

Community View

County balks at HUD's demands

Fair housing shouldn't put undue burden on taxpayers

By Robert P. Astorino

As county executive, I am fully committed to satisfying all of Westchester County's obligations under the affordable housing settlement reached three years ago by former County Executive Andrew Spano, the Board of Legislators and the federal government.

But I have drawn the line at not letting the federal government arbitrarily and unilaterally impose additional burdens on the county. The U.S. Department of Housing and Urban Development's demands are laid out in a letter dated May 13, 2011, which calls for the county to "go beyond the four corners of the settlement."

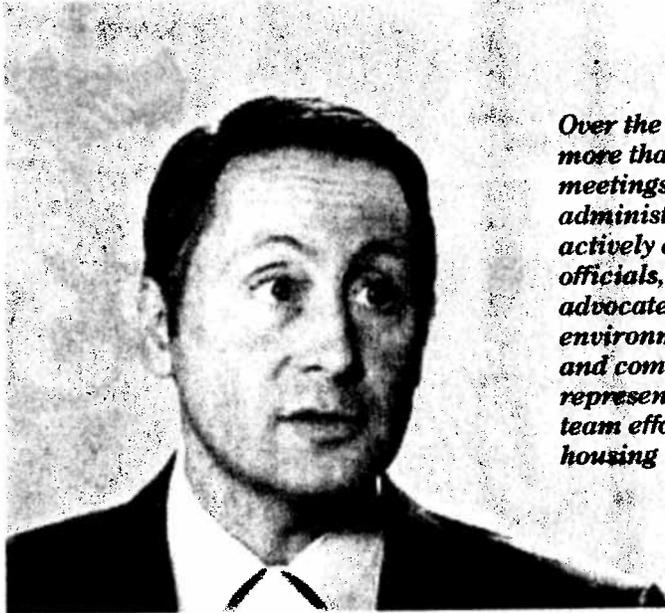
What HUD is asking for basically comes down to creating a county with no zoning and where property owners are forced to do business with the federal government. (Find copies of the HUD letter and other settlement documents online at <http://bit.ly/NeAEKs>.) If anyone thinks I am overstating the case, I urge them to compare the terms of the settlement to the demands of HUD's May 13 letter.

It's important to remember that the settlement was an out-of-court compromise — agreed to by all parties — to avoid a trial. Like most compromises, there is plenty not to like. For example, I don't think it makes sense to spend \$400,000 for marketing aimed at attracting people who don't live in Westchester when we have more than enough residents who need and qualify for affordable housing being built under the settlement.

And why are there limits on the number of seniors — who make up 20 percent of the population — and, contrary to impressions created by HUD, a ban on set asides for workforce housing for police, firefighters, teachers and others?

But, a deal is a deal and these stipulations were all part of the agreement that preceded me.

The settlement's fundamental obligation is for the county to



Westchester County Executive Rob Astorino has been at odds with Washington over how to implement the 2009 affordable housing settlement. MELISSA ELIAN/THE JOURNAL NEWS

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THE ISSUE

► Three years ago last month, then-Westchester County Executive Andrew Spano and the Department of Housing and Urban Development reached a settlement to end litigation over charges it made false representations to the government about its efforts to promote fair housing. HUD and Spano's successor, Rob Astorino, have been at odds ever since. We asked both HUD and Westchester to report back to readers on the status of the settlement; what follows is the comment from the county executive. HUD's report appeared earlier.

LEARN MORE

► Read an Aug. 11 Community View by HUD Deputy Secretary Maurice Jones; go to <http://lohud.us/TZ4tx5>.
 ► Read our Aug. 20 editorial: "If there's a bill for Westchester's dallying in fair housing case, send it to County Exec Astorino"; go to <http://lohud.us/OdA3u8>.

use \$51.6 million to build 750 units of affordable housing over seven years in 31 "eligible," or mostly white communities. I'm proud to say the county is well ahead of schedule. We had to have 200 units with financing in place by the end of the year, and we already have 207. We had to have 125 building permits issued by the end of the year, and we already have 130.

No fluke

Our success is no fluke. It is the result of the county's strategy of cooperation. Over the course of more than 350 meetings, our administration has actively engaged local officials, housing advocates, lenders, en-

vironmentalists and community representatives in a team effort to get the housing built.

Our disagreements with HUD involve its overreaching. The seeds were sown the day the settlement was announced, when HUD called it a "grand experiment." Westchester agreed to the terms of a 38-page document. It did not sign up to be a social engineering project.

HUD takes the view that the settlement is an integration order. But the word "integration" never appears in the agreement and Westchester is already the state's most diverse county outside New York City in terms of African-American and Hispanic representation.

HUD's not satisfied that we

simply build affordable housing. The agency says that under the settlement we must do it in a way that "affirmatively furthers fair housing" (AFFH). Fine. But what does that mean? HUD has never told us. A year after a top HUD official came to White Plains to say AFFH guidance was in the works, we are still waiting.

If HUD is more interested in changing the county's demographics than in building affordable housing, that's its prerogative. But the settlement as written isn't going to help much. According to the U.S. census, the African-American and Hispanic populations of the 31 mostly white communities in the settlement grew by 56 percent between 2000 and 2010. The growth came through natural market forces without government intervention. In contrast, the most the populations of those two groups could grow under the settlement is 5 percent and at a cost that could approach \$100 million for taxpayers. That's the math.

Two issues are now in dispute — local zoning laws and source of income.

On zoning, HUD is demanding the county find local codes to be exclusionary. But an exhaustive analysis of all 853 zoning districts in Westchester found no exclusionary impacts.

HUD then demanded a legal analysis. The county complied, hiring Pace University law professor John Nolon, a respected advocate for affordable housing. Nolon's legal analysis supported our conclusion.

Nonetheless, HUD and the federal monitor keep insisting that the county come up with a strategy to combat non-existent exclusionary zoning, which includes describing the "sticks" we are going to use against local communities. HUD wants the county to reach a conclusion that's not supported by the facts, and that's why I am standing up for our communities.

The source of income legislation would require landlords to accept government Section 8 vouchers as rent. With acceptance come all of Section 8's rules, red tape, costs and potential fines. Right now, the program — under the federal government's own rules — is voluntary. It should remain that way. Property owners should not be forced to go into business with the federal government.

'Promote'

This issue focuses on a single line in the settlement and one word in particular: that the county executive "promote" source of income legislation. The federal government maintains the word "promote" requires me to sign the legislation. Such an interpretation throws the English language and our system of laws upside down, and that's why the issue is in court.

Finally, it is not too early to raise the likelihood that the county will run out of money before all 750 units are built. The \$51.6 million works out to about \$68,000 a unit and so far the county has been spending about \$89,000 a unit.

I am committed to ensuring the county meets all its obligations under the settlement. But it is very possible that meeting those obligations could come at the expense of some county programs or services.

Three years in, the county is complying, ahead of schedule and defending against federal government overreach. If my comments come across as direct, they are meant to be. The public deserves straight talk on these important issues.

Again, I urge residents to read the settlement and the May 13 letter to reach their own conclusions.