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August 22, 2012

BY EMAIL AND FEDERAL EXPRESS

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Deputy County Executive
and
Robert Meehan, Esq.
County Attorney
Westchester County
148 Martine Avenue
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White Plains, NY 10601

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

Dear Messrs. Plunkett and Meehan:

As you are aware, paragraph 33(d) of the Stipulation and Order of Settlement and Dismissal ("Settlement") in the above-captioned matter requires the County to:

affirmatively market affordable housing within the County and in geographic areas with large non-white populations outside, but contiguous or within close proximity to, the County, and include in all agreements between the County and a developer requirements that the developer meet these same affirmative marketing requirements and hire consultant(s) to carry out outreach activities, where appropriate;

(emphasis added).

In furtherance of that requirement, the County participated in a collaborative process to develop an affirmative marketing plan. The plan is set forth in two parts. The first, the Westchester County Affirmative Fair Housing Marketing Plan, identifies the County's commitments under paragraph 33(d). It states that:

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The County has developed this Westchester County AFHMP to promote and publicize AFFH units and ensure outreach to racially and ethnically diverse households in Westchester County and all contiguous counties, which include: Putnam County and Rockland County in New York, Fairfield County in Connecticut, and the five counties which comprise New York City, which includes areas that have large non-white populations (the "Marketing and Outreach Area").

Similarly, the second part, the Housing Development Affirmative Fair Housing Marketing Plan, provides:

The Marketing and Outreach Area for the AFFH units must include Westchester County and all contiguous counties which include: Putnam County and Rockland County in New York, Fairfield County in Connecticut, and the five (5) counties which comprise New York City.

After the affirmative marketing plan was finalized – with a great deal of input from the County along the way – it was filed with the Court. *See* Ex. 3 to Monitor's First Biennial Assessment, filed January 6, 2012. The County has agreed to abide by the terms of those plans. *See, e.g.*, May 14, 2012 letter of Kevin Plunkett regarding the selection of a Marketing Consultant.

Even the project-specific marketing plans the County developed for those units that needed to be marketed before the general affirmative marketing plan (some of which date back to March 2011) also provide for affirmative marketing to be carried out beyond Westchester County, as required by paragraph 33(d):

- Affirmative Fair Housing Marketing Plan for Rye Cottage Condos at 2, 3 (marketing and outreach area includes Westchester County, Putnam County, Rockland County, Fairfield County (CT), and New York City (all counties))
- Affirmative Fair Housing Marketing Plan for Pinebrook Condominiums at 2, 3 (same)
- Affirmative Fair Housing Marketing Plan for Roundtop Commons at 2, 4 (same)
- Affirmative Fair Housing Marketing Plan for Freedom Gardens for the Handicapped, at 2-3 (same)

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- Affirmative Fair Housing Marketing Plan for 42 First Avenue, Pelham (“Small Projects Program”), at 2

After many months of repeated indications that the County planned to comply fully with this important requirement of the Settlement, a local press report of a town hall meeting County Executive Astorino held in Pelham included the following passage:

Astorino said he disagreed with the portion of the settlement that requires the County to market affordable housing units to minority populations outside of the County. He said Westchester County residents shouldn't be forced to compete for the housing units with people from outside.

“County Executive Holds Town Hall Meeting in Pelham,” *Pelham Patch* (July 19, 2012), available at <http://pelham.patch.com/articles/count-executive-holds-town-hall-meeting-in-pelham>.

These statements, if accurate, are in direct conflict with the County's explicit obligation under paragraph 33(d) of the Settlement – which is, as you know, a binding agreement that also has the force of a court order and legislation, as it was adopted by the Westchester County Board of Legislators. The statements call into question the County's intention to implement fully the Affirmative Marketing Plan as developed by all parties.

Therefore, in accordance with paragraph 13(b) of the Settlement and the Court's July 26, 2012 order, the Monitor requests that the County provide all documents responsive to the requests below that relate to any actions or plans by the County to affirmatively market the AFFH units called for by the Settlement since the entry of the Settlement on August 10, 2009:

1. Any and all speeches regarding the geographic scope of affirmative marketing and any drafts of such speeches;
2. Any and all documents regarding the geographic scope of the County's planned affirmative marketing activities;
3. Any and all payments and instructions to consultants or other outside entities that have assisted or are assisting with the County's affirmative marketing efforts;
4. Any and all agreements with consultants or other outside entities that have assisted or are assisting with the County's affirmative marketing efforts;
5. Any and all documents relating to the County's RFP or RFQ process to select a housing consultant to assist with affirmative marketing efforts;

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6. Any and all agreements with housing developers concerning the geographic scope of affirmative marketing plans;
7. Any and all payments and instructions to media outlets regarding advertisements for AFFH units;
8. Any and all minutes of meetings where the geographic scope of the County's affirmative marketing responsibilities was discussed;
9. Any and all handwritten or other notes of the meetings described in item (8) above; and
10. Any and all internal communications relating to the implementation of any and all affirmative marketing plans.

Furthermore, the Monitor directs the County to preserve electronic copies and metadata for all documents described above where such documents exist in electronic format.

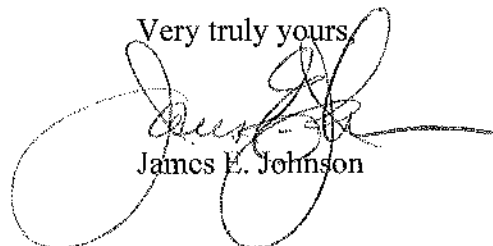
The County is directed to respond to these document requests no later than September 12, 2012. Additionally, the Monitor requests an interview of County Executive Robert Astorino on September 26, 2012.

In accordance with the Court's order of July 26, 2012, any objections to these requests must be submitted in writing within five (5) business days of the County's electronic receipt of this letter, by August 29, 2012.

* * *

On August 17, I received an electronic version of the Q2 2012 Report six weeks after the end of the quarter. Going forward, please provide the quarterly reports within three weeks of the close of the quarter. If you have any concerns with this request, please submit them in writing within five (5) business days of the electronic receipt of this letter, by August 29, 2012.

Very truly yours,



James E. Johnson

cc: Robert P. Astorino, County Executive
Mary J. Mahon, Special Assistant to the County Executive
Glenda Fussá, Deputy Regional Counsel, New York Office, HUD
David Kennedy, Esq., Assistant United States Attorney