

Putting CDBG Recipients “On Notice”

by Rob Breymaier and Justin Massa

On September 22, Westchester County’s Board of Legislators voted to approve a landmark settlement to foster racial integration throughout the county. Meanwhile, it is likely that most, if not all, of the 1,200+ states, counties and municipalities across the country that receive Community Development Block Grant (CDBG) funds are revisiting their housing and community development plans and procedures.

The *Anti-Discrimination Center of Metro New York v. Westchester County* settlement requires Westchester to make up for years of neglect regarding the affirmative furthering of fair housing—namely, addressing the impediments to fair housing choice that perpetuate segregation. As HUD’s Deputy Secretary Ron Sims noted during the press conference announcing the settlement, after nearly a decade of lax federal oversight, communities around the nation are now “on notice.”

The case makes clear that recipients of federal housing and community development funds “must comply with, *inter alia*, the provisions of the Housing and Community Development Act, including the requirement that it affirmatively further fair housing,” which it goes on to define as *pro-integrative housing policies*. Long ignored and often misunderstood, affirmative furthering of fair housing has always been about promoting, fostering and

sustaining integration in the housing market.

The case could not be more timely. While a significant victory for fair housing and integration advocates, the *Westchester* settlement is small in comparison to the benefit that proper regulations from HUD on the duty to affirmatively further fair housing may provide. Regulations currently being drafted by HUD staff are slated to be published for public comment within the next few months.

Regulations regarding the affirmative furthering of fair housing are vague, process-oriented, unaccountable and thus largely ineffective.

To understand the potential implications of the settlement and new regulations, take a look at the numbers. Under the settlement, Westchester County will spend roughly \$50 million on affirmatively located affordable housing developments over the next five years. Annually, HUD allocates over **\$20 billion** nationally to affordable housing through CDBG, HOME, Section 8, voucher and public housing funds. Billions more dollars in Low-Income Housing Tax Credits are used annually to finance affordable housing programs. These funds have rarely received an affirmative analysis.

Currently, regulations regarding the affirmative furthering of fair housing are vague, process-oriented, unaccountable and thus largely ineffective. Updating them to require measurable actions with targeted outcomes, subject to oversight and review, would result in powerful positive impacts. We believe these regulations should:

1. Provide a strong definition of affirmative furthering of fair housing as housing policies that

promote integration of those protected by the Fair Housing Act. Recipients must show they will develop new affordable housing in a manner that expands housing options for protected persons, particularly geographic expansion to high-opportunity communities with plentiful jobs, good schools and quality services.

2. Require that Analyses of Impediments and Fair Housing Action Plans address systemic and structural barriers to fair housing choice. In Analyses of Impediments, recipients should be required to address how current patterns of segregation and points of resistance to diversity and integration—such as municipal zoning, industry practices and popular (mis)perceptions—limit housing choices and integration. Recipients’ Fair Housing Action Plans must address measurable actions with specified goals to overcome these impediments.
3. Afford MPOs (Metropolitan Planning Organizations) with the resources and authority to determine regional priorities and disparities regarding affirmative furthering of fair housing. Overlapping local and state recipients should be required to cite these regional issues in their analyses and plans.
4. Clearly state that all federal community development funds should promote regional equity and greater opportunity in disinvested areas. Strategically spending economic, education and infrastructure dollars to increase opportunity in disinvested areas will balance regional development and enhance the quality of life for everyone.
5. Improve transparency and accountability by compelling recipients to post their plans online,

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hold them open for public comment, and engage the community in the planning process. These are key components of the Obama Administration's commitment to good government and will reduce the oversight burdens on HUD by empowering local fair housing advocates

with critical information.

Forty-one years after its passage, we now have a chance to realize the full promise of the Fair Housing Act. HUD's forthcoming affirmative furthering regulations will determine the future of our metropolitan regions, and we hope that the drafters within HUD are taking the time and care to get them right. While many in the fair housing community are anxious to see progress,

the implications of these new rules are simply too large to rush them. With more than \$20 billion annually at stake, these new regulations will determine if we will begin to actively promote fairness and regional equity or continue to segregate opportunity along racial and economic lines.

For more information on the Westchester case, go to www.anti-biaslaw.com □

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more recent neoliberal policies that saw the public sector support investment-driven real estate development, first by ignoring their own planning departments, which identified ways to sustain existing housing, and second by moving ahead on "glamorous" projects such as entertainment complexes that demolished buildings and displaced tenants. In 1996, two organizations formed in Boyle Heights, across the Los Angeles River from downtown. One formed initially to fight against the HOPE VI public housing redevelopment program when the Housing Authority slipped eviction notices under the doors of tenants who wanted to stay where they were. A second became a community developer of affordable housing and subsequently added an organizing division to challenge gentrification. Both groups—Union de Vecinos and East Los Angeles Community Corporation—belong to the L.A. Right to the City region. Union de Vecinos continues to mount actions to take back the streets and alleyways, forcing the city to pay attention to safety and survival issues of existing residents even as a new mass transit line led to demolishing existing dwellings.

● In Koreatown, west of downtown Los Angeles, overseas investment had turned commercial areas into a hot

market, and this was followed by the construction of luxury condominiums and mixed-use development. Although the financial crisis has led to a slowdown, the Koreatown Immigrant Workers Alliance (KIWA) continues

RTTC highlights the national and international dimensions of local challenges.

to fight to protect the mainly immigrant tenant population from being displaced and losing jobs. Over the past six months, the tenant leaders from these organizations have been waging a joint campaign to preserve affordable housing, using participatory action research and training tenant leaders who have been surveying their neighbors in order to document deteriorating conditions. Women and men from the Latino, Korean and South Asian communities have been exchanging ideas and are moving towards issuing their own housing report, as distinguished from the Mayor's, which they feel will underserve poor people.

● New York City's Right to the City regional formation emerged in 2007 from an existing coalition of anti-gentrification community-based organizing groups. The chapter's membership-based groups are working on individual and interconnected campaigns, and each shares a strong focus on the leadership development of their respective and collective membership base. For example, Fabulous Independent Educated Radicals for Community Empowerment (FIERCE), an

LGBTQ youth of color member-group, is organizing for the right to public space by opposing the privatization of NYC's waterfront and campaigning for a youth-led community center on Pier 40 in the West Village. FIERCE has played a key role in organizing youth-led forums to promote and support youth leadership in RTTC at both the local NYC and national levels.

● Picture the Homeless is also one of RTTC-NYC's nearly 20 base-building groups. It was founded in 1999 by homeless people, in the midst of New York City's war on poor and working-class people of color. Seeking justice and respect, the organization is led by the homeless and is intent on stopping the criminalization of homeless people. They organized a series of direct actions in 2009, including the occupation of a vacant building and the orchestration of a tent city on a vacant land parcel in East Harlem. The land is owned by JP Morgan Chase, a firm that received billions of dollars in public TARP funding. The organization's "housing, not warehousing" campaign calls for the conversion of vacant buildings to affordable housing for homeless and low-income NYC residents.

● This year, RTTC-NYC issued a platform directed at upcoming city-wide elections. Through a participatory and unifying process involving member organizations and allies, the local Alliance identified six issue areas and related demands: Federal Stimulus Funds; Community Decision-Making Power; Low-Income Housing; Environmental Justice & Public

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