

**WESTCHESTER COUNTY FAIR AND AFFORDABLE HOUSING
IMPLEMENTATION PLAN
March 12, 2010**

A. INTRODUCTION

(1) Overview/Deadlines:

Pursuant to the Stipulation and Settlement and Dismissal entered in *U.S. ex rel. Anti-Discrimination Center v. Westchester* (“Stipulation”), the County of Westchester is required to produce a series of deliverables which will enhance the County’s fair and affordable housing programs and policies, and will serve as a tool to assist the County in affirmatively furthering fair housing (“AFFH”) throughout the County of Westchester. In addition, the County is required to produce an Implementation Plan which outlines the County’s proposed plan and process for the development of 750 units of fair and affordable housing as required by the Stipulation.

Noting that the Stipulation originally provided for certain deliverables to be transmitted to the Federal Monitor and the Government on the 90th day after the entry of the Stipulation (“Day 90”) and others to be produced and submitted on or before the 120th day after entry of the Stipulation (“Day 120”), on October 8, 2008, then-Deputy County Executive Susan Tolchin, issued a letter to the Federal Monitor seeking an extension of the preliminary planning deadlines set forth in the Stipulation as follows:

(a) for the Day 90 obligations, the County requested an extension which would adjust the Day 90 deadline from November 8, 2009 to November 23, 2009 solely for the purpose of the County’s delivery of an amended policy statement as required by Paragraph (31) of the Stipulation. In consultation with the United State Department of Housing and Urban Development (“HUD”), the Federal Monitor has granted the requested extension by a letter dated October 20, 2009; and

(b) for the Day 120 obligations, the County requested an extension which would extend the Day 120 deadline from December 8, 2009 to January 30, 2010 for all Day 120 obligations and deliverables. In consultation with the United State Department of Housing and Urban Development (“HUD”), the Federal Monitor has granted the requested extension by a letter dated October 20, 2009. Note, however, that a second, limited extension was subsequently granted by HUD on December 18, 2009 with regard to the delivery of an updated Analysis of Impediments (“AI”). Specifically, that December 18th extension requires the County to select a contractor and execute a contract for the AI revisions by January 31, 2010 and produce an updated AI by June 30, 2010.

After the County’s submission of the Implementation Plan on January 29, 2010, the Federal Monitor issued a report on February 10, 2010 wherein the Federal Monitor provided comments and directed the County to make significant revisions to the Implementation Plan. This Implementation Plan, dated March 12, 2010, has been revised to address the comments of the Federal Monitor.

Appendix A-1:

(i) A copy of the County’s October 8, 2009 extension request letter; (ii) A copy of the Monitor’s letter approving said request, dated October 21, 2009; (iii) A copy of HUD’s letter approving extension of AI deadlines, dated December 18, 2009; and (iv) A copy of “Monitor’s Report Regarding Implementation of the Stipulation and Order of Settlement and Dismissal For the Period of August 10, 2009 through February 10, 2010.”

(2) Implementation Plan Organization: This Implementation Plan has been organized according to subject matter, as follows:

- A. Introduction (Pages 1-3)
- B. Financial Obligations (Page 4)
- C. Legislative Requirements (Pages 5-6)
- D. Policy & Planning Tools (Pages 7-10)
- E. Plan for the Development of Required Fair & Affordable Housing Units (Pages 11-17)
- F. Financing the Required Fair & Affordable Housing Units (Pages 18-20)
- G. Affirmative Marketing & Outreach (Page 21-22)
- H. General Outreach & Education Efforts (Page 23)
- I. Analysis of Impediments (Pages 24-25)
- J. Status of Sites Presently under Active Consideration for the Development of Fair & Affordable Housing (Page 26)
- K. Long-Range Timetables & Benchmarks (Pages 27-28)

Further, as noted above, the Stipulation requires that a series of efforts be accomplished by two specific deadlines, namely on Day 90 and Day 120, as those dates have been extended as reflected above. This Implementation Plan shall reference the deadline for delivery only for those items which are due on a date other than January 30, 2010. In addition, where it is intended certain outreach efforts outlined herein be undertaken on a continual or recurring basis, the Implementation Plan shall so specify.

A series of appendices are included in this Implementation Plan as documentation of efforts and/or to clarify the extent of efforts, as indicated below.

(3) Implementation Plan Preparation: Pursuant to Paragraph (22) of the Stipulation, significant outreach and various investigative efforts were to be completed to enable the County to prepare this Implementation Plan, in furtherance of its obligations to identify both potential developments and development strategies to achieve the housing development obligations of the Stipulation. Specifically, the County is required to:

- Meet with developers and property owners;
- Meet with key local officials; and
- Meet with the New York State Division of Housing and Community Renewal and the New York State Housing Finance Agency.

Summary of Action: The County has conducted numerous forms of outreach in furtherance of and in compliance with the obligations of the County in connection with the preparation of the Implementation Plan, and is scheduling new meetings with community leaders, elected officials, housing experts, property owners, and others with an interest in promoting the development of the housing which is required by the Stipulation on a continuous basis. Specific detail on meetings/outreach conducted to date can be found in Appendix A-2 (i) and (ii), referenced below.

There were three (3) additional required investigative efforts, namely

- (i) Assess the availability of suitable vacant land;
- (ii) Explore and implement mechanisms for a revolving fund; and
- (iii) Maximize the development of AFFH units in blocks of lowest concentration of African Americans and Hispanics

These requirements are more appropriately addressed in other Sections of the Plan. Please see Sections E(4)(i)(e), F(4)(a), and E(7) respectively.

Appendix A-2

(i) Meeting Matrix, summary of all meetings conducted internally and externally in furtherance of the Implementation Plan obligations in 2009; (ii) Master List of Housing Meetings for 2010.

B. FINANCIAL OBLIGATIONS

(1) Payment of \$30 Million to the U.S. Government: Pursuant to Paragraph (3) of the Stipulation, the County is required to pay to the United States the sum of \$30 million dollars, of which \$21.6 million will be returned to the County as a credit under its Community Development Block Grant account to be utilized for the purpose of developing the housing required under the Stipulation.

Delivery Deadline: Day 90/no extension

Summary of Action: This payment was made on October 28, 2009.

Appendix B-1: Finance Department documentation of \$30M wire transfer.

(2) Payment of \$2.5 Million to the Relator's Counsel: Pursuant to Paragraph (4) of the Stipulation, the County is required to pay to the Relator's Counsel the sum of \$2.5 million dollars.

Delivery Deadline: Day 90/no extension

Summary of Action: This payment was made on October 28, 2009.

Appendix B-2: Finance Department documentation of check issued to Relator's counsel.

(3) Securing funding necessary to ensure equitable relief in the amount of \$30 Million: Pursuant to Paragraph (5) of the Stipulation, the County is required to secure resources sufficient to ensure that the equitable relief is funded by \$30 million dollars for County fiscal years 2009-2014. In accordance with the Laws of Westchester County and long-standing fiscal policy of the County of Westchester, the required funding shall be approved and authorized by the Westchester County Board of Legislators ("BOL") through the issuance of capital budget amendments and possible bonding approvals on a project-specific basis as each development project is formally proposed.

Summary of Action: \$51.6 million, which includes this \$30 million, is in 5-year Westchester County Capital Program.

Appendix B-3: (i) A copy of 19-20 Capital Request Form; and (ii) 5-year Capital Program.

(4) Identification of Unallowable Costs: Pursuant to Paragraph 44(c) of the Stipulation, the County is required to identify any "Unallowable Costs" (as that term is defined in Paragraph 44(a) of the Stipulation) and as further outlined in a supplemental communication from HUD to the County Attorney and outside counsel, dated August 17, 2009, included in payments previously sought by the County from the United States.

Delivery Deadline: 90 Days/no extension

Status: Transmitted to HUD and the Monitor on November 4, 2009.

