



Robert P. Astorino, Westchester County Executive

HUD's Overreaching Goes Far Beyond the Terms of the Housing Settlement

By Westchester County Executive Robert P. Astorino

The Journal News editorial of July 18 "Astorino Shirks Housing Duty" could not be more wrong. It is precisely because I take my responsibilities as county executive seriously that I felt duty bound to draw the line on the Department of Housing and Urban Development's unprecedented, unwarranted, and unhelpful overreaching with respect to the federal housing settlement.

Westchester's fair and affordable housing settlement with the federal government was approved in 2009 by my predecessor Andrew Spano and the Board of Legislators. As a candidate for County Executive, I opposed the settlement based on many of the concerns that are now proving true with haunting effect.

But upon becoming county executive in January of 2010, it became my responsibility to carry out the county's obligations under the settlement. To that point, I am extremely proud of the progress made by the county to date.

The county is about a year ahead of schedule when it comes to meeting the housing settlement's fundamental benchmark: building 750 units in 31 so-called "eligible" or mostly white communities over seven years. The county has 164 units approved by the federal housing monitor. Of these, 154 units have all their financing in place and 107 have building permits. Under the settlement, the county needed only to have financing in place for 100 units and building permits for 50 units by the end of 2011. The county has an additional 102 units in the pipeline awaiting approvals.

This progress is a direct result of the county's approach to work cooperatively with local municipalities. So far, the county has conducted more than 300 meetings with local officials, developers and nonprofit agencies, all with the goal of building consensus, avoiding litigation, and fulfilling the settlement's requirements.

So the issue is not Westchester County's compliance. The issue is HUD's backdoor attempts to force Westchester County to take actions that are **not** in the settlement, that are beyond the county's legal authority and financial means and that threaten the progress made to date.

By its own admission, HUD is demanding that the county go beyond the "four corners of the settlement." Such a demand is unacceptable. The settlement is a fully negotiated contract. HUD has no right to add new requirements.

There are a number of requirements in the settlement that I don't like. For example, I don't think it makes any sense for Westchester to be required to spend a large portion of the settlement's \$400,000 advertising budget to market the housing units to people who live outside the county when

there are more than enough Westchester residents who qualify. I also think the restrictions on seniors moving into the units go too far, hurting a group in particular need of affordable housing. There are also prohibitions on local workforce housing with preferences for police, firefighters, teachers and volunteers. But because the settlement is a legally binding agreement, you live with what's in it.

HUD's approach is to unilaterally move the goalposts in the middle of the game. Its technique is to repeatedly reject a routine document called an Analysis of Impediments (AI). The settlement calls on the county to submit an AI that's "acceptable" to HUD. The purpose of the AI is to outline obstacles to fair housing choice, which the county has done. Prior to the settlement, HUD had never rejected an AI by the county. But, now we are up to five rejections.

HUD is clearly using the AI to try to expand the terms of the settlement from a straight-forward stipulation to build housing into an open-ended, Utopian integration order, which HUD then plans to use as a model across the country.

The fundamental problem is that the facts, the law, economics, plain common sense, and the settlement itself don't support HUD's ambitions.

In its rejection letters to the county, HUD accuses Westchester of having a "long history of segregation." But it offers no proof, nor is there any finding of fact or admission by the county in the settlement. None.

What is true is that Westchester County, according to the most recent 2010 census, is one of the most diverse places to live in the United States.

- Westchester is the fourth most diverse county in New York, behind Brooklyn, Queens and the Bronx, tied with Manhattan, and ahead of Staten Island.
- If Westchester were a state, it would be the 7th most diverse in terms of Hispanic representation and the 14th most diverse in terms of African-American representation.

Critics say that while Westchester is diverse, its African-American and Hispanic residents are not evenly distributed throughout the county. True, but why? The forces at work here are economic – not racial discrimination. Proof is in the fact that without any help from the settlement, the Hispanic population of every municipality in Westchester increased over the last 10 years.

People have the right to live anywhere they like in Westchester and it's a right I stand ready to enforce to the full extent of the law. Where people live depends on the home they can afford. There are lots of homes in Westchester I would like to own, but can't afford. That's not discrimination. That's economics.

Money aside, people move to communities where they have family ties, social networks, transportation to get them to work, and a host of other factors on which they calculate future happiness and success. In large measure the housing patterns of our country have been built around the clustering of ethnic groups who came together to form support systems, maintain cultural traditions and accumulate political power. Witness America's history of Chinatowns, Little Italys, and other ethnic enclaves.

But HUD sees a great social ill in this, which it calls de facto segregation and is trying to use the settlement to cure it. Unfortunately and wrongly, HUD is only too willing to throw away common sense and trample on individual rights in its quest for bureaucratic social perfection.

Evidence of HUD's overreach includes the following unjustified demands:

- That the county dismantle local zoning laws, a power HUD knows full well the county does not possess as New York is a home rule state. The "specific zoning practices which must be addressed" include limitations on the size, type and number of developments in a community; lot size and density; and the number of bedrooms in a unit. In other words, all zoning. Communities will be given 90 days to enact changes and the county is required "to take action to counter community opposition," which of course raises a host of First Amendment issues.
- That half of the required 750 units have three bedrooms. This demand will dramatically increase costs from the allocated \$51.6 million to almost \$100 million. The additional cost is equivalent to an 8 percent increase in the county property tax levy.
- That the selected sites be in "above average" school districts, a term it does not define and arguably applies to every school district in the county. For example, the graduation rate for the worst performing public high school in Westchester is above average when ranked on a statewide basis.
- That the county investigate and regulate the lending practices of banks and get involved in loan modification efforts, activities that clearly go beyond the county's expertise and regulatory powers.

Why has this all come to a head now?

In rejecting the AI on July 13, HUD cancelled about \$7 million in funding that goes to the county and local municipalities. The consequences are both serious and bitterly ironic. Communities like Peekskill, Port Chester, Mount Kisco and Ossining, which are not part of the settlement, will be hardest hit from the loss of funding; and 18 county workers, including those responsible for implementing the settlement, will lose their jobs in August.

I went public earlier this month to make sure everyone was aware of the full consequences of HUD's actions to try to force the county to accept the unacceptable.

On Wednesday, I will meet in Washington with HUD Secretary Shaun Donovan. My hope is that as reasonable people we can work through our differences in ways that will benefit our county and nation. Whatever the outcome, I will be there to carry out my full responsibilities as County Executive and to protect the interests of the county and all its residents.