

**WESTCHESTER COUNTY FAIR AND AFFORDABLE HOUSING
IMPLEMENTATION PLAN
January 29, 2010**

A. INTRODUCTION

(1) Overview/Deadlines:

Pursuant to the Stipulation and Settlement and Dismissal entered in *U.S. ex rel. Anti-Discrimination Center v. Westchester* ("Stipulation"), the County of Westchester is required to produce a series of deliverables which will enhance the County's fair and affordable housing programs and policies, and will serve as a tool to assist the County in affirmatively furthering fair housing ("AFFH") throughout the County of Westchester. In addition, the County is required to produce an Implementation Plan which outlines the County's proposed plan and process for the development of 750 units of fair and affordable housing as required by the Stipulation.

Noting that the Stipulation originally provided for certain deliverables to be transmitted to the Federal Monitor and the Government on the 90th day after the entry of the Stipulation ("Day 90") and others to be produced and submitted on or before the 120th day after entry of the Stipulation ("Day 120"), on October 8, 2008, then-Deputy County Executive Susan Tolchin, issued a letter to the Federal Monitor seeking an extension of the preliminary planning deadlines set forth in the Stipulation as follows:

(a) for the Day 90 obligations, the County requested an extension which would adjust the Day 90 deadline from November 8, 2009 to November 23, 2009 solely for the purpose of the County's delivery of an amended policy statement as required by Paragraph (31) of the Stipulation. In consultation with the United State Department of Housing and Urban Development ("HUD"), the Federal Monitor has granted the requested extension by a letter dated October 20, 2009; and

(b) for the Day 120 obligations, the County requested an extension which would extend the Day 120 deadline from December 8, 2009 to January 30, 2010 for all Day 120 obligations and deliverables. In consultation with the United State Department of Housing and Urban Development ("HUD"), the Federal Monitor has granted the requested extension by a letter dated October 20, 2009. Note, however, that a second, limited extension was subsequently granted by HUD on December 18, 2009 with regard to the delivery of an updated Analysis of Impediments. Specifically, that December 18th extension requires the County to select a contractor and execute a contract for the AI revisions by January 31, 2010 and produce an updated AI by June 30, 2010.

Appendix A:

- (i) A copy of the County's October 8, 2009 extension request letter;**
- (ii) A copy of the Monitor's letter approving said request, dated October 21, 2009; and**
- (iii) A copy of HUD's letter approving extension of AI deadlines, dated December 18, 2009.**

(2) Implementation Plan Organization:

This Implementation Plan has been organized according to subject matter, as follows:

- A. Introduction (Pages 1-2)
- B. Financial Obligations (Page 3)
- C. Legislative Requirements (Pages 4-5)
- D. Policy & Planning Tools (Pages 6-8)
- E. Affirmative Marketing & Outreach (Page 9)
- F. General Outreach & Education Efforts (Pages 10-11)
- G. Analysis of Impediments (Pages 12-13)
- H. Plan for the Development of Required Fair & Affordable Housing Units (Pages 14-17)
- I. Status of Sites Presently under Active Consideration for the Development of Fair & Affordable Housing (Page 18)
- J. Long-range Timetables & Benchmarks (Pages 19-20)

Further, as noted above, the Stipulation requires that a series of efforts be accomplished on two specific deadlines, namely on Day 90 and Day 120, as those dates have been extended as reflected above. This Implementation Plan shall reference the deadline for delivery only for those items which are due on a date other than January 30, 2010. In addition, where it is intended certain outreach efforts outlined herein be undertaken on a continual or recurring basis, the Implementation Plan shall so specify.

A series of appendices are included in this Implementation Plan as documentation of efforts and/or to clarify the extent of efforts, as indicated below.

B. FINANCIAL OBLIGATIONS

(1) Payment of \$30 Million to the U.S. Government: Pursuant to Paragraph (3) of the Stipulation, the County is required to pay to the United States the sum of \$30 million dollars, of which \$21.6 million will be returned to the County as a credit under its Community Development Block Grant account to be utilized for the purpose of developing the housing required under the Stipulation.

Delivery Deadline: Day 90/no extension

Summary of Action: This payment was made on October 28, 2009.

Appendix B-1: Finance Department documentation of \$30M wire transfer.

(2) Payment of \$2.5 Million to the Realtor's Counsel: Pursuant to Paragraph (4) of the Stipulation, the County is required to pay to the Realtor's Counsel the sum of \$2.5 million dollars.

