



**U.S. Department of Housing and Urban Development**  
New York State Office  
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New York, New York 10278-0068  
<http://www.hud.gov/local/nyn/>

April 27, 2012

Honorable Robert P. Astorino  
County Executive  
Westchester County  
148 Martine Avenue  
White Plains, NY 10601

Subject: *Notice of Rejection of FY2012 Action Plan Certification*  
*Disapproval of FY2012 Action Plan*

Dear Mr. Astorino:

The Department has reviewed Westchester County's April 26, 2012 letter, submitted in response to HUD's April 20, 2012 letter (the "Notice") notifying the County of HUD's intent to reject the County's FY 2012 certification that it will affirmatively further fair housing ("AFFH"). As stated in the Notice, the County's July 11, 2011 analysis of impediments to fair housing choice submission ("AI") remains unacceptable to HUD and, therefore, provides insufficient evidence to support the accuracy of its AFFH certification.

The Notice incorporated by reference the April 20, 2012 letter by HUD's Office of General Counsel (OGC) reviewing the County's February 29, 2012 submission entitled "Review and Analysis of Municipal Zoning Ordinances in Westchester County" (the "Zoning Submission"). The OGC letter provided the County with detailed comments and corrective actions that need to be addressed in the AI, as amended by the Zoning Submission, in order for the County to support the accuracy of its AFFH certification with respect to the County's plans to overcome exclusionary zoning practices.. The County's April 26, 2012 letter does not indicate whether the County will comply with the corrective actions identified by HUD. In addition, the extent of the County's compliance regarding its obligation to promote source-of-income legislation pursuant to paragraph 33(g) of Stipulation and Order of Settlement and Dismissal entered in *United States ex rel. Anti Discrimination Center of Metro New York v. Westchester County* (the "Settlement") is the subject of pending litigation. In its April 26, 2012 letter, the County requested an additional 30 days to respond to HUD's April 20, 2012 letters. However, in accordance with 24 CFR 91.500, HUD must notify a jurisdiction that a plan is disapproved before HUD's 45-day review period expires. HUD received the County's plan on March 15, 2012, and the Department cannot delay notice of disapproval for an additional 30 days.

Therefore, HUD is rejecting the County's AFFH certification as inaccurate and, in accordance with 24 CFR 91.500, is disapproving the County's FY 2012 Action Plan as substantially incomplete. This notice applies to all Community Planning and Development ("CPD") formula programs covered by the County's FY 2012 Action Plan submission. Accordingly, this letter sets forth the reasons for disapproval and actions the County can take to meet the criteria for approval (24 CFR 91.500).

Based on the County's actions thus far in refusing to provide an acceptable AI, the Department has determined that further assurances will be required before HUD will find the County's AFFH certification to be accurate and satisfactory. On the matter of overcoming exclusionary zoning practices, the Department expects the County to move quickly to comply with the corrective actions specified by HUD in the OGC Letter to produce an acceptable AI. Further, since the source-of-income issue is still before the Court, HUD seeks assurance that the County will abide by any ruling of the District Court and amend its AI to reflect the Court's decision.

These assurances must, at a minimum, provide that:

- Westchester County will develop a plan to overcome exclusionary zoning practices within the eligible municipalities which will consist of:
  - Identification of local zoning practices that are having exclusionary impacts, or fail to take into account regional housing needs, in compliance with HUD's Office of General Counsel's letter of April 20, 2012.
  - Development of a process for notifying municipalities of zoning issues that hinder the county's obligations under the Settlement and changes that must be made, and if not made, the consequences of municipalities' failure to make them;
  - Development a process to involve municipal decision-makers in consultation regarding changes in zoning and land use restrictions;
  - Description of how these requirements will be included in future contracts or other written agreements between the county and municipalities; and
  - Identification of the types of zoning practices that would, if not remedied by the municipality, lead the county to pursue legal action.
- The County will seek technical assistance from HUD in the development of its plan to overcome exclusionary zoning practices .
- The County will submit a plan to overcome exclusionary zoning practices consistent with the terms above to HUD by no later than July 1, 2012.
- The County will incorporate the plan to overcome exclusionary zoning practices into its AI.
- The County will abide by any ruling of the District Court for the Southern District of New York on the matter pending review of the Magistrate's decision on source-of-income legislation and, upon receiving such ruling, update its AI as appropriate to describe the County's plans to promote such legislation consistent with the ruling.

Upon provision of these assurances by the County, HUD expects to be able to approve both the FY2011 and FY2012 annual action plans and allow the block grants for these years to go forward.

If you have any questions please have the appropriate person contact me at (212) 542-7428.

Sincerely,



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Director

Community Planning and Development