Appendix B-4: Letter in response to its obligations under Paragraph 44(c), along with supplemental communication from HUD, and an itemized accounting of the Unallowable Costs.

C. LEGISLATIVE REQUIREMENTS

(1) AFFH Policy Statement: Pursuant to Paragraph 31 of the Stipulation, the County is required to adopt a policy statement providing that:

- (a) “the elimination of discrimination, including the present effects of past discrimination, and the elimination of de facto residential segregation are official goals of the County’s housing policies and programs;
- (b) AFFH significantly advances the public interest of the County and the municipalities therein; and
- (c) the location of affordable housing is central to fulfilling the commitment to AFFH because it determines whether such housing will reduce or perpetuate residential segregation.”

Delivery Deadline: As noted above, this Day 90 Obligation was subject to an extension approved by the Federal Monitor, and the due date for the adoption of this policy was adjusted to November 23, 2009.

Summary of Action: In conformance with long-standing legal guidance issued by the NYS Attorney General, the County of Westchester’s fair and affordable housing policy was authorized by the BOL, through the adoption of a Statement of Need in 1979, which Statement of Need was amended by the BOL in 1992 and again in 2001. In order to adopt the requisite policy specified in the Stipulation, as outlined above, the BOL was required to adopt, by local law, an amended policy statement in support or in furtherance of such Statement of Need. That legislation was adopted by the BOL on November 23, 2009.

Appendix C-1: A copy AFFH Policy legislation adopted by the BOL on November 23, 2009.

(2) Confirmation of Exemption to County First Right of Refusal Legislation for Fair & Affordable Housing Transactions: Pursuant to Paragraph 25(c) of the Stipulation, the County has committed to amend Westchester County Law to clarify that land transactions which affirmatively further fair housing are exempt from the County’s First Right of Refusal Law, which allows local municipalities a right of first refusal to purchase County-owned land which is deemed to have no further County purpose.

Summary of Action: The required legislation was filed with the BOL in January 2010, was the subject of a public hearing on February 22, 2010, and is now pending before the BOL.

Full time employee: Senior Assistant to the County Executive. Job responsibility: this person has the responsibility to oversee the FAH Settlement.

Appendix C-2: A copy of the First Right of Refusal legislative package now pending before the BOL.

(3) Promotion of legislation to ban “Source of Income” discrimination in housing: Pursuant to Paragraph 33(g) of the Stipulation, the County Executive’s Office is required to promote legislation currently before the BOL to ban “source of income” discrimination in housing.

Summary of Action: The Source of Income legislation package was prepared and submitted to the BOL in 2008, and was subject to various amendments over the course of the 2008-2009 legislative session. No action was taken on this legislation by the close of the session, necessitating resubmission in 2010. In fact, this legislation was resubmitted to the BOL in January of 2010, and is now currently pending with the BOL.

Noting that the recently submitted legislative package mirrors that which was extinguished at the end of the 2008-2009 session, be advised that with respect to that package, the County Executive’s Office has made several efforts to promote the adoption of the legislation. Specifically, in October of 2009, then-County Executive Spano issued a letter to the leadership of the BOL urging the BOL’s adoption of the legislation. In addition, in November of 2009, then-County Executive Spano issued letters to several housing advocacy organizations urging their continued support and advocacy for the proposed legislation, including: (1) Legal Services of the Hudson Valley/Westchester Residents Against Income Discrimination (WRAID); (2) Westchester Residential Opportunities, Inc.; (3) Mount Vernon United Tenants; (4) Human Development Services of Westchester (HDSW); and (5) Housing Action Council.

In addition, County staff from both the Westchester County Human Rights Commission and Planning Department was present for discussions to facilitate the discussion with the Board of Legislators and provide information as needed.

Additionally, staff from the Planning Department arranged a meeting for the Board of Legislators staff to meet with all the Local Section 8 Housing Choice Voucher Program administrators (there were 17 in 2009) to address questions and issues related to a potential implementation of the legislation. The Local Section 8 Housing Choice Voucher Program administrators all agreed they would look to the County to develop an appropriate website to provide more comprehensive information on Section 8 program rules and requirements for landlords, and these Local Section 8 Housing Choice Voucher Program administrators would link their local websites to the County’s page for the benefit of all local landlords. This new website has been drafted, but not yet compiled and implemented. Implementation is scheduled to be completed by June 30, 2010. Planning Department staff are responsible for this component.

Full time employee: Senior Assistant to the County Executive. Job responsibility: this person has the responsibility to oversee the FAH Settlement.

Appendix C-3: (i) A copy of the most current Source of Income legislation now before the appropriate committee of the BOL; (ii) letter from then-County Executive Spano to BOL members advocating for the adoption of this legislation, dated October 23, 2009; and (iii) letters from then-County Executive Spano to fair housing advocates urging continued support and advocacy for the legislation on November 18, 2009.

D. POLICY & PLANNING TOOLS

(1) Model Ordinance: Pursuant to Paragraph 25(a) of the Stipulation, the County is required to develop a model ordinance to advance fair housing in the local municipalities of Westchester, and to promote that model ordinance to the local municipalities. The Stipulation provides that such model ordinance shall include:

- (i) a model inclusionary housing ordinance that requires new development projects to include a certain percentage of affordable units, including criteria and standards for affordable housing units and definitions of who is eligible for the affordable housing;
- (ii) standards for affirmative marketing of new housing developments to ensure outreach to racially and ethnically diverse households;
- (iii) standards for expedited review of proposals for affordable housing that AFFH including procedures for streamlining the approval process for the design, permitting, and development of these units; and
- (iv) standards for legal mechanisms to ensure continued affordability of new affordable units.

Summary of Action: In order to inform the County's process for developing the required Model Ordinance instrument, the Administration conducted extensive research and developed an inventory of local Westchester County inclusionary zoning protocols and practices, as well as a sampling of ordinance provisions in effect in Connecticut and Maryland jurisdictions (copies of same were previously submitted to the Monitor). The County also spoke with Planning Department staff from Dutchess County, New York, to review that county's recent efforts to draft a model ordinance and to be cognizant of the issues that they found to be of concern. In addition, the County engaged in various forms of outreach to local municipal officials and local zoning attorneys, including a series of meetings with the Housing Committee of the Westchester Municipal Officials' Association.

All 43 municipalities in the County with land use control authority have comprehensive zoning codes in place which are of varying length, complexity and content, and which cover a wide variety of zoning issues which are unrelated to inclusionary zoning for fair and affordable housing. However, County research found that many Westchester municipalities have in place specific and unique regulations that address affordable housing. Recognizing this context, the materials produced by the County in compliance with the Stipulation are not intended to operate as a fully-integrated zoning code or to otherwise act as a substitute for those long-standing codes. Rather, what has been produced are a series of zoning provisions which are intended, collectively, to serve as a supplement to existing municipal zoning codes in Westchester County municipalities for the purposes of ensuring the provision and promotion of fair and affordable housing development throughout the County of Westchester. By proceeding in this manner, the County believes that local municipalities will be better able to assess the appropriate manner for inclusion of these provisions and/or principles of inclusionary zoning into their individual codes, while maintaining the underlying integrity of those existing codes.

The Model Ordinance provisions originally transmitted in January were developed in consultation with the Westchester Municipal Officials' Association, and were also transmitted, together with the County's proposed Discretionary Funding Policy (see also Item D(2) below) by the Administration to local municipalities within the County on January 29, 2010. Subsequent amendments to the Model Ordinance have been made to expand the subjects and details covered and offer municipalities additional and more comprehensive guidance on amending local regulations to promote fair and affordable housing. The new Model Ordinance is herewith included in the Appendix as noted below.

