

ANTI-DISCRIMINATION CENTER, INC.

“ONE COMMUNITY, NO EXCLUSION”

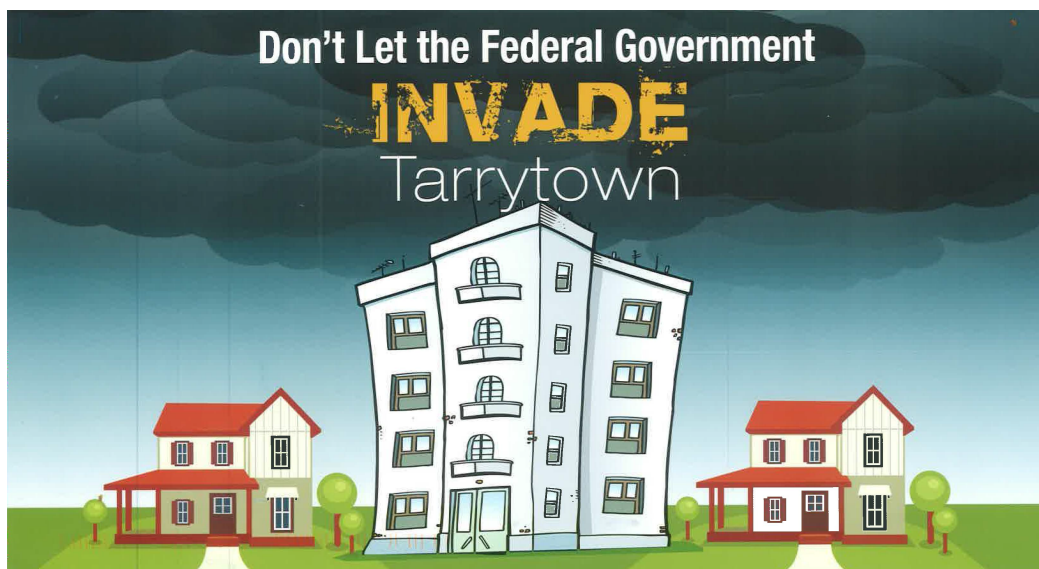
Lost Opportunity for Housing Desegregation in Westchester County, New York

Just as in Ferguson, the housing patterns of Westchester County, a wealthy New York City suburb, did not fall from the sky but were created by decades of active discrimination and segregation. The legacy of that segregation includes 20 or so towns and villages in Westchester with African-American population of 2.0 percent or less. In 2009, however, Westchester had to enter into a landmark housing desegregation consent decree as a result of the precedent-setting False Claims Act case that Anti-Discrimination Center (ADC) had brought against the county. **The consent decree had at its core the making of structural changes designed to desegregate Westchester; sadly, the promise of the decree has been squandered.**

Why? The U.S. Attorney for the Southern District of New York, HUD, and a HUD-nominated court monitor have been in charge of enforcement, and they have been unwilling to hold Westchester to account. (ADC warned early on that “appeasement only emboldens resistance,” but to no avail.) The Government and the Monitor continue to insist to the court that there has been a “successful strategy” and that “progress” has been made, but the reality is very different:

- Westchester has refused, across-the-board and regardless of circumstance, to meet its decree obligations to use all means necessary to overturn restrictive municipal zoning.
- Westchester has failed to have the ending of de facto segregation be a goal of its housing policies and programs, despite being required to do so by the decree.

(Continued on reverse)



This image was featured in one the county executive's 2013 reelection campaign flyers (the theme of “invasion” is, of course, a traditional method used to stoke racial fears).

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- Despite a requirement to submit an analysis of impediments to fair housing choice that was satisfactory to HUD, Westchester has never done so.

- Westchester has failed to develop a decree-compliant implementation plan. As such, it has had more leeway to spend money on inappropriate sites that did not AFFH.

In the face of all of this noncompliance, neither the U.S. Attorney nor the Monitor has sought to hold Westchester in contempt.

But isn't Westchester "ahead of schedule" in terms of building required housing units?

No, although the county makes that claim and the Government and the Monitor have gone along with the charade. In fact, most sites have been in isolated, undesirable, or otherwise inappropriate locations. When counting only units appropriate to the consent decree, Westchester was more than two-thirds (more than 200 units) behind the development obligations it had by the end of 2013.

Mangling the law

The consent decree explicitly requires Westchester to take all necessary action, including legal action, against its municipalities that retain barriers to fair housing choice. Challenged in court as to why the Government has left Westchester off the hook, the Assistant U.S. Attorney argued that the consent decree obligation wasn't "triggered" because Westchester has continued to deny that barriers exist. **That's the Government giving over control of consent decree enforcement to a civil rights defendant** (the more a defendant pretends, the less the defendant has to do).

The Monitor, too, improperly lets Westchester off the hook. A recent report that purported to be a disparate impact analysis of zoning in Westchester towns and villages is a good illustration. The Monitor refused even to look at African-American and Latino segregation separately or to recognize that Westchester and New York City are part of the same housing market. **More startling still, the Monitor eviscerated "perpetuation of segregation" doctrine, only flagging some jurisdictions that had a "cluster" of minority group members in one part of town, and giving a pass to those jurisdictions that largely excluded African-Americans everywhere.** In Mount Pleasant, for example, an overwhelming percentage of land zoned residentially is found in single-family zones, and these zones are 1.0 percent or less African-American. Monitor's conclusion? No disparate impact.

Read our "Cheating On Every Level" report (available at www.antibiaslaw.com/coel). Get more information at www.antibiaslaw.com/wfc. Tell us you agree that "enough is enough" and that the U.S. Attorney and the Monitor need to enforce each and all of the obligations of the consent decree. Go to www.antibiaslaw.com/enough.