Delivery Deadline: Day 90/no extension

Summary of Action: This payment was made on October 28, 2009.

Appendix B-2: Finance Department documentation of check issued to Relator's counsel.

(3) Securing funding necessary to ensure equitable relief in the amount of \$30 Million: Pursuant to Paragraph (5) of the Stipulation, the County is required to secure resources sufficient to ensure that the equitable relief is funded by \$30 million dollars for County fiscal years 2009-2014. In accordance with the Laws of Westchester County and long-standing fiscal policy of the County of Westchester, the required funding shall be approved and authorized by the Westchester County Board of Legislators ("BOL") through the issuance of capital budget amendments and bonding approvals on a project-specific basis as each development project is formally proposed.

Summary of Action: \$51.6 million, which includes this \$30 million, is in 5-year Westchester County Capital Program.

Appendix B-3: (i) A copy of 19-20 Capital Request Form; and (ii) 5-year Capital Program.

(4) Identification of Unallowable Costs: Pursuant to Paragraph 44(c) of the Stipulation, the County is required to identify any "Unallowable Costs" (as that term is defined in Paragraph 44(a) of the Stipulation) and as further outlined in a supplemental communication from HUD to the County Attorney and outside counsel, dated August 17, 2009, included in payments previously sought by the County from the United States.

Delivery Deadline: 90 Days/no extension

Status: Transmitted to HUD and the monitor on November 4, 2009.

Appendix B-4: Letter in response to its obligations under Paragraph 44(c), along with supplemental communication from HUD, and an itemized accounting of the Unallowable Costs.

C. LEGISLATIVE REQUIREMENTS

(1) AFFH Policy Statement: Pursuant to Paragraph 31 of the Stipulation, the County is required to adopt a policy statement providing that:

- (1) "the elimination of discrimination, including the present effects of past discrimination, and the elimination of de facto residential segregation are official goals of the County's housing policies and programs;
- (2) AFFH significantly advances the public interest of the County and the municipalities therein; and
- (3) the location of affordable housing is central to fulfilling the commitment to AFFH because it determines whether such housing will reduce or perpetuate residential segregation."

Delivery Deadline: As noted above, this Day 90 Obligation was subject to an extension approved by the Federal Monitor, and the due date for the adoption of this policy was adjusted to November 23, 2009.

Summary of Action: In conformance with long-standing legal guidance issued by the NYS Attorney General, the County of Westchester's fair and affordable housing policy was authorized by the BOL, through the adoption of a Statement of Need in 1979, which Statement of Need was amended by the BOL in 1992 and again in 2001. In order to adopt the requisite policy specified in the Stipulation, as outlined above, the BOL was required to adopt, by local law, an amended policy statement in support or in furtherance of such Statement of Need. That legislation was adopted by the BOL on November 23, 2009.

Appendix C-1: A copy AFFH Policy legislation adopted by the BOL on November 23, 2009.

(2) Confirmation of Exemption to County First Right of Refusal Legislation for Fair & Affordable Housing transactions: Pursuant to Paragraph 25(c) of the Stipulation, the County has committed to amend Westchester County Law to clarify that land transactions which affirmatively further fair housing are exempt from the County's First Right of Refusal Law, which allows local municipalities a right of first refusal to purchase County-owned land which is deemed to have no further County purpose.

Summary of Action: The required legislation was filed with the BOL in January 2010, and is now pending before the BOL's Legislation Committee. A vote of the full BOL is expected on Monday, February 22, 2010.

Appendix C-2: A copy of the First Right of Refusal legislative package now pending before the BOL on which a vote is expected to occur on February 22, 2010.

(3) Promotion of legislation to ban "Source of Income" housing discrimination: Pursuant to Paragraph 33(g), the County Executive's Office is required to promote legislation currently before the BOL to ban "source of income" discrimination in housing.

Summary of Action: The Source of Income legislation package was prepared and submitted to the BOL in 2008, and was subject to various amendments over the course of the 2008-2009 legislative session. No action was taken on this legislation by the close of the session, necessitating resubmission in 2010. In fact, this legislation was resubmitted to the BOL in January of 2010, and is now currently pending in the BOL's Legislation Committee.

