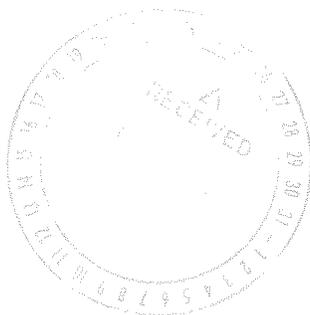


March 21, 2013

Mayor Peter Porcino
Village of Ardsley
507 Ashford Ave.
Ardsley, NY 10502



**United States *ex rel* Anti-Discrimination Center of
Metro New York, Inc. v. Westchester County, New York**

Dear Mayor Porcino:

During the course of the Monitorship, I have periodically called for assistance from municipalities as I discharge my duties as Monitor. Although these requests have been voluntary, most municipalities have responded and I have been appreciative of their help.

The Stipulation and Order of Settlement and Dismissal in this matter, dated August 10, 2009 (the “Settlement”), requires me to make findings and conclusions related to Westchester County’s analysis of municipal zoning codes, submitted November 21, 2012. Specifically, the County was required to determine whether elements of the zoning codes for each of the 31 eligible municipalities could pose impediments to fair housing. This letter forwards proposed factual findings concerning zoning in the Village of Ardsley, and is based on data obtained through public sources and is described in detail below.¹

I have engaged a team of experts, led by John Shapiro, Chairperson of the Pratt Center for Planning and the Environment, to aid in reviewing the County’s zoning submissions. In making its findings, the team reviewed data provided by the County for each municipality, including:

1. Charts detailing the presence and scope of the following six restrictive zoning practices: (a) restrictions that limit or prohibit multifamily housing development; (b) limitations on the size of a development; (c) limitations directed at Section 8 or other affordable housing, including limitations on

¹ The County’s zoning submissions are available on the Monitor’s website at (<http://www.westchesterhousingmonitor.org/zoning>).

such developments in a municipality; (d) restrictions that directly or indirectly limit the number of bedrooms in a unit; (e) restrictions on lot size or other density requirements that encourage single-family housing or restrict multifamily housing; and (f) limitations on townhouse development.

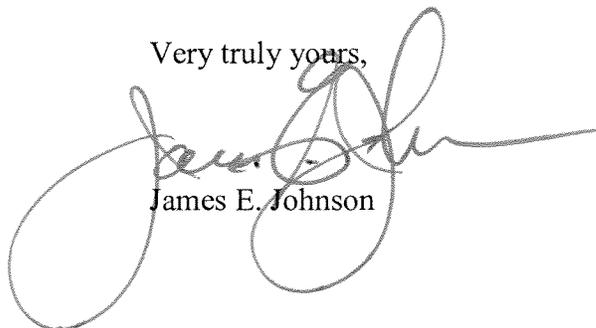
2. Maps and tables produced through Geographic Information Science (“GIS”) analysis of zoning districts that permit multi-family zoning as-of-right, including the amount of vacant developable land available in each district.
3. A “build-out” analysis of vacant land showing the theoretical number of multi-family units that could be built under current zoning constraints.
4. Estimates of the prevailing market rate for purchasing multi-family units based on data provided by the Hudson Gateway Association of Realtors, Inc.
5. Cost data based on multi-family units developed pursuant to the Settlement to date.
6. The presence of mandates and incentives for multi-family development and affordable housing in municipal zoning codes.
7. The presence of a streamlined process for approving housing development that includes affordable housing in the municipal zoning code.
8. The results of a survey conducted by the County on the number of affordable units constructed in the municipality since 2000.
9. Racial and ethnic demographic data for each zoning district.
10. The most recent master plan, where available.

Before reaching any final conclusions and engaging further with the County, I would appreciate receiving your input. This input could come in the form of additional relevant data or insight that might not have been considered. Additionally, if there are any inaccuracies in the findings, it would be of great help if you provided corrections and the factual basis for those corrections. Of course, we have a high degree of confidence in the information provided by the County and you need not reply at all.

To ensure that your response receives full consideration as we formalize our findings, please provide your response by April 18, 2013. Should additional time be necessary, please let me know promptly after receiving this letter, so that an alternative schedule can be considered.