The model ordinance now sets the standard for any residential development of 10 or more units to designate 10% of the units as fair and affordable. Developments of five to nine units must set aside a minimum of one unit as fair and affordable. The threshold of 10% was established based on a review of the economics of several developments and proposed developments. Based on this review, it was determined that a developer could develop the FAH unit(s) within a development without any government subsidy at the 10% level, but a higher percentage in most cases could only be achieved with government subsidies. A higher percentage could be achieved if the development was restricted to a single structure, but that is not typical of a residential subdivision.

The County will continue to promote the adoption of the appropriate components of the Model Ordinance to the municipalities. The County will have the opportunity to comment on the actual components being adopted by each community through the “referrals” process, whereby municipalities are required under the provisions of Section 239 L, M and N of the New York State General Municipal Law and Section 277.61 of the Westchester County Administrative Code to refer any zoning text or map amendment and certain residential subdivision and site plan applications to the County Planning Board for review and comment. Through this process, the County Planning Board and its staff in the Planning Department will have the ability to ensure that the ordinance provisions are highlighted, appropriately interpreted and recommended for incorporation into a municipality’s local regulations. In addition, all County response letters to referrals that include a component of housing or office park will include a reminder to the municipality to adopt the ordinance provisions until such time that the municipality has adopted the appropriate provisions of the Model Ordinance. Through this process, the County will have the opportunity to remind the municipality several times in the course of the next year to adopt the provisions of the Model Ordinance.

In addition, the Planning Department, together with the Westchester Municipal Planning Federation, will sponsor several training sessions annually for members of the local elected and appointed boards that review development projects. These sessions will highlight the importance of the provisions of the Model Ordinance.

Full time employees: Associate Planner. Job responsibility: this person has the responsibility to oversee the municipal referrals process.

Appendix D-1: (i) Model Ordinance provisions; and (ii) documentation of outreach to local Westchester County municipalities re: Model Ordinance and proposed Discretionary Funding Policy.

(2) Policy to condition the use of Public Funds & Resources on efforts to AFFH: Pursuant to Paragraph 25(d) of the Stipulation, the County is required to establish a policy which will condition, as appropriate, the use of public funds and resources including, but not limited to, CDBG funds and the County Open Space funds on commitments from municipalities to: (a) ban certain housing selection preferences that do not AFFH; (b) offer the County a right of first refusal to retain and/or purchase land acquired in rem to be used to AFFH; and (c) provide active assistance in implementation of Stipulation through land use regulations and other affirmative measures.

Summary of Action: The County has prepared a Discretionary Funding Allocation Policy that incorporates the affirmative commitments outlined in the Stipulation. Also appropriate amendments to the standard funding agreements for its CDBG and County Open Space funds will be prepared. Noting that the historic development of certain municipalities has encouraged their diversity and these communities already have ample stock of fair and affordable housing developments, the Discretionary Funding Allocation Policy recognizes that it is not appropriate to hold all municipalities to this standard. Therefore, the policy is limited to the thirty-one (31) Eligible Communities under Paragraph 7. The remaining twelve (12) communities

with African American populations exceeding 14% and Hispanic populations exceeding 16% would not be obligated to adopt these provisions.

Noting that the approval process for the adoption of code provisions relating to providing active assistance through land use regulations and first right of refusal obligations, which are requirements of the Discretionary Funding Allocation Policy, cannot be achieved immediately at the municipal level, the Discretionary Funding Allocation Policy provides for an effective date of January 30, 2011, in order to allow municipalities to review and consider whether to adopt necessary code provisions over the course of 2010.

Beginning with contracts seeking approval through the County's Board of Acquisition and Contracts in February 2011, a municipality's eligibility to receive public funds and resources, including, but not limited to, CDBG funds and the County Open Space funds, would be conditioned on their adopting policies, as appropriate.

In the event that a municipality does not take the actions needed to promote the development of affordable AFFH units under paragraph 7 of the Stipulation, or undertakes actions that hinder that objective, the County will use all available means as appropriate to address such inaction, including, but not limited to, pursuing legal action.

Full time employee: Director of Program Development II (Housing & Planning). Job responsibility: this person has the responsibility to oversee the fair and affordable housing components of the Inter-Municipal Agreements for County Open Space funds.

Full time employee: Program Administrator (Housing & Planning). Job responsibility: this person has the responsibility to oversee the CDBG funds compliance.

Appendix D-2: Discretionary Funding Allocation Policy.

(2)(b) CDBG allocation process to promote activities that AFFH: Pursuant to Paragraph 25(b) of the Stipulation, the County is required to establish a CDBG allocation process/plan designed to promote activities that AFFH including such steps as providing priority to projects that further development of AFFH affordable housing units as set forth in Paragraph (7) of the Stipulation. Note that Paragraph (7) relates specifically to the units mandated under the Stipulation and therefore requires some priority to be given to those projects in the County's general annual CDBG program, as all Stipulation-specific CDBG funding must already be dedicated to Paragraph (7) units.

Summary of Action: There is significant outreach and public comment involved in accepting and reviewing applications from 40 municipalities and numerous non-profit agencies to determine their eligibility under the CDBG regulations. Recognizing this, the County's general annual CDBG program has been oriented toward a three year application process at the request of the participating municipalities since 1979, and the current cycle includes Fiscal Years 2009, 2010 and 2011. Therefore, to meet the requirement of Paragraph 25(b), the County is proposing that with the next funding cycle, covering 2012-2014 cycle of CDBG funding, ten (10%) percent of the County's annual CDBG appropriation would be set aside as funding for projects which will further the development of affordable AFFH units required pursuant to Paragraph (7) of the Stipulation, provided that such CDBG monies can be spent on such projects according to HUD guidelines, including HUD-designated timetables for expenditure.

In anticipation of the FY 2012-2014 funding cycle, Planning Department staff will meet with participating jurisdictions in the Westchester Urban County Consortium during the summer and fall of 2010 to conduct local tours of these communities, to help the staff and elected officials within each community identify

appropriate projects for CDBG funding, particularly projects that may AFFH. The County will also encourage these municipalities to reach out to non-profit agencies within their communities to involve them in the process of developing appropriate CDBG applications. With better education and training prior to the application deadline in June 2011, the County should create a better pool of applications to consider for funding with the proposed 10% set-aside.

To the extent that any portion of the ten (10%) percent set aside has not been awarded to applications that further the development of affordable AFFH units in that annual cycle, those monies shall be made available for the rehabilitation of affordable AFFH units that will meet the criteria set forth in 7(a), (b) or (c). This funding shall be set aside in a separate account, if legally permissible, for activities subject to the legal authority of the CDBG regulations.

Full time employee: Accountant III. Job responsibility: this person has the responsibility to oversee the accounting of all accounts in the Planning Department.

(3) Amend the County's Long Range Land Use Policies as contained in Westchester 2025: Pursuant to Paragraph 27, the County is required to amend its Long Range Land Use Policies as contained in Westchester 2025 to embody the goals of the Stipulation; the substantive provisions of the Model Ordinance required by Paragraph 25(a) of the Stipulation; and the policy statement adopted pursuant to Paragraph 31 of the Stipulation.

Summary of Action: The Westchester County Planning Board adopted amendments to the County's Long Range Land Use Policies on January 5, 2010 which embody the overarching goals of the Stipulation and required policy statements. Because the County was engaged in the process of developing the Model Ordinance provisions with the Westchester Municipal Officials' Association through the month of January, 2010, the County Planning Board adopted the "substantive provisions of the Model Ordinance" at its February 2, 2010 meeting. To the extent that modifications have been made to the Model Ordinance, the revised Model Ordinance will be before the Westchester County Planning Board at the Board's next meeting.

Appendix D-3: (i) Amendments to Westchester 2025 & Resolution of the Westchester County Planning Board, adopting the overarching goals of the Stipulation and required policy statement, adopted on January 5, 2010; and (ii) Resolution of the Westchester County Planning Board endorsing the substantive provisions of the Model Ordinance, approved on February 2, 2010. The amended version will be considered by the Westchester County Planning Board at the Board's next meeting.