Noting that the recently submitted legislative package mirrors that which was extinguished at the end of the 2008-2009 session, be advised that with respect to that package, the County Executive's Office has made several efforts to promote the adoption of the legislation. Specifically, in October of 2009, then-County Executive Spano issued a letter to the leadership of the BOL urging the BOL's adoption of the legislation. In addition, in November of 2009, then-County Executive Spano issued letters to several housing advocacy organizations urging their continued support and advocacy for the proposed legislation, including: (1) Legal Services of the Hudson Valley/Westchester Residents Against Income Discrimination (WRAID); (2) Westchester Residential Opportunities, Inc.; (3) Mount Vernon United Tenants; (4) Human Development Services of Westchester (HDSW); and (5) Housing Action Council.

Appendix C-3: (i) A copy of the most current Source of Income legislation now before the BOL; (ii) letter from then-County Executive Spano to BOL members advocating for the adoption of this legislation, dated October 23, 2009; and (iii) letters from then-County Executive Spano to fair housing advocates urging continued support and advocacy for the law issued on November 18, 2009.

D. POLICY & PLANNING TOOLS

(1) **Model Zoning Ordinance.** Pursuant to Paragraph 25(a), the County is required to develop a model ordinance to advance fair housing in the local municipalities of Westchester, and to promote that model ordinance to the local municipalities. The Stipulation provides that such model ordinance shall include:

- (i) a model inclusionary housing ordinance that requires new development projects to include a certain percentage of affordable units, including criteria and standards for affordable housing units and definitions of who is eligible for affordable housing;
- (ii) standards for affirmative marketing of new housing developments to ensure outreach to racially and ethnically diverse households;
- (iii) standards for expedited review of proposals for affordable housing that AFFH including procedures for streamlining the approval process for the design, permitting, and development of these units; and
- (iv) standards for legal mechanisms to ensure continued affordability of new affordable units.

Summary of Action: The County of Westchester has no independent land use control or authority. Rather, pursuant to the New York State Constitution, the authority to impose zoning and land use controls resides in the local municipalities. Therefore, in order to inform the County's process for developing the required Model Zoning instrument, the Administration conducted extensive research and developed an inventory of local Westchester County inclusionary zoning protocols and practices, as well as a sampling of ordinance provisions in effect in Connecticut and Maryland jurisdictions (copies of same were previously submitted to the Monitor). In addition, the County engaged in various forms of outreach to local municipal officials and local zoning attorneys, including a series of meetings with the Housing Committee of the Westchester Municipal Officials' Association. After developing the required Model Zoning Ordinance provisions and Discretionary Funding Policy, both were promoted to the local municipalities within Westchester County by letter dated January 29, 2010.

Please note that all local municipalities within the County already have comprehensive zoning codes in place which are of varying length, complexity and content, and which cover a wide variety of zoning issues which are unrelated to inclusionary zoning for fair and affordable housing. Accordingly, the materials produced by the County in compliance with the Stipulation are not intended to operate as a fully-integrated zoning code or to otherwise act as a substitute for those long-standing codes. Rather, what has been produced are a series of zoning provisions which are intended, collectively, to serve as a supplement to existing municipal zoning codes in Westchester County municipalities for the purposes of ensuring the provision and promotion of fair and affordable housing development throughout the County of Westchester. By proceeding in this manner, the County believes that local municipalities will be better able to assess the appropriate manner for inclusion of these provisions and/or principles of inclusionary zoning into their individual codes, while maintaining the underlying integrity of those existing codes.

The Model Inclusionary Zoning Ordinance provisions transmitted herewith were developed in consultation with the Westchester Municipal Officials' Association, and were also transmitted, together with the County's proposed Discretionary Funding Policy (see also Item D(2) below) by the Administration to local municipalities within the County on January 29, 2010.

Appendix D-1: (i) Model Zoning Ordinance provisions; and (ii) documentation of outreach to local Westchester County municipalities re: Model Zoning Ordinance and proposed Discretionary Funding Policy.

(2) Policy to condition the use of Public Funds & Resources on efforts to AFFH: Pursuant to Paragraph 25(d), the County is required to establish a policy on which will condition, as appropriate, the use of public funds and resources including, but not limited to, CDBG funds and the County Open Space funds on commitments from municipalities to: (a) ban certain housing selection preferences that do not AFFH; (b) offer the County a right of first refusal to retain and/or purchase land acquired in rem to be used to AFFH; and (c) provide active assistance in implementation of Settlement Agreement through land use regulations and other affirmative measures.