Thank you in advance for your cooperation and please let me know if you have any questions or concerns.

Very truly yours,

A handwritten signature in black ink, appearing to read 'James E. Johnson', written over the typed name. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

James E. Johnson

Enclosure

INTRODUCTION

This report consists of a series of report cards for the municipalities covered by the Westchester Fair and Affordable Housing Settlement. Each report card assesses the municipality on the progress it has made in providing opportunities for affordable housing and the likelihood that it will complete a satisfactory number of fair and affordable housing units in a timely fashion. Each of the 31 eligible municipalities is addressed separately, in alphabetical order. The report provides a narrative discussion and a tabular fact sheet for each municipality. This introduction describes the organization and methodology used in the report.

Narrative Description

Each narrative description is organized in the same manner. After a brief, one-paragraph overview, a series of factors are analyzed, in bulleted list format. They are as follows:

Model Zoning and County Benchmark

The first consideration is whether the municipality has adopted the Westchester County Fair and Affordable Housing Model Ordinance or its close equivalent and incorporated it into its zoning ordinance. The model ordinance includes a definition of *affordable housing*, a mandate for affordable housing applicable throughout the municipality (i.e., for each residential development, at least one out of ten units will be affordable), incentives for affordable housing development, requirements regarding the appearance and integration of the affordable units relative to the market-rate units, floor area and occupancy standards, requirements for continued affordability, and requirements for an expedited review process.

The second criterion consists of the municipality's record regarding the County's unadopted Fair and Affordable Housing Allocation Plan of 2005. The plan assigned a benchmark allocation of affordable units to each municipality. The report states the number of affordable units assigned to the municipality, the number that have been built in the interim and the outstanding benchmark. By "built in the interim," the report means housing units that have been completed, started but not yet completed, or approved by the municipality as part of a development plan but not yet constructed.

Zoning Ordinance

Each report card then addresses aspects of the municipality's zoning ordinance, stressing the types of housing that are allowed. The primary consideration is whether multifamily housing is allowed as-of-right, and in how many zoning districts. Two-family housing, mixed-use development (i.e., residences above stores) and accessory housing units are also addressed. Although the report mentions where these housing types are allowed by special permit, the evaluation is concerned exclusively with housing types that are allowed as-of-right. Requirements for the granting of special permits or the

mapping of floating zones entail the possibility of dilatory review processes, with uncertain outcomes.

Restrictive Practices

These may include --

- Restrictions that limit or prohibit multifamily housing development;
- Limitations on the size of a development;
- Limitations directed at Section 8 or other affordable housing, including limitations on such developments in a municipality;
- Restrictions that directly or indirectly limit the number of bedrooms in a unit;
- Restrictions on lot size or other density requirements that encourage single-family housing or restrict multifamily housing;
- Limitations on townhouse development;
- Prohibitions against mixed-use development or accessory housing units; or
- Age restrictions.

Incentives and Mandates

The narrative then addresses whether the municipality provides mandates and incentives for affordable housing. It discusses whether the mandates are provided for all new residential development in the municipality, or whether the mandates apply only in certain locations or for certain types of housing. It describes the nature of the mandate (e.g., at least ten percent of the housing units, at least 20 percent of the housing units or at least 15 percent of the density units). With regard to incentives, these may include density bonuses (such as additional housing units, density units or floor area ratio), relaxation of minimum lot area or unit size restrictions, relaxation of height or bulk regulations, relaxation of off-street parking requirements, waiver of fees or expedited review. As with mandates, incentives may apply generally or only in certain locations or for certain types of housing.

