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June 28, 2010

Honorable Robert P. Astorino
County Executive
Westchester County
148 Martine Avenue
9th Floor
White Plains, NY 10601

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

Dear Mr. Astorino:

This letter is issued pursuant to paragraphs 13(a)-(c) and 14 of the Stipulation and Order of Settlement and Dismissal in the above-captioned matter (“Stipulation” or “Consent Decree”) and responds to your letter to the Board of Legislators, dated June 25, 2010, conveying your veto of the “Source of Income” legislation passed by the Westchester County Board of Legislators on June 14, 2010 (“Local Law 3-2010” or “Source of Income Legislation”).

Executed in August 2009 by the County Executive and the Department of Housing and Urban Development, ordered by the District Court and approved by the Board of Legislators, the Consent Decree sets forth a framework for, among other things, addressing a lack of housing diversity in many Westchester municipalities and enhancing opportunities for African Americans and Hispanics to reside in communities throughout the County. A key element of the Consent Decree involves the development of 750 housing units. That is not, however, the only element of the Consent Decree. Another important element of the Consent Decree was designed to eliminate discrimination against potential residents based on the source of that housing candidate’s income. As set forth in paragraph 33(g) of the Consent Decree, it is the only provision of the decree that requires action by the County Executive himself. That paragraph provides that the County shall “promote, through the County Executive, legislation currently before the Board of Legislators to ban ‘source-of-income’ discrimination in housing.” That obligation attached to the Office of the County Executive and was assumed at the time the current County Executive took the Oath of Office.

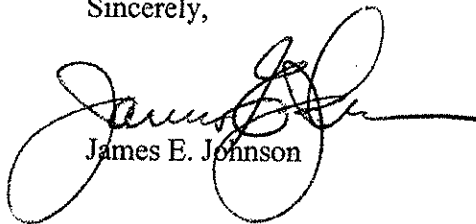
While the veto message sets forth, in conclusory fashion, several reasons that purportedly justify the veto, the message neither addresses nor even acknowledges the obligation under the Consent Decree. In addition, the Department of Housing and Urban Development has already noted that it objects to the veto. Accordingly, you are requested to provide me with the information set forth below, all of which will be filed in a report to the District Court:

1. Identify all steps taken since January 1, 2010, to promote any Source of Income Legislation, including, but not limited to, Local Law 3-2010.
2. Identify all meetings, telephone calls or any other communications you have had with any and all members of the Board of Legislators concerning Local Law 3-2010. Please provide date, time and participants in all such communications.
3. Identify all alternatives to Local Law 3-2010 developed by, or at the direction of the County Executive.
4. Provide, in detail, the evidentiary basis for the assertion that “[t]he Local Law will not, in this form, advance the cause of providing affordable housing in the County and through potential unintended consequences may even hinder that cause.”
5. Provide the legal and/or factual basis for the assertion that “[t]he Local Law also attempts to circumvent current federal regulations that specify that the Section 8 Housing Assistance Program . . . is a voluntary plan.”
6. Provide the legal and/or factual basis for the assertion that “the Local Law raises a question of equal protection.” This assertion is, as written, untethered to either the United States or New York Constitution. Accordingly, you are requested to identify which of the two constitutions serves as the basis for your equal protection assertion and provide any cases that support this assertion.
7. Provide the legal and/or factual basis for the assertion that the requirements of Local Law 3-2010 “could lead to confusion and potential unnecessary litigation” in light of the requirements of the Emergency Tenants Protection Act of New York State.
8. Provide the legal and/or factual basis for the assertion that “[t]he Local Law places an unfair burden upon limited income properties, including in some instances one and two family homes.” Please provide any and all studies or surveys undertaken by the county that relate to that assertion.

As you know, paragraph 13(b) of the Consent Decree grants the Monitor “access to all books, records, accounts, correspondence, files and other documents, and electronic records of the County and its officers, agents and employees concerning the subject matter and implementation” of the Stipulation. Pursuant to that authority, I hereby request copies

of the following documents concerning the veto of the Source of Income Legislation: all documents reflecting communications between and among County officers, agents and employees concerning the Source of Income Legislation and all records of communications (whether in the form of voicemail, email, written correspondence, or otherwise) with any individuals not employed by the Office of the County Executive concerning any proposed Source of Income Legislation, including Local Law 3-2010. To the extent that the County is asserting privilege with respect to any requested document, please prepare a log of all documents withheld on the basis of privilege.

Sincerely,



James E. Johnson

cc: Honorable Denise L. Cote, U.S. District Court for the Southern District of New York
Nestor M. Davidson, Esq., U.S. Department of Housing and Urban Development
Andrew W. Schilling, Esq., U.S. Attorney's Office for the Southern District of New York
Honorable Kenneth W. Jenkins, Chair, Westchester County Board of Legislators