

**WESTCHESTER COUNTY FAIR AND AFFORDABLE HOUSING
IMPLEMENTATION PLAN**
August 9, 2010

Appendix D-2 (ii): Discretionary Funding Allocation Policy

**WESTCHESTER COUNTY ALLOCATION POLICY FOR DISCRETIONARY
INTERMUNICIPAL FUNDING**

Beginning on January 30, 2011, the grant of discretionary intermunicipal funding, including but not limited to County Open Space funds and CDBG funding, (“Discretionary Funding”) to municipal recipients eligible under the *U.S. ex rel. Anti-Discrimination Center v. Westchester* (“Eligible Municipal Recipients”) shall be specifically conditioned upon the Recipient’s commitment to affirmatively further fair housing (“AFFH”) within its borders. Pursuant thereto, each Recipient shall be required to commit to the County, in writing, that it is in compliance with the following terms and conditions in connection with its commitment to AFFH:

- (a) adopt municipal zoning code provisions and/or policies which demonstrate a commitment to AFFH, including inclusionary zoning standards and a ban on preferences for the award of fair and affordable housing units except to the extent provided in the Westchester County Model Zoning Ordinance Provisions;
- (b) offer the County of Westchester a Right of First Refusal to retain and/or purchase any and all land acquired in rem to be used for housing that AFFH; and
- (c) require that the Westchester County Fair & Affordable Housing Affirmative Marketing Plan be adhered to for any and all fair and affordable housing units developed or offered within the Recipient’s boundaries.

The County’s audit rights under any such grant agreement shall extend to all documents, reports, and records which relate to the Recipient’s commitment to AFFH as described herein. Should Recipient fail to abide by any of the above conditions, Recipient will be obliged, upon thirty (30) days written notice by the County, to refund any such funds paid to the Recipient.

Applications for Discretionary Funding submitted by non-municipal entities shall be reviewed to clarify whether or not such entity is acting as an agent of a municipality for purposes of the project for which funding is sought. If such entity is deemed to be acting in the capacity of agent for a municipality, said application will be subject to a review of the agent-municipality’s compliance with the AFFH policy stated above. The determination as to whether an agency relationship exists shall be based on the principles of law relating to agency relationships in New York State, and the fact that the non-municipal entity/applicant may be required by local municipal codes to obtain municipal approvals or abide by municipal processes for such approvals in connection with such application shall not be determinative of the agency relationship.

[Note: the County of Westchester shall provide notice of all non-municipal applications for funding to the local municipality in which the funding is proposed to be spent.]