Summary of Action: The County has prepared a Discretionary Funding Allocation Policy that incorporates the affirmative commitments outlined in the Stipulation, as well as amendments to the standard funding agreements for its CDBG and Open Space/Legacy programs. Noting that the approvals process for the adoption of code provisions relating to inclusionary zoning and first right of refusal obligations, which are requirements of the Discretionary Funding Allocation Policy, cannot be achieved immediately at the municipal level, the Discretionary Funding Allocation Policy provides for an effective date of January 30, 2011, in order to allow municipalities to review, consider and adopt necessary code provisions over the course of 2010.

Appendix D-2: Discretionary Funding Allocation Policy.

(2)(b) CDBG allocation process to promote activities that AFFH: Pursuant to Paragraph 25(b), the County is required to establish a CDBG allocation process/plan designed to promote activities that AFFH including such steps as providing priority to projects that further development of AFFH affordable housing units as set forth in Paragraph (7) of the Stipulation. Note that Paragraph (7) relates specifically to the units mandated under the Stipulation and therefore requires some priority to be given to those projects in the County's general CDBG program, as all Stipulation-specific CDBG funding must already be dedicated to Paragraph (7) units.

Policy: Beginning with the 2012-2014 cycle of CDBG funding, ten (10%) percent of the County's annual CDBG appropriation shall be set aside as funding for projects which will further the development of AFFH affordable housing required pursuant to Paragraph (7) of the Stipulation, provided that such CDBG monies can be spent on such project according to HUD guidelines, including HUD-designated timetables for expenditure. To the extent that any portion of the ten (10%) percent set aside cannot be expended according to the terms stated above, those monies shall revert back to the County's general CDBG fund for that year.

(3) Amend the County's Long Range Land Use Policies as contained in Westchester 2025: Pursuant to Paragraph 27, the County is required to amend its Long Range Land Use Policies as contained in Westchester 2025 to embody the goals of the Stipulation; the substantive provisions of the Model Ordinance required by Paragraph 25(a) of the Stipulation; and the policy statement adopted pursuant to Paragraph 31 of the Stipulation.

Summary of Action: The Westchester County Planning Board adopted amendments to the County's Long Range Land Use Policies on January 5, 2010 which embody the overarching goals of the Stipulation and required policy statements. However, because the County has been engaged in the process of developing the Model Inclusionary Zoning Ordinance provisions with the Westchester Municipal Officials' Association through the month of January, 2010, it has not been possible for the County Planning Board to adopt the "substantive provisions of the Model Ordinance" by the January 30th deadline. Please be advised that a resolution has been prepared for consideration by the County Planning Board which would endorse the substantive provisions of the Model Ordinance, and that the County Planning Board is scheduled to vote on this resolution at its February 2, 2010 meeting.

Appendix D-3: (i) Amendments to Westchester 2025 & Resolution of the Westchester County Planning Board, adopting the overarching goals of the Stipulation and required policy statement, adopted on January 5, 2010; and (ii) Proposed resolution of the Westchester County Planning Board endorsing the substantive provisions of the Model Ordinance, as scheduled for vote on February 2, 2010.

E. AFFIRMATIVE MARKETING & OUTREACH

(1) Plan to affirmatively market fair and affordable housing: Pursuant to Paragraph 33(e), the County must establish a plan/process for affirmatively marketing housing within the County and in geographic areas with large non-white populations outside, but contiguous or within close proximity to the County, including a requirement that all agreements with developers must include a commitment to conduct such affirmative marketing. The plan outlined in this section shall become a policy of the County of Westchester, and shall be implemented continuously for all future fair and affordable housing projects to which the County is a party. All Developers or other professional entities which receive funding by or through the County of Westchester for the development of fair and affordable housing units shall be required to comply with the provisions of this plan.

Appendix E-1: Westchester County Fair & Affordable Housing Affirmative Marketing Plan.

(2) Plan to centralize intake of potential home buyers for housing and other outreach activities that will ensure AFFH, including housing counseling. Pursuant to Paragraph 33(f), the County is required to establish a plan to centralize intake of potential home buyers and renters, disseminate information regarding community resources, job data by municipality, home-buyer counseling and housing under development. The plan outlined in this section shall become a policy of the County of Westchester, and shall be implemented continuously for all future fair and affordable housing projects to which the County is a party.

Appendix E-2: Centralized Intake & Housing Outreach Plan.