E. PLAN FOR DEVELOPMENT OF FAIR & AFFORDABLE HOUSING UNITS

(1) Methodology for the identification of Eligible Municipalities/Areas under the Stipulation: As per Paragraph 22(f) of the Stipulation, this includes an assessment of means to maximize development of fair and affordable housing in municipalities and census blocks with lowest concentrations of African American and Hispanic residents.

Summary of Action: The methodology and maps, referenced herein, have been forwarded to HUD for review and approval as a threshold measure. Based on subsequent conversations with HUD officials, it is the County's intent to verify as "eligible" all proposed housing sites to ensure Stipulation compliance as an initial step for each proposed housing development project.

Appendix E-1: (i) Methodology for the identification of Eligible Municipalities/areas (narrative); (ii) Chart outlining Eligible Municipalities/area by tiers of eligibility under Paragraph (7) of the Stipulation; and (iii) Map of Eligible Areas.

(2) Westchester County Fair and Affordable Housing Program: The County is committed to administering a Plan and program that provides for the development of fair and affordable housing in eligible areas over a seven year period in accordance with the terms of the Stipulation using the following guiding principles and objectives:

- i) Establish guidelines for the development of housing that is visually attractive, environmentally sensitive and compatible with the character of the community in which it is located;
- ii) Identify sites suitable for residential development in a timely, cost effective and efficient manner consistent with the terms of the Stipulation; and
- iii) Establish an implementation schedule in accordance with the timelines set forth in the proposed Stipulation.

It is important to note that many factors and differentials are considered and thoroughly analyzed to achieve the completion of fair and affordable housing developments. There is no one-size-fits-all process or review criteria, as the conditions and physical restrictions of a site will vary widely from one site to the next. If the site falls within an Historic District, if the site has environmentally sensitive conditions, if the site is municipally owned, versus privately owned, if the site requires a rezoning, if the site went through repeated financing cycles, or if a site requires the use of septic rather than public sewers, are all variables that will affect the timing required to complete the approval process, and subsequent construction. The County will assist, in any feasible way, to expedite the process.

Proposed developments are subject to numerous reviews, including:

- (i) Local government planning and building approvals;
- (ii) Other governmental or state reviews such as County Department of Health, NYC Department of Environmental Protection and/or NYS Department of Environmental Conservation; and
- (iii) Financing reviews by agencies administering public funding for affordable housing, private investors and lenders.

The flow chart, attached herein as Appendix E-2, provides an overview of this approval process. Variations to the process are more common than not. No housing development approval and process are identical to any one approved before it or after it. Among housing developments financed by Westchester County, a few

received approvals and were under construction in a relatively short timeframe of 4-5 years. But there were also those which, for various reasons, took considerably longer.

The most crucial of the reviews are those conducted by local government. To start the process a developer looks at current zoning for a site, a potential market for the development, and whether the site is suitable for the development. Proposals undergo multiple local reviews and approval by various boards. Each municipality has a unique process for conducting its planning, zoning and other reviews, allocating responsibilities pursuant to their local ordinances. Beyond the planning approval required (subdivision, site plan approval, etc.), there may also be Architectural Review Boards, Historic Review Boards, Conservation Advisory Committees and other public boards which could have input to the final approvals given for a development. These boards, of local resident volunteers, can place constraints on a proposal, which could have an impact on the viability of the proposal.

Among the requirements that government agencies must comply with are the regulations of the New York State Environmental Quality Review (SEQR) act (6 NYCRR Part 617). This state mandated process requires that a lead agency conduct a review based on the potential impacts of a development and the ability of that development to mitigate those impacts. In practice, developers are often required to prepare a Draft Environmental Impact Statement (DEIS). The DEIS may be a lengthy complicated document, or may be a brief document, depending on specifics related to the site. In some cases, approval of an EIS can take years and multiple studies, including traffic studies and other extensive and expensive research.

While the local process is unfolding, the developer must also pursue financing approvals to complete the project. Due to a tight credit market, and intense competition for subsidies, fair and affordable housing developments typically must secure funding from five (5) to ten (10) sources in order to be viable. Coordination among this many funders is complicated, costly and time consuming. Few, if any, of these sources are willing to advance funds unless and until local building approvals are in place. Most developers put up their own pre-development costs to get to this stage. These costs can amount to hundreds of thousands of dollars. These funds are at risk, and in some cases have been lost where a potential development did not move forward.

Only once both the local approvals have been provided and all needed financing committed will all the funders move forward towards the land acquisition and construction closing. Each entity providing funds monitors construction progress, including the County.

The County's process for reviewing an application is comprehensive and assures that only the financial resources required for the projects are expended. The process begins with a meeting with a developer and County Planning Department staff to discuss a potential project. The discussion includes site elements and limitations, number and sizes of units, available or expected financing resources, county resources needed, local approvals needed and timing.

Developers are directed to submit the same materials to the Planning Department as they submit to other funding agencies, at the same time, to ensure all financing agencies are considering the same documents and information. Application materials, program facts sheets and development manual are available on the County's website.

The County Housing Specialists undertake a review of the costs, sources and uses, and the various approvals already in place and identify any missing application items. Housing Specialists then work with the applicants every step of the way to ensure the County collects all the required documentation as it becomes available to keep the project moving toward approval.

If Acquisition funding is being requested, the County orders an appraisal usually timing the request so the appraisal is not more than six (6) months old when the financing request is reviewed by the County Board of Legislators.

When all land use approvals and environmental reviews are in place and other required financing applications submitted and confirmed as being under review, the County Planning Department will submit the project to the County Planning Board, for review and recommendation on the use of County funds. After County Planning Board action, legislation is prepared, including receiving an opinion from Bond Counsel, and a Bond Act is submitted for approval to the County Board of Legislators. At the first County Board of Legislators meeting when the legislation is submitted, the Board will assign the legislative package to committee(s) for review. The committee review is generally conducted before the next full Board meeting, to allow for the full Board's consideration at that meeting. Once the Board has approved the Bond Act, the Board Clerk publishes the required notices. After the expiration of the estoppel period, the County's Board of Acquisition and Contract considers the authorization to enter into contracts to provide the funding. If approved, a closing is scheduled to include all parties. Funding is released as reimbursement in accordance with the budget included in the contract for specific eligible activities.

Appendix E-2: (i) Flow chart of traditional fair and affordable housing development process; (ii) Summary & Outline of historical funding sources, affordability terms (sale price, rental price, taxes), and timelines for completion of projects; and (iii) Summary & Outline of Green Technology in fair & affordable projects.

(3) Consideration of Senior Units: Pursuant to Paragraph 7(f) of the Stipulation, no more than 25% of the affordable AFFH units shall be senior units. No funds governed by the Stipulation can be used for such senior units, until 175 non-senior units have received building permits, at which point, no more than ninety (90) senior units can receive funding. Additionally, no funding governed by the Stipulation can be used for the balance of allowed senior units until 350 non-senior units have received building permits.

Summary of Action: The County is making the limitations on senior units very clear to all developers and municipalities and actively encouraging municipalities to not place any age restrictions on developments through their approval process.

(4) Criteria for Site Evaluation and Development Feasibility: Pursuant to Paragraph 7(g) of the Stipulation, in the County's facilitation of the development of Affordable AFFH units, priority shall be given to sites within qualifying municipalities and census tracts that are located in close proximity to public transportation.

Summary of Action: The County has begun to identify eligible sites in several ways, but under two general premises:

- (i) County efforts to identify sites
- (ii) other efforts to identify sites

(4)(i) The County's efforts to identify sites to fulfill the required development of 750 Affordable AFFH units is a continuing process: Actions to identify land and/or units may include:

- a) Approaching banking and financial institutions to identify vacant or underdeveloped properties that have been actively in default or subject to a foreclosure judgment with ownership transferred to a bank or other entity, with a focus on multi-unit development projects that have stalled or have been abandoned due to economics or local approval process.