Zoning Map, Development Pattern and Development Potential

The narrative then reveals the number of areas in the municipality where zoning districts allowing multifamily housing as-of-right are mapped. Using acreage figures provided by the County Planning Department for the municipality as a whole and for those mapped districts (determined through Geographic Information Systems, or GIS), the percentage of the municipality's land area zoned for as-of-right multifamily housing development is calculated. Similarly, also using GIS data provided by the County, the narrative reveals the percentages of the municipality's land area that are currently developed with multifamily and with two-family housing. The development potential within districts allowing multifamily housing as-of-right is also revealed, based on maps and calculations provided by the County Planning Department. This consists of the number and size of available development sites within those districts and the County's calculation of the number of housing units that the sites can accommodate. For this purpose, available

sites are those consisting of open land that is not underwater, part of a park or nature preserve, or part of a transportation or utility right-of-way. Available land includes the two Westchester GIS land use categories “vacant” and “agricultural.” To be considered a development site, a lot must meet the zoning district’s minimum lot size requirements, but adjacent lots that can be combined to form a large enough site are also counted, whether or not they are currently under common ownership.

Two other factors that can affect FAH development potential are also considered. One is multifamily housing value. The average market-rate selling price of a condo unit in the municipality is compared with the average development cost per condo unit. The average price is determined by realtor data. If sufficient data are not available for the municipality, regional values are used, employing the County’s definition of North, Central and South for what is meant as region, and calculating weighted averages from the available data for each region. The order-of-magnitude per-unit development cost is an average figure for the County, provided by the County Planning Department, of \$375,000. Where housing values are well above development costs, multifamily housing development on the available sites would be lucrative, and with the right zoning incentives mixed-income development (including affordable units) can be expected, without the need for financial subsidies. Where housing values are below development costs, affordable housing development, even in mixed-income developments, would be limited even with zoning incentives, absent subsidies.

The other factor is racial composition. To comply with the Settlement, a racial analysis must be conducted at the census block level. High concentrations of people of color will disqualify a site for FAH development. Where 2010 census data show relatively high concentrations of Black and Hispanic residents in the areas where multifamily housing is permitted as-of-right, attention is drawn to this possibility.

Master Plan

The municipality’s most recent master plan or comprehensive plan is briefly discussed with regard to recommendations for affordable housing.

Implications

The narrative concludes with a summary of the implications that the previously discussed factors will have for the municipality’s ability to satisfy its benchmark FAH allocation.

Fact Sheet

Following the narrative discussion and evaluation, a tabular fact sheet is presented for the municipality. The format is as follows:

- a. Total acreage of the Village. This information is supplied by the County Planning Department.

- b. Total acreage in zoning districts where multifamily housing is permitted as-of-right. This information is supplied by the County Planning Department.
- c. Undeveloped area in these zoning districts. This consists of the area in lots that are vacant or agricultural land. The acreage is provided in total and by zoning district. The information is provided by the County Planning Department.
- d. Undeveloped area not subject to wetlands, floodplain and steep slopes. The acreage is provided in total and by zoning district. This information is provided by the County Planning Department.
- e. Order of magnitude area available for development. A build-out factor of 80 percent is applied to the acreage in d to account for irregular site configuration, setbacks, building form restrictions, and the like. The acreage is provided in total and by zoning district.
- f. Number of sites available for development. This is the number of undeveloped lots that are large enough, either individually or through assemblage of adjacent lots, to satisfy the district's minimum lot size requirements. The number is provided in total and by zoning district. The information is provided by the County Planning Department, along with maps showing the locations of the sites.
- g. Average size of sites. This information is provided by the County Planning Department.
- h. Theoretical number of multifamily units that can be developed as-of-right. The number is provided in total and by zoning district. The calculation is made by the County Planning Department.
- i. Average selling price for multifamily (condo) units. The average price is determined by realtor data. If sufficient data are not available for the municipality, regional values are used, employing the County's definition of North, Central and South for what is meant as region, and calculating weighted averages from the available data for each region.
- j. Order of magnitude value for land, per condo unit. This information is provided by the County Planning Department.
- k. Order of magnitude total cost of development, per condo unit. This is an average figure for the County, provided by the County Planning Department, of \$375,000.
- l. Percent minority population in the municipality. This information is from the 2010 census data.
- m. Percent minority population in the zoning districts permitting multifamily housing as-of-right and containing available development sites. This information is provided by the County Planning Department.
- n. Number of units needed to meet the 2000-2015 Allocation Plan benchmark as of 2012. The County provided the benchmark allocation for the municipality, as well as the number of FAH units constructed or approved since 2000. The difference is the number of units still needed to meet the benchmark.