



TARRYTOWN-ON-HUDSON

One Depot Plaza, Tarrytown, New York 10591-3605

Mayor
DREW FIXELL
Deputy Mayor
THOMAS T. BASHER

Trustees
THOMAS BUTLER
ROBERT HOYT
MARY McGEE
REBECCA McGOVERN
DOUGLAS ZOLLO

VILLAGE ADMINISTRATOR
914-631-1785
VILLAGE TREASURER
914-631-7873
VILLAGE CLERK
914-631-1652
VILLAGE ENGINEER
914-631-3668
DEPT. OF PUBLIC WORKS
914-631-0356
FAX NO. 914-909-1208

April 17, 2013

Mr. James E. Johnson, Esq.
Debevoise & Plimpton LLP
919 Third Avenue
New York, New York 10022

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

Dear Mr. Johnson:

Reference is made to your letter of March 21, 2013 to Mayor Drew Fixell which includes an analysis of the Village's Zoning Code and a "report card" on the progress of the Village of Tarrytown in providing fair and affordable housing units in the Village. I would like to address some general issues in regards to the letter and report card, an error in the analysis noted as "Restrictive Practices" and will further address what it believed to be a major flaw in the analysis performed and included in the report card.

I would first like to note that the Village of Tarrytown has long been a proponent of housing that addresses the needs of people regardless of race or economic status. An analysis of the full variety of housing in the Village evidences the Village's commitment to a housing mix that supports a diverse population.

The settlement relating to the above captioned matter is between the Department of Housing and Urban Development and Westchester County. The Village of Tarrytown is not a party to the settlement and the Village has no specific obligations pursuant to the settlement. The report card refers to the 2000-2015 Allocation Plan benchmark as of 2012. The numbers included in this allocation plan are not allocation numbers established by the Village and there is no official status established by the County or the Village to these allocation numbers.

The report card includes a section called "Restrictive Practices" and notes that there is a restrictive practice in the Historic Commons (HC) district. The report card states, "multifamily development is only permitted in existing buildings..."; however, the Zoning Code actually states, "Multifamily residence in existing or new building(s)...".

In the report card, under the heading "Zoning Map, Development Pattern and Development Potential", there is

Mr. James E. Johnson, Esq.
April 17, 2013
Page 2

a statement which notes:

With an estimated average price of \$650,000 per condo unit, housing values are high enough to make multifamily housing development attractive. Density incentives and the high market-rate housing values should be sufficient to spur mixed-income development, without the need for financial subsidies.

The Village believes that the condominium values included in this statement and the conclusions associated therewith are incorrect. The Village Attorney specifically reviewed this value statement and his analysis is included herewith below.

I (Village Attorney) have reviewed the letter and analysis submitted by the Federal Monitor with respect to the Village of Tarrytown and the issue of affordable housing. In reviewing the report, I analyzed a key point made by the monitor which is that "...with an estimated **average price of \$650,000** per condo unit, housing values are high enough to make multifamily housing development attractive." (See pgs. 6, 7 and 8 of Report) The Monitor's report concludes that the average price of a condominium in the Village of Tarrytown is \$650,000 based upon "...(r)egional value employed where data was not provided for the municipality, employing the County's definition of North, Central and South for what is meant as region. Weighted averages were calculated using available data for each region." (See pg. 9 of Report Card).

I have researched the latest real estate values available for the Village of Tarrytown and Westchester County. First of all, the \$650,000 average price value for a condominium in the Village of Tarrytown as asserted by the Federal Monitor has no basis in fact. Secondly, the use of the "average price" distorts the facts, incorporating new and "high-end" developments in the calculation. The more accurate way to ascertain the price of condos is the median price, where the 50th percentile sale – half are more, half are less - is used to establish and review the facts and circumstances of the market. Using the median reduces the effect of dramatic outliers – both high and low – on the data, which will distort any "average".