- b) Approaching banking and financial institutions to identify existing residential units or buildings and non-residential buildings that have been actively in default or subject to a foreclosure judgment with ownership transferred to a bank or other entity, with a focus on multi-unit development projects that have stalled or have been abandoned due to economics or local approval process.
- c) Meeting with the owners of privately owned properties that have been or are currently proposed for development that may meet the objectives of the fair and affordable housing. This may be a wide array of projects including projects which are underway (with or without an affordable component) and where the County can facilitate or incentivize the creation of more fair and affordable units.
- d) Identifying and evaluating improved properties identified by the County based on an analysis of existing land use, zoning, infrastructure, physical conditions and related criteria that appear to be suitable for fair and affordable housing.
- e) Identifying vacant properties pursuant to Paragraph 22(a) of the Stipulation, at the parcel level, based on an analysis of existing land use, zoning, infrastructure, physical conditions, access to public transportation, and related criteria that appear to be suitable for fair and affordable housing. The County has begun this assessment by mapping parcels in the eligible communities that are vacant; within a one mile radius of a Metro-North Railroad train station; within one mile of a county bus route (recognizing that existing bus stops can be changed or additional stops added); and parcels within a multi-family zone. Maps are provided in Appendix E-3.
- f) Meeting with municipalities to demonstrate, through the existing Westchester 2025 program, the ability to enhance existing town centers in the Eligible Municipalities and redevelop mixed use (residential & commercial) properties through the incorporation of affordable AFFH units. This will lead to the examination of the eligible communities with an eye to expanding and enhancing pedestrian and bicycle friendly environments, minimizing reliance on cars for access to services, recreation, and transit.
- g) An evaluation of County-owned property classified as general municipal (non-park) for its suitability for residential development.
- h) Identifying sites which may be suitable for transit oriented development (TOD).
- i) Meeting with the owners of office parks to demonstrate development potential within office park sites.
- j) Identifying improved properties currently for sale at which the market price is at or near the “affordability” standard which may be acquired for use as fair and affordable housing.
- k) Identifying and assessing existing housing and other development opportunities which could be adapted to fair and affordable housing.
- l) Promoting the adoption of the Model Ordinance by municipalities to provide inclusionary zoning, mixed use or “living over the store” and office park housing opportunities.
- m) Extending invitations to meet with developers to provide guidance on eligible areas and criteria for units to meet eligibility requirements as Affordable AFFH units.
- n) Identifying and evaluating publicly owned properties that may be residual parcels from the development of some New York State or local municipal infrastructure.

Appendix E-3: (i) Memo from B. Connolly to E. Buroughs identifying data layers for maps; (ii) Map of Current Use of Land in Eligible Communities; (iii) Map of Transportation Features in Eligible Communities; (iv) Map of Areas within one mile radius of Metro North train stations and a Bee-Line bus route in Eligible Communities; (v) Map of County Sewer Districts and Private Sewage Treatment Facilities in Eligible Communities; (vi) Map of Major Water Suppliers in Eligible Communities; (vii) Map of Environmental Features in Eligible Communities; and (viii) Map of FEMA Flood Zones in Eligible Communities

(4)(ii) Other efforts to identify sites for the development of 750 Affordable AFFH units have been initiated and will also be on-going: These efforts include:

- a) Identifying and evaluating publicly-owned sites by the municipality and/or as identified in a comprehensive plan as suitable for multi-family housing.
- b) Identifying and evaluating publicly owned properties that have been or are currently proposed for development that may meet the objectives of the fair and affordable housing. This may be a wide array of projects including projects which are underway (with or without an affordable component) and which the county can facilitate or incentivize the creation of more fair and affordable units.
- c) Responding to requests from realtors, municipalities and developers to evaluate sites that they have available or make known to us.

(5) Criteria for Consideration of Existing Units: Pursuant to Paragraph 7(h) of the Stipulation, no more than 25% of the Affordable AFFH units may be achieved through the acquisition of existing housing units, under the provisions set forth in the Stipulation and Order.

Summary of Action: The County is exploring the opportunity to acquire units under this provision. The County wishes to clarify that an existing unit to mean a residential unit with a current Certificate of Occupancy as a residential unit. The County also seeks to clarify that an existing building that was constructed and obtained a certificate of occupancy for a non-residential use that could be adaptively re-used as residential units would not be counted as existing units.

In evaluating the potential of acquiring existing housing units as Affordable AFFH units, the county will research and obtain a title report that documents that the units, before acquisition, will not have any deed restriction or legal measure that limits the occupancy of the households to incomes at or below 80% AMI. The County will also determine and require that if the units are already affordable to households with incomes at or below 80% AMI, they shall be made affordable through deed restrictions for households at or below 65% AMI for a period of no less than fifty (50) years.

The County recognizes that in acquiring these existing units, there may already be tenants in occupancy, but upon the termination of their lease, the units will be marketed in accordance with the County's Affirmative Fair Marketing Plan.

(6) Criteria for Reconsideration of Previously Excluded Units: Pursuant to Paragraph 8, the County provided HUD with a list of Disallowed Projects effective with the signing of the Settlement Agreement. In accordance with Paragraph 13(h) the County has the opportunity to resuscitate developments on the Disallowed Projects list with compelling evidence that the development is no longer viable and can be developed in the future in a manner that complies with Paragraph 7 by providing financing or other specified means.

Summary of Actions: With respect to the Disallowed Projects List, one project (37 Wildwood Road/Katonah) was previously listed as excluded pursuant to Paragraph 8 of the Stipulation from counting toward the required housing goals identified in Paragraph 7 of the Stipulation because the County had expected NYS DHCR to fund this proposal at the time the list was created. By letter dated December 10, 2009, NYS DHCR advised that the project was not selected for funding. This project is no longer financially viable without the referenced DHCR funding. But with the additional County funding, and renewed funding requests to NYS DHCR, this development can be resuscitated. It is the County's position that this exclusion should be reversed. The nonprofit developer of this property indicates that they will work with the County

and NYS to resuscitate the development in the future. A proforma of the new financing proposal is submitted for consideration.

It is the County's position that the listing of a second project on the Disallowed Projects List, Somers Senior, LP, (Mews at Baldwin Place) should be reversed. The developer of this project received a letter from the New York State Division of Housing and Community Renewal on August 3, 2009 advising that \$1,427,857 of Low Income Housing Credits had been reserved for the project, which was a portion of the funding that was requested from New York State. This funding was not, and is not, sufficient to make the project financially viable. Therefore, this project should not have been identified as disallowed as insufficient funding was in place to categorize the development as having financial approval in place, as per Paragraph 8 of the Stipulation, at the time of entry of the Stipulation on August 10, 2009. The project also did not have preliminary or final land use approval in place, as per Paragraph 8 of the Stipulation, at the time of entry of the Stipulation on August 10, 2009.

The County is also evaluating all the individual census blocks that are excluded through Paragraphs 7(a) and (b) to determine if development in any of these blocks would further the intent of the Stipulation to the extent that a block may contain group quarters that are allowed to be excluded (per Paragraphs 7(a) and (b), but can not be shown through census data.

Appendix E-4: (i) List of Disallowed Projects; (ii) December 10, 2009 letter from NYS DHCR re: 37 Wildwood/Katonah project; (iii) New 37 Wildwood Proforma showing need for FAH funding; and (iv) Somers Senior, LP, (Mews at Baldwin Place) Proforma showing need for additional FAH funding.

(7) Maximizing the Development of Affordable AFFH Units: Pursuant to Paragraph 22(f) of the Stipulation, the County is required to assess the means by which the County can maximize Affordable AFFH Units in eligible municipalities and census blocks with the lowest concentrations of African American and Hispanic residents.

