



Lawyers' Committee Commends HUD's Decision to Withhold Funds from Westchester County, New York

Lawyers' Committee for Civil Rights Under Law
May 11, 2009

On Thursday, May 7, 2009, the Journal News of White Plains, New York reported that the United States Department of Housing and Urban Development (HUD) had rejected Westchester County's certification that its consolidated fair housing plan would affirmatively further fair housing. Approval of this certification by HUD is required in order for applicants for federal housing funds to be eligible for such assistance. As a result, Westchester County and local communities who are sub grantees of the funds will not receive an estimated \$15 to 20 million in funds from the Community Development Block Grant, Emergency Shelter Grant, HOME Investment Partnership, and other programs.¹

HUD's decision to withhold the funds follows a February 24, 2009 decision in the case of *United States of America ex rel. Anti-Discrimination of Metro New York, Inc., v. Westchester County* holding that Westchester had previously falsely certified to HUD that it would affirmatively further fair housing with respect to federal funding it has received. To comply with the requirement of the Fair Housing Act to affirmatively further fair housing requires applicants for HUD funds to conduct an analysis of impediments to fair housing and to take steps to overcome such barriers. Further proceedings in the case have been postponed.

The Lawyers' Committee commends HUD for taking this very important enforcement action to ensure that federal funds are being used to promote fair housing and residential desegregation. It is apparent from the decision that Westchester's dispersion of federal housing funding was primarily in cities in the County with the highest minority populations -- resulting in perpetuating and exacerbating existing residential segregation.

In the December 9, 2008 report of the National Commission on Fair Housing and Equal Opportunity, co-chaired by former HUD Secretaries Henry Cisneros and the late Jack Kemp and sponsored by the Lawyers' Committee in concert with the National Fair Housing Alliance, the Leadership Conference on Civil Rights Education Fund, and the NAACP Legal Defense and Education Fund, the importance of the Fair Housing Act's mandate to affirmatively further fair housing and the lack of adequate enforcement of this provision by HUD was a major topic covering two chapters.² The report details the lack of enforcement of this provision by both HUD and recipients of federal housing

¹ McKinstry, Gerald. "HUD blocks funding for Westchester." *The Journal News*. 7 May 2009. <http://www.lohud.com/article/2009905070407>.

² "The Future of Fair Housing: Report of the National Commission on Fair Housing and Equal Opportunity." Chapters VI and VII. Available at www.civilrights.org/publications/reports/fairhousing.



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assistance. Indeed, in testimony before the Commission witnesses could recall few, if any, occasions in the past when HUD denied funding to an applicant for federal housing funds because of non-compliance with the duty to affirmatively further fair housing. The report contains several recommendations to improve monitoring and enforcement of this requirement.

The court's decision in the Westchester case sets forth in detail the factors for determining what is required of recipients of federal housing assistance to affirmatively further fair housing. HUD's decision to withhold funds from Westchester County is an important first step in a full recognition of the duty imposed by this provision of the Fair Housing Act and in improving enforcement of it. We are encouraged by this important action and are hopeful that it reflects a commitment to vigorous enforcement of the duty to affirmatively further fair housing at HUD under the leadership of Secretary Shaun Donovan and Assistant Secretary for Fair Housing and Equal Opportunity John Trasviña.