

ANTI-DISCRIMINATION CENTER, INC.

“ONE COMMUNITY, NO EXCLUSION”

April 17, 2014

Hon. Denise Cote
United States District Judge
500 Pearl Street
New York, New York 10007

Re: U.S. ex rel. Anti-Discrimination Center v. Westchester County, 06-CV-2860

Your Honor:

As you previously affirmed in 2012, “Until parties to [a consent decree] have fulfilled their express obligations, the court has continuing authority and discretion -- pursuant to its independent, juridical interests -- to ensure compliance.” *U.S. ex. rel. Anti-Discrimination Center v. Westchester County*, Order and Opinion of May 3, 2012 (Doc. 402, p. 17), quoting *E.E.O.C. v. Local 580, Int’l Ass’n of Bridge, Structural and Ornamental Ironworkers*, Joint Apprentice-Journeyman Educ. Fund, 925 F.2d 588, 593 (2d Cir. 1991).

Because defendant Westchester County continues to defy its obligations pursuant to Your Honor’s order of August 10, 2009 (“the consent decree”), and because neither the Government nor its Monitor has been prepared to keep the court properly informed about defendant’s misconduct,¹ let alone vindicate the integrity of the consent decree by seeking to hold defendant in contempt for its multiple violations of that decree, the Anti-Discrimination Center (ADC) feels constrained to bring the relevant facts to your attention in the hope that you will exercise your independent, juridical interest to see that the consent decree is enforced. I have attached a copy of our just-issued report, entitled “Cheating on Every Level.” Among the findings:

(1) Westchester has improperly fomented opposition to your order -- the county executive in his campaign literature, for example, depicted dark and threatening clouds over a Westchester town with an apartment building suffocating single-family homes, with the headline, “Don’t Let the Federal Government INVADE Tarrytown” (the theme of “invasion” is, of course, a traditional method used to stoke racial fears).

(2) Westchester has never developed a decree-compliant implementation plan, thereby giving itself more leeway to spend money on inappropriate sites that did not AFFH.

(3) Most development sites have been isolated or otherwise undesirable.

(4) When counting only units appropriate to the consent decree, Westchester is over two-thirds (more than 200 units) behind the development obligations it had by the end of 2013.

¹ Indeed, it appears that the Monitor has not yet filed the biennial report on Westchester’s performance that was due pursuant to Consent Decree, ¶ 15 on December 31, 2013.

(5) Westchester has refused, across-the-board and regardless of circumstance, to meet its obligations to use all means necessary to overturn restrictive municipal zoning.

(6) The County Executive, in an audiotaped conversation that came to be published, was urged by a supporter to defy the federal government. “Well, I’ve been doing that,” Mr. Astorino replied. The County was “holding our ground” on zoning. “Oh my God,” he said a moment later, “I’m not yielding an inch to these guys.”

(7) Westchester has failed to have the ending of de facto segregation be a goal of its housing policies and programs.

(8) Westchester has never submitted an analysis of impediments that is satisfactory to HUD.

You may recall that, at an initial hearing on ADC’s motion to enforce and to intervene almost three years ago, the Assistant United States Attorney said:

[T]he premise of much of ADC's papers are essentially that the County has failed to meet certain obligations, the government and monitor together has failed to enforce that. *I would anticipate by the middle of July, both because of the AI and I believe because of the progress of the implementation plan, that those premises may be undercut*” (emphasis added).²

Well, July 2011 has long since come and gone; the premises have, sadly, not been undercut; and noncompliance continues unabated. ADC is not by this letter seeking to intervene in this case, but pointing out that the importance of upholding the rule of law means that someone must take the initiative in holding Westchester accountable for *each and all* of its violations of a binding federal court order.

Respectfully submitted,

[Signed]

Craig Gurian
Executive Director

cc: Robert F. Meehan, Counsel for Defendant
David J. Kennedy, Assistant United States Attorney
James E. Johnson, Monitor
(all via email)

² Transcript of proceedings, June 7, 2011, p. 9.