Summary of Actions: As required, the County conducted a review of all the blocks within the eligible communities to identify those blocks that had the lowest concentrations of African Americans and Hispanics, namely those blocks with 0% of the residents in both categories. These blocks were mapped to identify their location and assess their proximity to other factors for consideration and to pursue eligible parcels in these areas.

It is noted that blocks that have been identified as having African-American and Hispanic populations of 0% are subject to the same potential for undercount as any other census block. Homeless individuals and persons living in illegal or unknown housing units are often not counted, and misrepresentation of households on census forms by the householder often result in undercount. In some cases, undercount is a result of clerical errors, particularly related to group quarters facilities. In Westchester County, the 2000 Census had known issues with the count of group quarters populations. For example, the census block containing Purchase College in the Town/Village of Harrison (which has a sizable student population in residence) and the census block containing the Lincoln Hall School in the Town of Somers (where students are in residence under court orders) were reported to have no population in the 2000 count, possibly due to administrative errors at the schools (i.e. the school told parents to count their children at home as opposed to at the school). These errors are examples of the errors that may occur on a smaller scale elsewhere throughout the county.

Appendix E-5: Map of Lowest Concentrations of African Americans and Hispanics.

(8) Post Site-Identification Property Evaluation Process/Criteria: Following identification of appropriate sites, each site is to be evaluated in terms of physical and environmental feasibility including:

- (i) additional census tract & land use research/confirmation of “Eligible Area”
- (ii) local municipal master planning
- (iii) local zoning/density/set back requirements
- (iv) infrastructure/utilities (sewer, water)
- (v) environmental (watersheds/wetlands)
- (vi) geography, geology, topography
- (vii) roadway access
- (viii) land use (history/legal concerns)
- (ix) municipal & community input
- (x) where applicable, State cooperation

(9) Post Site-Identification Financial Considerations: In addition to site-specific issues, each proposed project must be evaluated for fiscal feasibility in terms of: (1) funding sources; (2) appraised value; (3) purchase price; (4) development costs; (5) affordability levels consistent with the terms of the proposed settlement; and (6) municipal concerns.

(10) Presumptions for Stipulation Compliance: Included in the Appendix is a definition of ‘households’ approved by HUD, an explanation of the Westchester County occupancy standard, a list of Westchester County current/active fair and affordable housing projects and a list of County-owned parcels.

Appendix E-6: (i) NYS definition of ‘households’ approved by HUD; (ii) Westchester County occupancy standard; (iii) List of Current/Active fair & affordable housing projects; and (iv) List of County-owned parcels.

F. FINANCING THE FAIR AND AFFORDABLE HOUSING UNITS

(1) Use of \$21.6 million of FAH CDBG Account Funding: Pursuant to Paragraph 2, the County shall use the funding provided in its HUD CDBG account for the development of new affordable housing units that will AFFH, in accordance with the CDBG regulations.

Summary of Actions: The County has reviewed 24 C.F.R. S 570.200 to evaluate the eligible uses of this funding. The County recognizes that the eligible uses of this funding are limited to acquisition of land and structures, demolition of unsuitable structures, clearance of environmental hazards, rehabilitation of structures, and construction of site improvements. In very limited circumstances, these funds may be used for the construction of housing, but only by eligible Community Based Development Organizations (CBDOs). There are currently no eligible CBDOs in Westchester County, but the County will explore opportunities to create eligible entities for these development purposes.

The County has begun and will continue to work with developers to identify appropriate sites for acquisition, any needed demolition and/or clearance to facilitate the development of Affordable AFFH units with these funds. Each property will have a pro forma developed for evaluation by Planning Department Housing staff, and when appropriate, other staff of the Department, including the Rehabilitation Specialist, the Landscape Architects and Planners to evaluate appropriate structure rehabilitation and site work proposals.

Each development will include a subsidy layering review and Section 106 review to ensure evaluation and compliance with all federal requirements regarding funding and environmental reviews. Properties being considered for acquisition will have a title search, appraisal and environmental assessment completed prior to any purchase.

Each property developed or rehabilitated will have a separate contract for each source of funding, including a line item budget so that the funds are tightly managed and the opportunity exists for the recapture of any funds not actually needed to complete the development. Funding is disbursed to developers as reimbursement for expenses already incurred. No funding is released until work is completed. Funding for the acquisition of property is processed through a contracted title company.

When environmental contamination is identified, Environmental Indemnification Insurance is secured by the developer to indemnify the County.

Restrictive covenants will be filed directly with the Westchester County Clerk's office to cover the full fifty (50) year (or longer) affordability period. Restrictive covenants will also be referenced on the face of the deed for each property to ensure it is seen by future owners and title companies.

(1)(a) Program Income from the \$21.6 Million FAH CDBG Account: The opportunity may exist for the County to collect Program Income from the \$21.6 million FAH CDBG Account in accordance with 24 C.F.R. 570.500.

Summary of Action: The County has evaluated its opportunities and obligations under 24 C.F.R. 570.500 related to the collection of Program Income and has established a tracking system to collect the information associated with any income received and its subsequent reissuance.

(2) Use of \$30 million of County Resources: Pursuant to Paragraph 5 and 6 of the Stipulation, the County shall secure resources sufficient to ensure the equitable relief if funded by \$30 million through fiscal years 2009-2014

Summary of Action: In 2009, the County reviewed with its Bond Counsel its options to secure the required resources. Acquisition of property, improvements to infrastructure and the related closing costs and legal fees has been determined to be eligible activities. Infrastructure improvements can include publicly-owned infrastructure that is necessary to support the fair and affordable housing units, including parking, water and sewer connections, landscaping and sidewalks. Infrastructure improvements must be funded through municipal entities. The determination of how to fund the construction of housing units is still under consideration.

Approval of the bond funds starts with the Capital program, where the County has already established a new Capital project - Fair and Affordable Housing – to be funded with an allocation of \$51.6 million including \$21.6 of non-county resources (the FAH CDBG Account funds). Once a specific eligible development is identified with specific eligible uses of funding (acquisition and/or infrastructure improvements), the use of bond funding must be reviewed by the County Planning Board and approved by the County Board of Legislators. This process, including the required estoppel period following the approval of the Bond Act, will usually take between 3 to 5 months. The County will make every effort to process these Charter required actions as efficiently as possible.

The County is required to maintain an ownership interest in the physical infrastructure improvements for the life of the bonds. The funding is provided through a project specific contract that identifies the responsibilities of each party of the development, including the municipality and the developer. Funding is disbursed to developers as reimbursement for expenses already incurred. No funding is released until work is completed. Funding for the acquisition of property is processed through a contracted title company.

When environmental contamination is identified, Environmental Indemnification Insurance is secured by the developer to indemnify the County.

Restrictive covenants will be filed directly with the Westchester County Clerk's office to cover the full fifty (50) year (or longer) affordability period. Restrictive covenants will also be referenced on the face of the deed for each property to ensure it is seen by future owners and title companies.

(3) Use of \$400,000 for Outreach and Education: Pursuant to Paragraphs 33(b)(c)(d)(e) and (h) of the Stipulation, the County is required to pay for consultants and public education, outreach and advertising to AFFH out of County Resources and CDBG funds over 5 years.

Summary of Action: The County has issued bonds to cover these required expenses. The County expects it will be able to leverage the \$400,000 with additional resources and the County's electronic resources and advertising in Bee-Line buses, including buses that run between Westchester County and the Bronx. Specific advertising and educational campaigns are being evaluated for maximum coverage.

The elements being considered for the outreach and education campaigns are included in Sections E and F.

Full time employee: Senior Assistant to the County Executive. Job responsibility: this person has the responsibility to oversee the FAH Settlement.

(4) Exploration of Alternative Financing & Development Methodologies: Pursuant to Paragraph 5, 6, 7(i) and 22(e) of the Stipulation, the County is required to secure resources for the development of units and financial or other incentives to leverage the County funds.