F. GENERAL OUTREACH & EDUCATION EFFORTS

(1) General Outreach Efforts: The County is required to undertake certain general outreach efforts including:

Stipulation reference	Outreach obligation
Paragraph 33(a)	solicit CDBG proposals that would AFFH from community leaders and public interest groups
Paragraph 33(b)	advertise rights of persons to redress allegations of discrimination
Paragraph 33(c)	create and fund campaigns to broaden support for fair and affordable housing and to promote fair and equitable distribution of housing in all communities, including public outreach specifically addressing the benefits of mixed-income housing and racially and ethnically integrated communities
Paragraph 33(d)	educate realtors, condo/coop boards and landlords with respect to fair and affordable housing activities
Paragraph 33(h)	Pay for consultants and public education, outreach, and advertising to AFFH out of County resources and CDBG funds over five years, excluding the funding dedicated to the development of housing as set forth in Paragraphs 2, 3, and 5 of the Stipulation, in an amount not less than \$400,000

(2) Housing Specific Outreach: Pursuant to Paragraph 22 of the Stipulation, the County is required to undertake various investigative and outreach efforts, in consultation with the Monitor, in furtherance of its obligations to identify both potential developments and development strategies to achieve the housing development obligations of the Stipulation. Specifically, the County is required to:

- (i) Assess the availability of suitable vacant land;
- (ii) Meet with developers and property owners;
- (iii) Meet with key local officials; and
- (iv) Meet with New York State Division of Housing and Community Renewal and the New York State Housing Finance Agency.

Summary of Action: The County has conducted numerous forms of outreach in furtherance of and in compliance with the obligations of the County in connection with the preparation of the Implementation Plan, and is scheduling new meetings with community leaders, elected officials, housing experts, property owners, and others with an interest in promoting the development of the housing which is required by the Stipulation on a continuous basis. Notably, the County's efforts in furtherance of Paragraph (22) compliance overlap with the County's efforts in furtherance of Paragraph (33)(a) compliance, given that much focus has been placed on soliciting proposals from various sectors of the community as one aspect of the County's efforts to assess suitable project proposals and parcels for development which are Stipulation-compliant. Moreover, as required by the Stipulation, these meetings have all been conducted in consultation with the Monitor to the extent that the Monitor has been informed weekly of the scheduling of forthcoming meetings and he and/or his staff have been welcome to attend any meeting which either may find of interest. Specific detail on meetings/outreach conducted to date can be found in Appendix F, referenced below.

With regard to compliance with Paragraphs 33(b), 33(c), and 33(d), and 33(h), please note that the County has prepared a plan of action for increased public education, outreach, and advertising in the realm of fair housing, and housing discrimination and housing opportunity as required by the Stipulation. The County will include, in future reporting, an accounting of the actions taken and amounts spent in furtherance of its Paragraph 33(h) obligations. Please note that the County intends to complete the implementation of the Centralized Intake Tool, referenced in Section E(2), above, before proceeding with the Paragraph 33(h) efforts to ensure that a systematic, online tool is operational and available as a resource for those persons whose interest is captured by the County's comprehensive educational and outreach efforts, and so that branding of the program materials proceeds any individual effort.

Appendix F: (i) Meeting Matrix, summary of all meetings conducted internally and externally in furtherance of the Implementation Plan obligations, and (ii) Fair Housing Outreach & Education Plan.

G. ANALYSIS OF IMPEDIMENTS

Pursuant to Paragraph 32 of the Stipulation, the County is required to complete an Analysis of Impediments ("AI") within its jurisdiction that complies with the guidance in HUD's Fair Housing Planning Guide, in a form that is deemed acceptable by HUD. As part of the AI, the County is required to:

- (a) commit to collecting data and undertaking other actions to facilitate the implementation of the Stipulation; and
- (b) Analyze fair housing impediments, take appropriate actions and analyze the potential need for, and provision of, mobility counseling.

Summary of Action: The County submitted a draft AI to the United States Department of Housing and Urban Development ("HUD") in May of 2009. Due to the ensuing activities associated with the settlement of the litigation which resulted in the Stipulation, HUD did not issue comments on that draft AI until October 26, 2009, when it forwarded a 12-page summary of its required revisions to the County. Upon review of HUD's comments, the County immediately concluded that expert assistance would be required to undertake the very complex statistical and analytical work required by HUD. To that end, the County immediately contacted HUD to request a list of AI consultants and/or industry experts who could assist the County in completing this task. Beginning on November 4th, when HUD forwarded a list of persons and entities with an expertise in AI production and review, the County began a process of outreach to a panel of experts, including those recommended by HUD and others with which the County has direct contact. This process extended through November 18th and resulted in the receipt of preliminary proposals/responses from only 3 out of 9 of the experts contacted.

