



Robert P. Astorino
County Executive

Kevin J. Plunkett
Deputy County Executive

February 13, 2013

Sent Via Email

James E. Johnson, Esq.
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**United States *ex rel* Anti-Discrimination Center of Metro New York, Inc. v.
Westchester County, New York (No. 06 Civ. 2860 (DLC))**

Dear Mr. Johnson:

We are writing to comment on HUD's letter dated January 31, 2013, concerning Funding Advisory 14 relating to the Waterwheel development in Ardsley.

Workforce Housing

With respect to the five local workforce units, you may recall that they were the subject of the County's Inquiry No. 10, dated April 8, 2011. In your reply, on August 2, 2011, you wrote, "It is my view that the inclusion in this development of 5 units of housing that will be ineligible under the Stipulation and that will not receive County funding does not, in itself, render the other 17 units in the development ineligible under the Stipulation."

The Waterwheel Funding Advisory, dated November 14, 2012, included your statement by way of background, and further stated that no County money would be provided for the workforce units. The attached Executive Summary provided further evidence that no County funds are going toward the five workforce units.

The 17 eligible units will be affirmatively marketed pursuant to the Affirmative Fair Housing Marketing Plan. The County's marketing consultant, Housing Action Council, has already been engaged by the developer. The five workforce units are not eligible units under the Settlement, have not been funded by the County, and cannot be marketed as eligible units.

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Model Ordinance Provisions and Discretionary Funding Policy

An inquiry by HUD before its January 31st letter would have revealed that Ardsley has adopted the Model Ordinance. Therefore, HUD's contentions as to this development are moot.

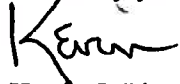
Also, the Settlement Agreement does not require adoption of the Model Ordinance Provisions as a prerequisite to the County's support of affordable AFFH developments in eligible municipalities.

With respect to the Discretionary Funding Policy, provided for in paragraph 25(d) of the Settlement Agreement, it states that discretionary funding to municipalities eligible under the Settlement Agreement ("Recipient Eligible Municipalities") shall be conditioned, as appropriate, upon the Recipient Eligible Municipality's commitment to affirmatively further fair housing within its borders.

Ardsley's grant of approvals to Waterwheel, an affordable AFFH development within its borders, demonstrates that it has taken "affirmative measures to assist the development of affordable housing."

Finally, to address HUD's comment that the County "consider" its compliance with the Discretionary Funding Policy, we note that on December 20, 2012, the County wrote you that it has received no applications for discretionary funding since the policy was approved. Significantly, a major source of discretionary funds that the County could award would be Community Development Block Grants, which have been withheld by HUD. This matter was also discussed during the January 17th meeting with you and representatives of HUD. The County described the various ways it informs Recipient Eligible Municipalities of the Discretionary Funding Policy, and at your request, supporting documentation was sent you under separate cover on February 1, 2013.

Sincerely yours,



Kevin J. Plunkett
Deputy County Executive

Cc: Hon. Robert P. Astorino, County Executive
Hon. Kenneth Jenkins, Chairman, County Board of Legislators
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