Summary of Action: The County conducted a review of alternatives to identify other means of financing the construction of units, providing financial incentives, identifying other funds for leveraging and opportunities and mechanisms associated with establishing a revolving loan fund.

(4) (a) Revolving Loan Program – Feasibility Assessment: Pursuant to Paragraph 22(e) of the Stipulation, the County is required to explore and implement mechanisms by which monies dedicated to Stipulation compliance can be placed into a revolving loan fund.

Summary of Action: The County conducted an evaluation of its ability to create and utilize a Revolving Loan Fund with the available resources identified in the Stipulation and Order. The evaluation is included in this Plan as Appendix F-1. The County may employ the use of revolving loan funding mechanisms only with those funds generated through those federal or state programs which specifically allow for such mechanisms or for which there is no express prohibition on the use of revolving loan fund mechanisms, which funds shall include the \$21.6 million in County-bonded funds which are now deemed to be a CDBG fund pursuant to Paragraph 2 of the Stipulation. The decision to utilize revolving fund mechanisms in those instances shall be made as appropriate, on a project-by-project basis, where such use will maximize the leveraging of such housing funds.

Full time employee: Senior Assistant to the County Executive. Job responsibility: this person has the responsibility to oversee the FAH Settlement.

Appendix F-1: Report on Revolving Loan Fund Feasibility Assessment.

(4)(b) Comments on the NYS DHCR Low-Income Housing Qualified Allocation Plan: A letter was issued to NYS DHCR on November 4, 2009 as part of the official comment process for DHCR's Low-Income Housing Qualified Allocation Plan (QAP), pursuant to which DHCR makes annual funding decisions. The letter outlined recommendations for review of Westchester County Stipulation-specific projects to better enable these projects to qualify for DHCR funding. A follow-up meeting with the Commissioner and Assistant Commissioner of DHCR, at which these comments were discussed on a point-by-point basis, was held on November 6, 2009.

Appendix F-2: November 4, 2009 letter from then-Commissioner Mulligan to NYS DHCR.

G. AFFIRMATIVE MARKETING & HOUSING OUTREACH

(1) Plan to affirmatively market fair and affordable housing: Pursuant to Paragraph 33(e) of the Stipulation, the County must establish a plan/process for affirmatively marketing housing within the county and in geographic areas with large non-white populations outside, but contiguous or within close proximity to the county, including a requirement that all agreements with developers must include a commitment to conduct such affirmative marketing.

Summary of Action: The County Planning Department has amended its Fair and Affordable Housing Affirmative Marketing Plan for use in all developments that include county funding or participation. The Plan outlined in this section shall become a policy of the County of Westchester, and shall be implemented continuously for all future fair and affordable housing projects to which the County is a party. Developers or other professional entities which receive funding by or through the County of Westchester for the development of fair and affordable housing units shall be required to comply with the provisions of this Plan. This Plan will be shared with the other local CDBG entitlement cities, encouraging their adoption of same, as funding is frequently provided by both the County and local CDBG entitlements.

The County will monitor the use of the Fair and Affordable Housing Affirmative Marketing Plan regularly through the final stages of construction of any units, withholding funding if appropriate. Ultimately, the County will monitor compliance with the developer's review and certification of each tenant and homeowner selected for occupancy of the units and will deny occupancy to proposed tenants and homeowners if the marketing of the development was not completed in an appropriate manner.

Full time employee: Director of Program Development II (Housing & Planning). Job responsibility: this person has the responsibility to oversee the affirmative marketing activities for FAH developments

Appendix G-1: Westchester County Fair & Affordable Housing Affirmative Marketing Plan.

(2) Plan to centralize intake of potential home buyers for housing and other outreach activities that will ensure AFFH, including housing counseling: Pursuant to Paragraph 33(f), the County is required to establish a plan to centralize intake of potential home buyers, disseminate information regarding community resources, job data by municipality, home-buyer counseling and housing under development.

Summary of Action: The County Planning Department is working with the County Information Technology Department to develop a software package that will enable interested prospective home buyers to enroll for consideration of purchasing a fair and affordable housing unit and access housing counseling through HUD-certified housing counseling agencies. The system will allow for e-mail alerts to be sent to registrants to advise them of opportunities for training, new development under construction and other appropriate community resources. When completed, the system will be available through any computer terminal with web access, including libraries and public computer rooms, but the actual data contained within the site will be limited to the specific user through password protections. Interested households without web access will be able to be assisted through public computers, friends or relatives with web access, or through the assistance of the four HUD-certified housing counseling agencies. The software package is currently in development and is expected to be available on-line by September 1, 2010.

A second related computer based program has also been reviewed with the County Information Technology Department. This second package will allow anyone interested to be able to see fair and affordable units that are in construction, or available through resale, through the visual use of photographs, mapping and satellite imagery. Data layers will be easily added to show amenities in the local area around the fair and affordable

housing units, including, schools, retail centers, houses of worship, day care facilities, and public transportation routes. The software package is expected to be available on-line in early 2011.

Full time employee: Director of Program Development II (Housing & Planning). Job responsibility: this person has the responsibility to oversee the activities of the housing counseling agencies.

Appendix G-2: Centralized Intake & Housing Outreach Plan.

H. GENERAL OUTREACH & EDUCATION EFFORTS

(1) General Outreach Efforts: The County is required to undertake certain general outreach efforts including:

Stipulation reference	Outreach obligation
Paragraph 33(a)	Solicit CDBG proposals that would AFFH from community leaders and public interest groups
Paragraph 33(b)	Advertise rights of persons to redress allegations of discrimination
Paragraph 33(c)	Create and fund campaigns to broaden support for fair and affordable housing and to promote fair and equitable distribution of housing in all communities, including public outreach specifically addressing the benefits of mixed-income housing and racially and ethnically integrated communities
Paragraph 33(d)	Educate realtors, condo/coop boards and landlords with respect to fair and affordable housing activities
Paragraph 33(h)	Pay for consultants and public education, outreach and advertising to AFFH out of County resources and CDBG funds over five years, excluding the funding dedicated to the development of housing as set forth in Paragraphs 2, 3 and 5 of the Stipulation, in an amount not less than \$400,000

Summary of Action: The County has evaluated its existing contracts with HUD-certified housing counseling agencies and the existing opportunities within County resources to provide these resources. A meeting was conducted with the County’s new Communications Director to begin the process of developing a comprehensive advertising and education campaign.

With regard to compliance with Paragraphs 33(b), 33(c), and 33(d), and 33(h) of the Stipulation, the County is preparing a plan of action for increased public education, outreach and advertising in the realm of fair housing, housing discrimination and housing opportunity as required by the Stipulation. The County will include in future reporting an accounting of the actions taken and amounts spent in furtherance of its Paragraph 33(h) obligations. The County intends to complete the implementation of the Centralized Intake Tool, referenced in Section G(2), above, before proceeding with the Paragraph 33(h) efforts to ensure that a systematic, online tool is operational and available as a resource for those persons whose interest is captured by the County’s comprehensive educational and outreach efforts and so that branding of the program materials precedes individual efforts. Consideration is being given to hiring an advertising agency with experience in outreach to underrepresented populations.

The County has also relied on as a resource the County’s Housing Opportunities Commission (HOC). HOC is a volunteer advisory body that was convened to oversee and provide recommendations and guidance on the County’s housing and homeless programs. The HOC role has included undertaking Affordable Housing Needs Assessments, Fair Share Allocation goals and educational outreach to municipalities and developers. Authorization of the Commission is scheduled to sunset on June 30, 2010.

Full time employee: Senior Assistant to the County Executive. Job responsibility: this person has the responsibility to oversee the FAH Settlement.

Appendix H-1 Fair Housing Outreach & Education Plan.