Notably, each of the three responding experts submitted written comments which specified that the AI revisions and enhancements required by HUD could not be completed by January 30, 2010. In fact, the common wisdom among these experts was that a range of 4-9 months, with an average recommendation of 6 months, would be required for the necessary work to be undertaken and a final AI to be produced. Notably, none of these experts were willing to attempt the job with a deadline of January 30, 2010. Given the independent review and uniform conclusions of multiple industry experts, it seemed clear that the County could not produce an AI document which would satisfy HUD if the January 30, 2010 deadline remained unchanged.

In light of the above, the County issued a letter to HUD on December 8, 2009 seeking an extension of the deadline which applied to the County's obligations pursuant to Paragraph 32 of the Stipulation. By letter dated, December 18, 2009, HUD granted the County an extension for the submission of the revised AI to June 30, 2010. Specifically, that December 18th extension requires the County to select a contractor and execute a contract for the AI revisions by January 31, 2010 and produce an updated AI by June 30, 2010.

On December 23, 2009, the County issued an RFP for the revised AI which cited the revised deadline of June 30, 2010. Proposals were due on January 20, 2010, and (3) proposals were received by the County. From those issuing proposals, the County selected W. Frank Newton, Inc., and submitted a resolution to the County Board of Acquisition & Contract to authorize the County to contract with W. Frank Newton, Inc. on January 26, 2010. That resolution was approved on January 28, 2010, and the contract was executed on January 29, 2010.

Appendix G: (i) A copy of HUD's October 23, 2009 comments on County's May 2009 draft AI; (ii) the County's December 8, 2009 extension request (iii) HUD's December 18, 2009 extension approval letter; (iv) a copy of the County's RFP, dated December 23, 2009; (v) a copy of the resolution of the Westchester County Board of Acquisition & Contract approving the AI consultant; and (vi) a copy of the County's executed contract for services with W. Frank Newton, Inc .

H. PLAN FOR DEVELOPMENT OF FAIR & AFFORDABLE HOUSING UNITS

(1) Goal: Preparation of a plan that provides for the development of fair and affordable housing in eligible areas over a seven year period in accordance with the terms of the Stipulation.

(2) Guiding Principles & Objectives:

- Establish guidelines for the development of housing that is visually attractive, environmentally sensitive and compatible with the character of the community in which it is located.
- Identify sites suitable for residential development in a timely, cost effective and efficient manner consistent with the terms of the Stipulation.
- Establish implementation schedule in accordance with the timelines set forth in the proposed Stipulation.

(3) Methodology for the identification of Eligible Municipalities/Areas under the Stipulation: As per Paragraph 22(f), this includes an assessment of means to maximize development of fair and affordable housing in municipalities and census blocks with lowest concentrations of African American and Hispanic residents. Note that methodology and maps, referenced herein, have been forwarded to HUD for review and approval as a threshold measure. Based on subsequent conversations with HUD officials, it is the County's intent to verify as "eligible" all proposed housing sites to ensure Stipulation compliance as an initial step for each proposed housing development project.

Appendix H-1: (i) Methodology for the identification of Eligible Municipalities/areas (narrative); and (ii) Chart outlining Eligible Municipalities/area by tiers of eligibility under Paragraph (7) of the Stipulation.

Note: The above materials, as well as maps identifying Eligible Municipalities/areas have been previously provided to HUD.

(4) Historical Approach to Fair & Affordable Housing & Identification of Challenges:

Appendix H-2: (i) flow chart of traditional fair and affordable housing development process; (ii) Summary & Outline of historical funding sources, affordability terms (sale price, rental price, taxes), and timelines for completion of projects; (iii) Summary & Outline of Green Technology in fair & affordable projects.

(5) Presumptions for Stipulation Compliance: As per prior conversations with HUD:

Appendix H-3: (i) NYS definition of 'households' approved by HUD; (ii) Westchester County occupancy standard; (iii) List of Disallowed Projects; (iv) December 10, 2009 letter from NYS DHCR re: 37 Wildwood/Katonah project; (v) List of Current/Active fair & affordable housing projects; and (vi) List of County-owned parcels.

Please note that with respect to the Disallowed Projects List, one project (37 Wildwood Road/Katonah) was previously listed as excluded pursuant to Paragraph 8 of the Stipulation from counting toward the required housing goals identified in Paragraph 7 because the County had expected NYS DHCR to fund this proposal at the time the list was created. By letter dated December 10, 2009, NYS DHCR advised that the project was not selected for funding. Because this project is no longer financially viable without the referenced DHCR funding, it is the County's position that this exclusion should be reversed. The nonprofit developer of this property indicates that they will work with the County and NYS to resuscitate the development in the future.

