

In Reply: Astorino contends zoning is not discrimination

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In this July 15, 2011, file photo, Westchester County Executive Rob Astorino rails against the county's 2009 affordable housing settlement with the Department of Housing and Urban Development, and what he considers unfair demands from the agency. Despite rebukes from HUD, a court-appointed monitor, the U.S. Attorney's Office, and defeats in the District Court and the 2nd Circuit Court of Appeals, Astorino has not toned down his anti-settlement rhetoric. HUD has threatened to take away some \$7.4 million in federal funding due to Westchester communities because of longstanding disagreements over Westchester's implementation of the settlement. / The Journal News

to mention this, or the sustained applause it received.

Instead, the editorial accused me of serving up “muck,” with regard to the county’s affordable housing settlement with the federal government, and it listed as samples the following phrases: “grand experiment;” “lost constitutional rights and freedom;” “an ‘upside-down’ American dream;” and “a demand to build 10,768 housing units — with a \$1 billion housing bill.”

Let’s take them one at a time and readers can decide if my concerns are “chock full of hyperbole ... unsupported and drama laden,” as the editorial would have you believe.

- “Grand experiment”: Those were the words used by former HUD Deputy Secretary Ron Sims to characterize the settlement the day it was announced by my predecessor, Andrew Spano, and HUD in 2009. I say Westchester is our home — not a test tube. (The full quotation from Sims, according to Astorino Senior Assistant Philip Oliva: “I’m proud to be a part of this grand experiment and this settlement embodies that grand experiment and says that no matter where I am from I can live in a community of choice.” The quote has also been rendered thusly: “This is a grand experiment. At HUD, we believe this approach to equitable development can serve as a model of strong, accessible communities across the United States.” — Editor.)
- Lost constitutional rights and freedom: Under the home-rule guarantees of the New York state Constitution, zoning is the right and responsibility of local municipalities. Since the settlement went into effect, HUD has taken dead aim at dismantling local zoning.
- “Upside-down American dream”: If HUD is allowed to destroy local zoning, there will be no rules for what gets built on any street — not only in Westchester but across the United States. No rules for HUD means no rules for any developer. The notion of working hard to buy a home with a backyard and swingset only to wake up one day and have a high-rise next door is an American dream recognizable only to HUD.

HUD on zoning

The Journal News and the U.S. Department of Housing and Urban Development both have the misguided view that zoning and discrimination are the same things.

They are not. Zoning restricts how land is used, not who lives there. The impediment to where people live in Westchester is money, not race or ethnicity.

One of Westchester’s greatest strengths is its diversity. It is the fourth most-diverse county in the state — tied with Manhattan — in terms of African-Americans and Hispanics.

In my recent State of the County address, I repeated my pledge to “defend with every tool at my disposal the right of people to live anywhere in Westchester in any home they can afford” and that “there is absolutely no place for discrimination in our county.”

Curiously, The Journal News editorial of April 25 failed

HUD's intentions are clearly laid out in its letters to the county, which I strongly urge everyone to read on the county website at westchestergov.com.

In its letter of May 13, 2011, HUD demands that the county go "beyond the four corners of the settlement." In that same letter, HUD says that "at least 50 percent" of all county housing units — not just those in the settlement — "will have three or more bedrooms." It also tells the county to disregard environmental concerns as it considers "infrastructure barriers related to zoning such as the absence of sewer systems" to be exclusionary.

In its letter of March 13, HUD goes one step further by questioning whether our watershed, which protects New York City's drinking water "is having a discriminatory effect" on fair housing. It also considers single-family, quarter-acre lots as potentially discriminatory! Among its list of "restrictive zoning practices":

- "Limitations on the size of a development,"
- "Restrictions that directly or indirectly limit the number of bedrooms," and
- "Restrictions on lot size or other density requirements that encourage single-family housing or restrict multifamily housing."

Build 10,768 units?

And what about those 10,768 housing units? The number comes from a 2004 study by Rutgers University. Two years ago, the federal monitor assigned to the settlement began asking the county about the progress being made by all of Westchester's 43 municipalities in meeting their individual allocations of the 10,768 units. When we pointed out that the study was never adopted by the county or made part of the settlement, HUD wrote in its March 13 letter this year: "The Department disagrees."

The \$1 billion to build 10,768 units is just simple math. Most of the units currently under construction are one and two bedrooms with an average subsidy cost to the county of \$83,000 a unit. The cost jumps to \$132,000 for three-bedroom homeownership units. So the total cost to county taxpayers would be between \$900 million and \$1.1 billion.

Coming up with \$1 billion would require an immediate tax increase of about 200 percent. Financing would spread the pain over time, but would also add interest expenses of approximately \$300 million, which alone is six times more than the original settlement cost. Anyway you look at it, the cost is astronomical. And that's just county taxes. Local school and municipal taxes would rise as well to pay for additional services.

Having outlined HUD's ambitions, here's what the settlement actually calls for: The county is obligated to spend \$51.6 million to develop 750 units of fair and affordable housing in 31 so-called eligible or mostly white communities by the end of 2016. There are fines if the county fails to meet building benchmarks.

Ahead of schedule

The good news, also absent from the editorial, is that the county is ahead of schedule. Our current benchmark is to have 300 units with financing in place by the end of 2013. The county exceeded the mark in December and currently has 305 units in place with financing, of which 115 are already occupied. Over 91 percent of the required 750 units are already in the pipeline.

This could not have happened without the cooperation of our municipalities, or if the zoning in the 31 communities was exclusionary. Ask yourself this: If the county is ahead of schedule in building affordable housing in these communities, how can their zoning be exclusionary?

As I have said repeatedly, the county will fulfill all its legal obligations under the settlement. But HUD needs to play by the rules as well. So when Washington bureaucrats put our communities at risk by threatening local zoning and turning the dream of homeownership upside down, I say the muck stops here.

The writer, a Republican, is Westchester County executive.