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# Community View: Court wrong in ruling on Westchester affordable-housing settlement

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Former Westchester Legislator Martin Rogowsky, D-Port Chester, backs Republican County Executive Rob Astorino in his tussle with Washington and the U.S. District Court over an affordable housing settlement. Here, Rogowsky, center, appears with legislators MaryJane Shimsky and William Ryan in a December budget hearing. / Xavier Mascareñas / The Journal News

Written by **MARTIN ROGOWSKY**

Re "Stance on housing is a costly one," May 6 editorial:

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Rob Astorino

I write in response to the recent U.S. District Court ruling that Westchester County Executive Rob Astorino violated the affordable housing settlement between the county and the federal housing department when he vetoed the source-of-income legislation passed by the Board of Legislators in 2010, and in response to the above-referenced editorial that supported the court's decision.

While I disagree with many things that County Executive Astorino supports, I do agree with his decision to appeal the court's ruling regarding his veto. As a former county legislator, I strongly support the "Separation of Powers" doctrine that this court ruling violates.

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The county executive was required by the terms of the housing settlement to "promote" source-of-income legislation that was "currently" before the Board of Legislators in the fall of 2009. Why didn't the drafters of the agreement simply require the Board of Legislators to pass said legislation and require the county executive to sign it? (The legislation would bar discrimination against housing applicants based on the source of their income, such as from government disability payments or housing vouchers. — Editor.)

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The agreement did not impose such requirements, because its drafters knew that such requirements would have violated the "Separation of Powers" doctrine. As an elected official, I was responsible to vote on behalf of my constituents, and I was accountable only to the voters for my actions. Same for the county executive. He, too, is accountable to the voters of Westchester County. No federal court should be able to require an elected official to vote for or against legislation or require a county executive to approve or veto it.

This judge did and she was wrong!

I believe that the federal magistrate's decision, which was overturned by Judge Denise Cote, was the correct decision. The judge's decision finding the veto a violation, and further, requiring the county executive to ultimately sign a law that might be passed by the legislature in the future, was a bad decision that must be appealed.

Because every word in a court settlement is significant, the Court of Appeals for the Second Circuit could simply find that the county executive's obligation to "promote" was rendered moot by the passage of legislation in 2010 that differed from the "current" legislation that the county executive was required to promote in 2009. However, because the "Separation of Powers" doctrine was clearly violated by Judge Cote, I hope the Appeals Court will reverse on that basis.

And for the record, the settlement was based on 2000 census figures, something I and others argued against. If 2010 census figures had been used, nearly half the "eligible" communities — communities targeted for new affordable housing — would be off the list. The fact is that Westchester is much more diverse than portrayed by the federal Department of Housing and Urban Development.

However, use bad data, get bad results! For this and several other reasons, I voted against the settlement!

**The writer, a Democrat, is a lawyer and landlord from Port Chester. He represented Harrison, Port Chester and Rye Brook on the Board of Legislators and was one of five legislators who voted against the settlement in 2009.**

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