I. ANALYSIS OF IMPEDIMENTS

Pursuant to Paragraph 32 of the Stipulation, the County is required to complete an Analysis of Impediments (“AI”) within its jurisdiction that complies with the guidance in HUD’s Fair Housing Planning Guide, in a form that is deemed acceptable by HUD. As part of the AI, the County is required to:

- (a) Commit to collecting data and undertaking other actions to facilitate the implementation of the Stipulation; and
- (b) Analyze fair housing impediments, take appropriate actions and analyze the potential need for, and provision of, mobility counseling.

Summary of Action: The County submitted a draft AI to the United States Department of Housing and Urban Development (“HUD”) in May of 2009. Due to the ensuing activities associated with the settlement of the litigation which resulted in the Stipulation, HUD did not issue comments on that draft AI until October 26, 2009, when it forwarded a 12-page summary of its required revisions to the County. Upon review of HUD’s comments, the County immediately concluded that expert assistance would be required to undertake the very complex statistical and analytical work required by HUD. To that end, the County immediately contacted HUD to request a list of AI consultants and industry experts who could assist the County in completing this task. Beginning on November 4, 2009, when HUD forwarded a list of persons and entities with an expertise in AI production and review, the County began a process of outreach to a panel of experts, including those recommended by HUD and others with which the County has direct contact. This process extended through November 18, 2009 and resulted in the receipt of preliminary proposals/responses from only three (3) out of nine (9) of the experts contacted.

Notably, each of the three responding experts submitted written comments which specified that the AI revisions and enhancements required by HUD could not be completed by January 30, 2010. In fact, the common wisdom among these experts was that a range of four (4) to nine (9) months, with an average recommendation of six (6) months, would be required for the necessary work to be undertaken and a final AI to be produced. None of these experts were willing to attempt the job with a deadline of January 30, 2010. Given the independent review and uniform conclusions of multiple industry experts, it seemed clear that the County could not produce an AI document which would satisfy HUD if the January 30, 2010 deadline remained unchanged.

In light of the above, the County issued a letter to HUD on December 8, 2009 seeking an extension of the deadline which applied to the County’s obligations pursuant to Paragraph 32 of the Stipulation. By letter dated, December 18, 2009, HUD granted the County an extension for the submission of the revised AI to June 30, 2010. Specifically, that December 18 extension required the County to select a contractor and execute a contract for the AI revisions by January 31, 2010 and produce an updated AI by June 30, 2010.

On December 23, 2009, the County issued an RFP for the revised AI which cited the revised deadline of June 30, 2010. Proposals were due on January 20, 2010, and three (3) proposals were received by the County. From those issuing proposals, the County selected W. Frank Newton, Inc., and submitted a resolution to the County Board of Acquisition & Contract on January 26, 2010 to authorize the County to contract with W. Frank Newton, Inc. That resolution was approved on January 28, 2010, and the contract was executed on January 29, 2010.

The County Planning Department and Executive Staff met with representatives of W. Frank Newton on February 16, 2010 to discuss the tasks outlined to deliver the AI and to identify data sources needed for the consultants to complete their analysis and tasks.

Full time employee: Senior Assistant to the County Executive. Job responsibility: this person has the responsibility to oversee the FAH Settlement.

Appendix I-1: (i) A copy of HUD's October 23, 2009 comments on County's May 2009 draft AI; (ii) the County's December 8, 2009 extension request; (iii) HUD's December 18, 2009 extension approval letter; (iv) a copy of the County's RFP, dated December 23, 2009; (v) a copy of the resolution of the Westchester County Board of Acquisition & Contract approving the AI consultant; and (vi) a copy of the County's executed contract for services with W. Frank Newton, Inc .

J. STATUS OF SITES PRESENTLY UNDER ACTIVE CONSIDERATION FOR DEVELOPMENT OF FAIR & AFFORDABLE HOUSING

The release of information regarding site-specific inquiries and preliminary transactional terms could impair the viability of potential projects. Specifically, disclosure of developing project concepts and terms could operate to influence competition for the parcels in question, impact acquisition and/or price terms, and jeopardize the County's ability to facilitate the development of fair and affordable housing on such sites totally or within the specified deadlines. Therefore, the County shall provide the Monitor with regular updates through the quarterly reports as to developing project concepts and transactions, as the Monitor deems necessary, in a manner which will not operate to jeopardize the development of the housing units required by the Stipulation.

K. LONG-RANGE TIMETABLES AND BENCHMARKS

Pursuant to Paragraphs 19, 23 and 24, the Implementation Plan must also include long-range timetables and benchmarks for compliance with the requirements of the Stipulation, including benchmarks for:

- (a) The first six months of the Stipulation (*technically as of February 10, 2010*)
- (b) Year One of the Stipulation
- (c) Each subsequent Year of the Stipulation
- (d) Annual Calendar Year end compliance (starting December 31, 2011) with benchmarks for units in process.

Throughout this Plan are summaries of actions taken in the first six (6) months from the entering of the Stipulation, with respect to the specific activities required in the Stipulation. These actions to date have laid substantive groundwork for the County to meet its obligations under the Stipulation. Over the next six (6) months, the County will: finalize the Analysis of Impediments; continue meeting with developers and municipalities; continue identifying and evaluating sites for development potential; complete the design of and bring on-line the central intake system for interested homebuyers; promote the model ordinance; develop the outreach and advertising campaign; formalize the education campaign for realtors, cooperative boards and landlords; and begin working with developers to secure financing for their developments that will create affordable AFFH units.

With respect to the development of Stipulation-compliant housing units, it is critical to note that the Stipulation itself provides very specific and ambitious benchmarks for the development of the required housing units, and specifically with regard to the deadlines for securing both financing and building permits for the required units, as follows:

By end of calendar year:	Sites with financing in place (#) of units	Units with building permits in place
2010		
2011	100	50
2012	200	125
2013	300	225
2014	450	350
2015	600	525
2016	750	750

The County will be providing quarterly reports, beginning March 31, 2010, to the Monitor to report on the progress made toward the benchmarks stated above related to the development of fair and affordable housing units, and all the required actions of the Stipulation not already completed. Given that the proposed quarterly reports will be identifying the progress of each site (and unit) that will comply with the Stipulation, the County believes that no additional benchmarks are required at this time. However, recognizing the complexity required to get financing in place and building permits issued, the County proposes to work with the Monitor through the first year of quarterly reports and then address the need for any additional benchmarks.

To the extent that the County’s obligations under the Stipulation other than the development of 750 units of fair and affordable housing must be performed on an on-going basis over the term of the Stipulation, such as the Paragraph 33(h) obligations relating to public education and advertising, the County intends to provide

regular updates as to its compliance status as part of its required reporting to the Monitor with the intent of providing consistent, demonstrable progress toward each of its ongoing Stipulation obligations. Notably, the County has already reported above that, by the Year One anniversary, the Centralized Intake Tool will be operational, triggering the commencement of Paragraph 33(h) obligations, namely the required comprehensive outreach and educational efforts. In addition, it is intended that, with the ongoing efforts to conduct outreach to municipalities, developers, property owners and other stakeholders, by the Year One anniversary of the Stipulation, significant progress will have been made towards the identification of parcels on which housing units can be developed.

Finally, the County notes that it intends to have a continuous and open dialogue with both the Monitor and HUD throughout the course of the implementation of the Stipulation so that those parties will have ongoing familiarity with the status of the County's progress at any given point in time. The County may amend or adjust documentation produced in connection with this Implementation Plan from time to time due to circumstances which may trigger or warrant such adjustments, such as change of law or in consultation with the federal government. The County shall provide both the amended/adjusted document, along with an explanation of the rationale for such amendments/adjustments, as part of its regular quarterly reporting process under the Stipulation.

Full time employee: Senior Assistant to the County Executive. Job responsibility: this person has the responsibility to oversee the FAH Settlement.