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Federal Magistrate Sides with Astorino on Housing Settlement Issue By ABBY LUBY



The Yonkers Tribune / The Westchester Guardian Have Learned County Executive Astorino Refused to Accept the \$7 Million from HUD Last Year.

Westchester County Executive Robert Astorino got some good news this week. He won an appeal over a key issue in the county's affordable housing settlement that sought to curb discrimination against low income families.

The U.S. Department of Housing and Urban Development (HUD), who is overseeing the 2009 settlement with the Anti-Discrimination Center mandating the county build 750 units of affordable housing, reeled when Astorino vetoed a bill that would require landlords to take government vouchers as rent payment. HUD insisted that the proposed "Source of Income" law had to be passed. Astorino appealed HUD's ruling, which was upheld by U.S. Magistrate Gabriel Gorenstein.

Astorino, a Republican who ousted Democratic Andrew Spano in 2009, has declared the magistrate's ruling a "victory" over what he calls HUD's "over-reaching" involvement with the settlement. The decision highlights the ongoing divisiveness between the county executive and HUD.

The "Source of Income" issue may not completely disappear if HUD decides to appeal Gorenstein's decision. The bill was passed in 2010 by the Westchester Board of Legislators and was subsequently vetoed by Astorino. As far as most county legislators are concerned, it's unlikely the bill will be re-introduced.

"We could theoretically introduce the legislation again and we might," said Majority Leader Peter Harckham (D-Somers, Bedford, Mt. Kisco). "But the county executive has made his up his mind and he would veto it again. We wouldn't have enough votes to override his veto."

County Board of Legislators Chairman Ken Jenkins, (D-Yonkers) has previously gone on the record opposing Astorino's handling of the settlement, accusing the county executive's administration of ignoring parts of the settlement's stipulations. Jenkins would not return phone calls from *The Westchester Guardian*.

Astorino, declaring the magistrate's ruling "vindicated" him for vetoing the bill, took advantage of the moment and demanded that HUD release \$7 million in housing funds, withheld from the county until they had complied with the settlement. Last Monday at a press conference in the Michaelian Office Building, Astorino claimed that HUD was wrong to withhold the funds, most of which are Community Development Block Grants used to build homes and improve public spaces.

The *Westchester Guardian* asked Astorino's office and the office of the Board of Legislators if HUD had offered the county the \$7 million about a year ago. The reason Mr Astorino refused the \$7 million last year was because there was a clause that permitted Section 8 housing. Neither office responded nor did the Washington and New York City HUD offices return calls or emails.

Astorino also explained that the county is not only living up to the agreement, but is ahead of schedule to build the 750 units of affordable housing in 31 predominately white communities with the \$51.6 million. Currently there are 206 housing units approved by the federal housing monitor, of which 196 have financing in place and 108 units have building permits in place. HUD wanted

the county to have 100 units with financing and 50 units with building permits by the end of 2011. The settlement calls for 200 units with financing and 125 with building permits by the end of 2012, which the county expects to meet in this spring.

Astorino's office also said that one party has already moved into a home in Pelham while other homes have been the focus of lotteries for people who have to qualify based on their financial status. The county's Affordable Home website drew 9,033 viewers in the first 14 months of operation and some 1,873 households have asked for information, according to the administrative office.

The magistrate did, however, rule against Astorino and in favor of having the county make sure municipalities change their zoning ordinances that might be exclusionary. Astorino's continued resistance to enforcing zoning rules has angered HUD, topping the list of contentious issues. Gorenstien's ruling said the county government has to come up with a plan to deal with zoning that prohibits affordable housing and that if the zoning practices were not remedied by the municipalities "the County shall use all available means as appropriate to address such action or inaction, including, but not limited to, pursuing legal action against such municipalities."

The federal magistrate also recognized that the county administration "declined to provide its strategy on this front at all – or has done so only in the vaguest terms" and that the "dispute may be brought to the Court's attention, if necessary, at a later time."

Harkman said many of the legislators understand the difficulties of bringing legal action against municipalities over zoning.

"We have always maintained our position and it's the same as Rob's [Astorino]. The county does not control local zoning. We can't control or impact local zoning. We are unified on that."

Other legislators feel that HUD has wrongly blamed Westchester for not complying with the agreement.

"We are not here to address all the housing inequities of the world," said Mike Kaplowitz, (D-Yorktown, Somers, and New Castle). "We are doing everything the agreement asks - in spirit and what the law asks us to do. Using this case as a can opener to solve every ill of the world is just not what I, as a legislator, signed on to do."

Kaplowitz claimed that the \$7 million Astorino is asking for are monies that fund the county's housing and land acquisition programs.

"Ironically it's the taxpayer's money that goes to Washington (HUD) and comes back to all the communities. We don't need their money - we spend millions of dollars each year for housing and its taxpayer's money. HUD is being overreaching, idealistic and impractical. They are cutting their nose to spite their face."

Kaplowitz has seen a shift in the administration's approach to affordable housing overall.

"Rob has come around to the county's programs to build affordable housing. For years the Republicans voted against housing projects and now we're starting to that change. We understand the settlement – build 750 units, invest the dollars, end of story. Go home."

Harkman said it's important to see the big picture.

"We are still ahead of schedule and although there are technical disagreements along the way, the settlement has a mechanism to resolve those disagreements. Whether we have a housing settlement or not, I think affordable housing from a political standpoint is always something we should pursue."

Abby Luby is a Westchester based, freelance journalist who writes local news, about environmental issues, art, entertainment and food. Her debut novel, "Nuclear Romance" was recently published. Visit the book's website, <http://nuclearromance.wordpress.com/>.

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