(6) Exploration of Alternative Financing & Development Methodologies:

(a) Revolving Loan Program – Feasibility Assessment. Pursuant to Paragraph 22(e) of the Stipulation, the County is required to explore and implement mechanisms by which monies dedicated to Stipulation compliance can be placed into a revolving loan fund. Based on the evaluation included in this plan as Appendix H-4, the County may employ the use of revolving loan funding mechanisms only with those funds generated through those federal or State programs which specifically allow for such mechanisms or for which there is no express prohibition on the use of revolving loan fund mechanisms, which funds shall include the \$21.6 million in County-bonded funds which are now deemed to be CDBG fund pursuant to Paragraph 2 of the Stipulation. The decision to utilize revolving fund mechanisms in those instances shall be made as appropriate, on a project-by-project basis, where such use will maximize the leveraging of such housing funds.

Appendix H-4: Report on Revolving Loan Fund Feasibility Assessment.

(b) Comments on the NYS DHCR Low-Income Housing Qualified Allocation Plan. Letter was issued to NYS DHCR on November 4, 2009 as part of the official comment process for DHCR's Low-Income Housing Qualified Allocation Plan (QAP), pursuant to which DHCR makes annual funding decisions. The letter outlined recommendations for review of Westchester County Stipulation-specific projects to better enable these projects to qualify for DHCR funding. A follow-up meeting with the Commissioner and Assistant Commissioner of DHCR, at which these comments were discussed on a point-by-point basis, was held on November 6, 2009.

Appendix H-5: November 4, 2009 letter from then-Commissioner Mulligan to NYS DHCR.

(7) The process and approach to be employed to ensure the construction of 750 fair & affordable units of housing by 2016 as required by the Stipulation:

(a) The County will initially apply the following priorities in identifying sites for Stipulation compliance.

- (i) Properties that have been identified as being actively in default or subject to a foreclosure judgment with ownership transferred to a municipality, bank or other entity, with a focus on multi-unit development projects that have stalled or have been abandoned due to economics or local approval process.
- (ii) Privately and publicly owned properties that have been or are currently proposed for development that may meet the objectives of the fair and affordable housing called for in the proposed settlement. This may be a wide array of projects including projects which are underway (with or without an affordable component) and which the county can facilitate or incentivize the creation of more fair and affordable units.
- (iii) Vacant properties identified by the County based on an analysis of existing land use, zoning, infrastructure, physical conditions and related criteria that appear to be suitable for fair and affordable housing, with a focus on town centers in the Eligible Municipalities and the redevelopment of mixed use (residential & commercial) properties to enhance those community centers. This incorporates the County's existing Westchester 2025 program, and will lead to the examination of the eligible communities with an eye to expanding and enhancing pedestrian and bicycle friendly environments, minimizing reliance on cars for access to services, recreation, and transit.
- (iv) Improved properties identified by the County based on an analysis of existing land use, zoning, infrastructure, physical conditions and related criteria that appear to be suitable for fair and affordable housing.
- (v) Publicly-owned sites identified by the municipality and/or as identified in a comprehensive plan.
- (vi) County-owned property classified as general municipal (non-park) that may be suitable for residential development, see Section 7(b), below.
- (vii) Sites which may be suitable for Transit Oriented Development (TODs).
- (viii) Accessory apartments -- propose to incentivize homeowners to deed restrict on-site accessory apartments as fair and affordable units for a minimum of 50 years in those communities that have accessory apartment regulations or are willing to adopt regulations.
- (ix) Improved properties currently for sale at which the market price is at or near the "affordability" standard.

(b) Vacant land assessment per paragraph 22(a). In furtherance of this obligation, the County has conducted the required assessment of vacant land in the County. However, due to the vast array of impediments to development of those parcels (i.e. zoning, SEQRA, environmental/wetlands issues, land use restrictions, NYC and other watershed protection status, ownership status/purpose), that exercise has not proved to be instructive in terms of identifying parcels suitable for any housing development, fair and affordable or otherwise. Nonetheless, the County's examination of suitable parcels for Stipulation compliance will be a continuously evolving process based on the changing land use regulation, property use, and lands made available/offered for sale.

Appendix H-6: Map of vacant parcels County-wide.

(c) Assessment of existing housing and other development opportunities which could be adapted to fair & affordable housing.