The latest data on the real estate market as reported by the Journal News on April 10, 2013 indicates that there was a home sales surge in the first quarter of 2013 and that the median price for a single family house in Westchester County was \$515,000 (a 2 percent increase over 2012). ZipRealty reported a higher mean value in 2012 for a single family home for all of Westchester County at \$619,000 and reported that in 2012 condominium median values of \$338,000 (a 3 percent decline from 2011). These median values were also reported on July 12, 2012 by Westchester.com News (whose data is derived the Multiple Listing Data Service) and not only are condominium median values posted at \$338,000 per unit as the median price in the County but, cooperative units had an median price of \$156,250. All the above values are substantially lower than the values reported in 2009 for Westchester County by "City-data.com" which reported that the median price for detached homes in 2009 for Westchester County was \$776,277. Significantly, even at the height of the market as reflect in the 2009 values, condominiums were never valued at \$650,000 - for example, the median price for a townhouse was \$513,731, a condo in a 2-unit structure was \$467,799, a condo in a 3-4 unit structure was \$337,584 and a condo in a 5 or more unit structure was \$275,247. Furthermore, in all reported information, the median price of a condominium is significantly lower than a detached single family home; therefore, for it to be asserted that condominium prices are higher, on its own, indicates that the statement is fundamentally flawed.

I further analyzed the data which was available for the Village of Tarrytown as reported by Trulia.com and the Zillow Home Value Index. Trulia.com states that the average listing price for a single family home in the Village of Tarrytown is \$561,082 and that the median sales price for a single family home is \$525,000. This

Mr. James E. Johnson, Esq.
April 17, 2013
Page 3

data is based upon the first quarter of 2013. The median sales price one year ago is noted as \$467,000 and five years ago is noted as \$575,000. The Zillow home value index for the Village of Tarrytown states that the current 2013 value of "all homes" average \$416,600. Given that these median sales price values indicate that the median price for a single family home in the Village of Tarrytown is comparable to the reported median price for the whole County of \$515,000, the value of the median average price of a condominium should be at least comparable to the County mean (as reported in 2012) of \$338,000 (which was based on the high end finding that the mean for a single family house was \$619,000).

Additionally, it should be noted that a large proportion of condominiums are former rentals and found in multi-unit structures. As noted in the 2009 value analysis, these types of units generally have a lower per unit value than those found in 2 or 3 unit buildings or town homes.

It should also be noted that using "regional data" to apply to any area in Westchester is fundamentally flawed. Westchester County is an exceptionally diverse county, especially when it comes to its property values for developable land. Accordingly, the costs to develop affordable housing units can vary dramatically, and can even be shown to be unprofitable.

This also points out another flaw in the Federal Monitor's assertions, which is the "average" per-unit development cost in Westchester County of \$375,000. Again, this is a circumstance where the use of the median development cost would prove to be more informative, but local information – local development cost, addressing the local price of developable land, against local median selling prices for condominium units (stratified by bedroom count), would be a more accurate measure.

Again, the need for a more detailed and accurate analysis points out another flaw in the Federal Monitor's assertions. The use of a purported "average" makes no attempt to explain the data used, stratified by what I believe to be important criteria: the number of bedrooms in each unit; the square footage of each unit; the features in each unit/development, and so on. It is fundamentally inaccurate, and unfair to the municipalities subject to this, to include units which are "condominiums in name only" - because of legal organization/development reasons, etc. Without removing the condominium units from the data sample that are fundamentally different from what would be built in a development that would incorporate affordable housing, it is not possible to develop a conclusion on the profitability of affordable housing in any one particular municipality in Westchester.

In conclusion, there is no empirical basis to conclude that the median average price for a condominium in the Village of Tarrytown is \$650,000; the \$650,000 average value exceeds the median price for a single family detached home for both the County and the Village and is roughly two times the actual median price of a condominium in the Village.

Should you have any questions or comments regarding the response from the Village of Tarrytown, please do not hesitate to contact me.

Very truly yours,



Michael S. Blau
Village Administrator