

**NY Metro Chapter**  
AMERICAN PLANNING ASSOCIATION

**Position Statement**  
on  
**Recent Actions by HUD concerning Westchester County**

The NY Metro Chapter of the American Planning Association is a professional, educational, and advocacy organization representing over 1,300 practicing planners and policy makers in New York City and its surrounding suburbs. We are part of a national association with a membership of 41,000 professionals and students who are engaged in programs and projects related to the physical, social and economic environment. In our role as a professional advocacy organization, we offer insights and recommendations on policy matters affecting issues such as housing, transportation and the environment.

**BACKGROUND**

Our Chapter is concerned about effects to Westchester County (the “County”) from the actions recently taken by the U.S. Department of Housing & Urban Development (HUD or “the Agency”) with regard to the use of Community Development Block Grants. In a letter sent to Deputy County Executive Plunkett in April of this year, HUD indicated its rejection of the County’s FY2011 Action Plan, effectively blocking over 6 million dollars from flowing to the County and its member municipalities. The Chapter believes this action is harmful to the overall planning and development of affordable housing in the county.

HUD’s position stems from an administrative determination that the County has not fulfilled its obligations under a 2009 Stipulation and Order of Settlement regarding a lawsuit over alleged violations of the Fair Housing Act. Among other things, the Stipulation requires the construction of 750 affordable units over a five-year period to be distributed among 31 communities and that the County perform a detailed assessment of remaining barriers to affordable housing. The Agency specifically cites deficiencies in the County’s Analysis of Impediments and a lack of enforcement of municipal zoning practices.

By contrast, the County’s position is that the Agency is not recognizing that there has been substantial progress made towards achieving the stipulated action items. Furthermore, the County is not empowered under New York State law to mandate certain legislative actions on the part of its constituent municipalities.

Without question, the Chapter supports HUD’s goals of removing barriers and ensuring compliance with the Stipulation, however, the concern is that the suspension of funding may be

harmful to the implementation of affordable housing. Stopping the flow of monetary support will halt progress on projects and programs already underway and will remove the resources the County needs to implement HUD's policy goals. The County has indicated that at least eighteen staff positions in its Planning Department would be eliminated if the funds were lost.

### **SPECIFIC CONCERNS**

1. HUD is requiring the County to impose severe sanctions on any municipality that fails to remove zoning barriers within 90 days of notice; it is not clear what types of sanctions it envisions. It is Westchester County's responsibility to coordinate HUD funding, however under New York State laws, the powers of a county are limited. Despite the fact that the County is the coordinator of a HUD 'urban consortium', it has no jurisdiction over local zoning powers and could potentially violate the State constitution if it attempted to exercise such jurisdiction.

Proactively, the County Planning Department has created a Model Ordinance for inclusionary zoning, entitled the "Model Zoning Ordinance Provisions for Affordable Affirmatively Furthering Fair Housing Units". To date, the Model has been adopted by two municipalities and several others are in the process of adoption. It is simply not realistic for 30+ municipalities to all undertake code modifications on this scale within a 90-day time frame; further, the County cannot force such actions, it can only encourage.

2. Westchester County has made substantial progress and is actually ahead of the HUD-mandated schedule for getting the units constructed. Two years into the implementation phase, 164 units have already received approval with another 102 in the process.

Since 1992, the County has invested nearly \$90 million of its own funds and leveraged state and federal resources to finance the construction or preservation of 3,912 affordable housing units as of June 2011. These units - 3,142 for rent, 770 for sale – are well distributed, incorporating 32 of Westchester's 43 municipalities.

3. The potential loss of staff and resources to the County Planning Department will be devastating to a number of programs beyond housing. Among the Department's duties and accomplishments:

- winning numerous awards for innovative environmental work, including the 2010 National Planning Excellence Award for Innovation in Best Practices for Sustainability for the Hilltop Hanover Farm and Environmental Center;
- developing an innovative on-line based comprehensive planning tool that is the first of its kind in the New York Metro region;
- leading an award-winning program for managing storm water to protect the Long Island Sound and the Bronx River watersheds and has overseen a soil and water conservation program since 1967.
- coordinating regional efforts through its Municipal Planning Federation

- protecting drinking water supplies through its leadership role in developing the *The Croton Plan for Westchester, The Comprehensive Croton Watershed Water Quality Protection Plan*.

4. HUD's action would have an extremely negative impact on a number of parties not involved in any way in the dispute. Numerous municipal housing programs, not-for-profit organizations and social service agencies rely on HUD funds, through Westchester County, to carry out their missions. The interruption or termination of the important ongoing work of these various entities as a result of sanctions of *any* sort will hurt some of the most disadvantaged families and communities in the county being served.

### **METRO CHAPTER POSITION**

With full recognition of HUD's necessary role in ensuring compliance with the Stipulation, the Chapter encourages HUD to be flexible and even-handed in its approach to determining an acceptable timetable for compliance. The Chapter also wishes to highlight the County's efforts to date on aforementioned significant progress and achievements. In New York's 'home rule' legislative framework, a county can initiate, coordinate or incentivize local municipal actions, but generally can not dictate, mandate or impose.

The Chapter implores the County Executive and the Agency to continue to work together to find a mutually acceptable course of action. The Chapter is encouraged by the recent exchange of letters appointing a Monitor to resolve the dispute and establishing a timetable of milestones. As long as the parties continue to show a willingness to communicate and cooperate, we are confident that the withholding of funds will ultimately not be necessary.

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