(d) Post Site-Identification Property Evaluation Process/Criteria. Following identification of appropriate sites, each site to be evaluated in terms of physical and environmental feasibility including:

- (i) additional census tract & land use research/confirmation of "Eligible Area"
- (ii) local municipal master planning
- (iii) local zoning/density/set back requirements
- (iv) infrastructure/utilities (sewer, water)
- (v) environmental (watersheds/wetlands)
- (vi) geography, geology, topography
- (vii) roadway access
- (viii) land use (history/legal concerns)
- (ix) municipal & community input
- (x) where applicable, State cooperation

(e) Post Site-Identification Financial Considerations. In addition to site-specific issues, each proposed project must be evaluated for fiscal feasibility in terms of: (1) funding sources; (2) appraised value; (3) purchase price; (4) development costs; (5) affordability levels consistent with the terms of the proposed settlement; and (6) municipal concerns.

**I. STATUS OF SITES PRESENTLY UNDER ACTIVE CONSIDERATION FOR
DEVELOPMENT OF FAIR & AFFORDABLE HOUSING**

The release of information regarding site-specific inquiries and preliminary transactional terms could impair the viability of potential projects. Specifically, disclosure of developing project concepts and terms could operate to influence competition for the parcels in question, impact acquisition and/or price terms, and jeopardize the County's ability to facilitate the development of fair and affordable housing on such sites totally or within the specified deadlines. Therefore, the County shall provide the Monitor with regular updates as to developing project concepts and transactions, as the Monitor deems necessary, in a manner which will not operate to jeopardize the development of the housing units required by the Stipulation.

J. LONG-RANGE TIMETABLES AND BENCHMARKS.

Pursuant to Paragraphs 19, 23, and 24, the Implementation Plan must also include long-range timetables and benchmarks for compliance with the requirements of the Stipulation, including benchmarks for:

- (a) The first six months of the Stipulation (*technically as of February 10, 2010*)
- (b) Year One of the Stipulation
- (c) Each subsequent Year of the Stipulation

First and foremost, given that the first checkpoint (six months from the entering of the Stipulation) will occur 10 days after the submission of this Implementation Plan, the County is not issuing any proposed 6-month benchmarks as part of this Implementation Plan.

Second, with respect to the development of Stipulation-compliant housing units, it is critical to note that the Stipulation itself provides very specific and ambitious benchmarks for the development of the required housing units, and specifically with regard to the deadlines for securing both financing and building permits for the required units, as follows:

By end of calendar year:	Sites with financing in place (#) of units	Units with building permits in place
2010		
2011	100	50
2012	200	125
2013	300	225
2014	450	350
2015	600	525
2016	750	750

Therefore, given the anticipated challenges in meeting these basic compliance deadlines, please note that the County is not proposing any additional compliance benchmarks with regard to the creation of new fair & affordable housing units or otherwise with regard to Stipulation compliance.

To the extent that the County's obligations under the Stipulation other than the development of 750 units of fair and affordable must be performed on an on-going basis over the term of the Stipulation, such as its Paragraph 33(h) obligations relating to public education and advertising, the County intends to provide regular updates as to its compliance status as part of its required reporting to the Monitor with the intent of providing consistent, demonstrable progress toward each of its ongoing Stipulation obligations. Notably, the County has already reported above that, by the Year One anniversary, the Centralized Intake Tool will be operational, triggering the commencement of Paragraph 33(h) obligations, namely: the required, comprehensive outreach and educational efforts. In addition, it is intended that, with the ongoing efforts to conduct outreach to municipalities, developers, property owners, and other stakeholders, by the Year One anniversary of the Stipulation, significant progress will have been made towards the identification of parcels on which housing units can be developed.

Notwithstanding the above, the County expects that those reports, which will take a form to be determined by the Monitor, will detail both the County's progress with regard to the development of Stipulation-compliance housing units, and provide updates as to any Implementation Plan deliverable for which a substantive ongoing reporting is warranted.

Finally, the County notes that it intends to have a continuous and open dialogue with both the Monitor and HUD throughout the course of the implementation of this Stipulation, so that those parties will have ongoing familiarity with the status of the County's progress at any given point in time. The County may amend or adjust documentation produced in connection with this Implementation Plan from time to time due to circumstances which may trigger or warrant such adjustments, such as change of law or in consultation with the federal government or otherwise, the County shall provide both the amended/adjusted document, along with an explanation of the rationale for such amendments/adjustments as part of its regular quarterly reporting process under the Stipulation.