units of affordable housing in 31 overwhelmingly white communities. When he ran for office in 2009, Astorino roundly panned the newly hatched agreement, and the legal strategy that led to it, en route to a landslide victory over incumbent Democrat Andy Spano.

Different obligations

Astorino's obligations are, of course, markedly different now; he is charged with crafting an implementation plan for siting and building the housing units, one that honors the court settlement and consent decree — to the satisfaction of a court-appointed monitor and the federal courts. The administration has been making progress building the units. But the agreement is about more than bricks and mortar; it is about promoting fair housing and housing choice throughout the county. Astorino's rhetoric makes plain that he would rather play to the crowd — even where doing so no doubt heaps further stigma upon the badly needed housing as well as those who will occupy the units. They are available to all income-eligible applicants, but must be affirmatively marketed to blacks.

By the county executive's scoring, Westchester is ahead of schedule in meeting the 750-unit requirement — not altogether surprising considering that the county was permitted to count toward the 750-unit requirement some units that were in the development "pipeline" before the settlement was memorialized. But Astorino and HUD remain at impasse on two key settlement terms.

At an impasse

One is an inelegantly drafted provision concerning county executive support for legislation banning discrimination against housing applicants based on the source of their income, such as government disability or housing vouchers. Last year, the board adopted just such legislation — and Astorino promptly vetoed it on philosophical grounds.

The other disagreement concerns a settlement pledge to hold uncooperative communities accountable for

policies and practices that restrict housing choice, even if that means legal action. In the settlement, the county acknowledged its longstanding duty under HUD guidelines to be a force for fair housing throughout the county — duties that also arise under long-settled state and federal law.

Astorino has flat out said his administration would not sue such communities, and resisted HUD efforts to commit to more specific steps to compel cooperation. Astorino and members of his administration have said repeatedly that they have no influence over local zoning laws, which in many communities effectively shun affordable housing, thereby limiting housing choice. This position, no doubt, is a winner in the most exclusive communities, but it was a loser for Westchester in the U.S. District Court case. Judge Denise Cote, who issued the summary judgment order in 2009 that set the stage for the controversial settlement, concluded that Westchester "utterly failed" to discharge its fair housing obligations. Those duties included analyzing "impediments to fair housing choice within the jurisdiction" and taking steps to "overcome the effects of any impediments."

Incurious officials

The court action made plain — in a way that neither Astorino nor his predecessor has ever acknowledged — that Westchester had shirked its fair housing responsibilities for years, with real consequences. The due-diligence failures, Cote 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.

It was a nonprofit housing group — the Anti-Discrimination Center of Metro New York — that called Westchester on its incurious administration of federal housing dollars, pressing the case under the federal False Claims Act; HUD entered the picture only after Westchester lost the key summary judgment ruling. Because the False Claims Act allows recovery of treble damages, the county faced an estimated liability approaching \$500 million if the court case continued; the officials opted for the \$51 million settlement instead. Risking the larger judgment would have been mindless and reckless — especially considering the reality: Westchester needs affordable housing and typically builds it anyway. The difference here: The housing will be spread throughout the county — not concentrated in the same malleable communities.

'Social engineering'

Astorino and his minions ignore all that history in their public pronouncements, which on Friday were seconded by six Republican challengers for board seats. In a news release, they blamed the Democrats for signing off on the agreement and inviting Washington officials to intrude upon home rule. In the settlement, the county acknowledged its longstanding duties under HUD guidelines to affirmatively further fair housing, including crafting a policy addressing "the elimination of discrimination, including the present effects of past discrimination, and the elimination of de facto residential segregation ..."

But the Astorino administration has adopted the same do-nothing-to-rock-the-boat-mentality as his predecessor. Appearing recently on Sean Hannity's FOX News program, he made light of the obligation to "combat local opposition" to the county's fair housing aims, wondering if "tear gas" was an option. Astorino and Deputy County Executive Kevin Plunkett, who also was interviewed in the FOX piece, dismissed racial discrimination as a factor in Westchester. Astorino, as he has before, noted just how diverse

Westchester is — a fact not in controversy; the issue is the de facto segregation in Westchester and the county's obligation to address it. Astorino told Hannity, "This is government gone wild. It is social engineering at its worst."

No, it's just housing for working people, and the usual crass politics.