

Source of Income



Press Conference
June 28, 2010

Presented by

Chairman Ken Jenkins
& Legislator John Nonna



Westchester County Board of Legislators

Source of Income

- This law is about discrimination.
- The County Attorney's office develops the laws that we enact – including Source of Income.
- The County Attorney would not create a law that is illegal or unconstitutional.
- The implementation plan submitted by the County Executive on March 12, 2010 acknowledged the obligation of the County Executive's office under the settlement agreement to promote a ban on “source of income” discrimination in housing.



Local Law: Modification to Add Source of Income as a Protected Class

- Developed after years of meetings, discussions and public comment
- Adds a protected class to the Fair Housing law to prohibit discrimination based on Source of Income
- Does not MANDATE acceptance of any applicant
- HUD guidelines provide that landlords remain free to develop reasonable tenant selection procedures to select responsible tenants



What Our Law Does

- Level of income from a legal and verifiable source
- Reasonable business judgment
- Landlord hotline and education
- Provides an opportunity, not a guarantee



Veto Message Inaccuracies

CE Astorino Veto Message:

- The legislation attempts to circumvent current federal regulations that specify that the section 8 housing assistance program is a voluntary plan.

FACT:

- HUD regulation 24 CFR section 982.55(d) (2003) specifically states:

Nothing in the section 8 voucher regulations “is intended to preempt operation of state and local laws that prohibit discrimination against a section 8 voucher holder because of status as a section 8 voucher holder”



Veto Message Inaccuracies

CE Astorino Veto Message:

- The legislation raises a question of equal protection. It attempts to elevate federally assisted tenants to a 'protected class, but then exempts large numbers of landlords from having to comply with the law.

FACT:

- Federal law currently exempts owner-occupied dwellings with up to 4 housing accommodations, our law doubled the exemption to 2 dwellings with up to 4 housing accommodations.



Veto Message Inaccuracies

CE Astorino Veto Message:

- The board has not considered the appropriateness of subjecting landlords to the scrutiny of the human rights commission and the potential of \$50,000 fines that the commission could levy against landlords.

FACT:

- The Fair Housing section of the Human Rights law was deemed equivalent to the Federal statute. As a result, HUD cases are referred to Westchester for review.
- The fine was lowered from \$100,000 to \$50,000 for willful and wanton conduct.
- No fine has even been imposed by the Human Rights Commission close to this amount.



Veto Message Inaccuracies

CE Astorino Veto Message:

- Law is “unconstitutional”
- Law raises a question of “equal protection”

FACT:

- None of these “opinions” has any legal basis



History 101

Plaintiff ADC originally wanted:

- Westchester County to repay all CDBG funds.
- Control of ALL Housing development in Westchester County.
- Over \$100 million dollars in legal fees.

FACT:

- The potential exposure to Westchester County was over \$300 million dollars.
- Giving control of the development of fair and affordable housing to an outside agency.



Rash Veto: County Executive Astorino has Exposed the County

- Plaintiff could move to state a material breach in the Stipulation agreement - *Legal fees (over x million to date)*
- Court could determine that the administration is unwilling/unable to comply and order the monitor to implement the Housing Stipulation without County input.
- The source of income anti-discrimination law advances the county's compliance with the HUD court settlement that the County Executive obligated himself to promote under the Implementation Plan. This county executive in a revised March 12 implementation plan under C. Legislative Priorities obligated his office to promote legislation to ban "Source of Income" discrimination in housing. "C (3) Promotion of legislation to ban "Source of Income" discrimination in housing: Pursuant to Paragraph 33 (g) of the Stipulation, the County Executive's Office is required to promote legislation currently before the Legislature to ban "Source of Income" discrimination in housing."



Process

- Veto message of the Local Law will be officially received as a Communication from the County Executive.
- County Board could reconsider the Local Law for the purpose of override at any time up to 30 days from the County Board meeting that contains the Veto message, including the meeting the Communication from the County Executive is received.

