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County Sued Over Lack of Affordable Homes

By FORD FESSENDEN

IN the 1980s, Yonkers almost went bankrupt fighting a federal judge's order to integrate public housing before finally relenting. In the years since, the fair-and-affordable housing debate has gone largely unspoken in the county and in the country, with Congress appearing reluctant to push local communities and housing advocates stymied at getting the courts involved.

A federal lawsuit filed last month seeks to change all that. If successful, the lawsuit, which says Westchester County should return \$45 million in federal grants for not doing enough to provide fair and affordable housing, could be the first salvo in a renewed battle over segregated housing.

The lawsuit was filed Jan. 8 by the Anti-Discrimination Center of Metro New York in federal District Court in Manhattan. It contends that Westchester officials were to blame not only for the county's lack of progress in providing affordable housing, but also for failing to reduce segregated housing in its municipalities.

County officials deny the charges,



Alan Zale for The New York Times

FILLING A NEED
Louis Court, an affordable housing complex built in Rye Brook.

saying they did what they could to persuade individual municipalities to live up to their obligations under federal housing law.

"This is garbage," Susan Tolchin, chief adviser to the county executive, Andrew J. Spano, said of the lawsuit. "These people don't understand that we don't have control over land use."

Nonetheless, the lawsuit raises some difficult questions about housing segregation in Westchester and tries to highlight what the Anti-Discrimination Center, headquartered in New York City, says are the county's mostly unsuccessful efforts in the last 15 years to get cheaper housing built in predominantly white areas, like Eastchester, Harrison and Mount Pleasant. Those issues resonate more deeply as immigrants and city dwellers flood the suburbs looking for jobs.

"There has been no attention paid by the federal government to fair housing or affordable housing for 12 or 15 years, and it's a major structural problem in the suburbs," said Douglas Massey, a Princeton University demographer. "There is demand for lots of workers in the suburbs, but there's not the housing at the low end to accommodate them."

Instead of suing under the Fair Housing Act, which requires proof that municipalities have acted in a discriminatory way, the lawsuit invokes a law from the Civil War era called the False Claims Act that has recently been used against health care providers and defense contractors accused of fraudulently taking government money.

The lawsuit contends that Westchester should have pushed communities to desegregate or denied them a share of the \$45 million in community development grants the county received from the federal government from 2000 to 2005. The lawsuit also charges that the county made a false claim when it certified that the communities had met the demands of the Fair Housing Act, which include a requirement to "affirmatively further" fair housing.

"It's a novel approach, and it will certainly be a fascinating case to hear argued," said John Goering, a professor of public affairs at Baruch College and a former official at the Department of Housing and Urban Development. He said that John P. Relman, a prominent civil rights lawyer who filed the lawsuit on behalf of the Anti-Discrimination Center, "is not a foolish man likely to waste resources if he didn't think he

had a winnable case."

Mr. Relman has been involved in several prominent discrimination lawsuits, including one against the Denny's restaurant chain that led to a \$54 million settlement in 1994.

Michael Allen, a lawyer with Mr. Relman's firm, said the firm was attracted to the Anti-Discrimination Center case "because it offers a brand-new way of attacking segregation."

"We need new remedies to open housing opportunities," Mr. Allen said.

He said a finding that Westchester had not pushed fair housing enough would reverberate around the country. "It will push other municipalities to examine what they're doing," he said.

Legal experts said the case was attractive for another reason: judges in the Northeast are considered more sympathetic to fair-housing litigation than their counterparts else-

say that it grew worse in that time.

In 1993, the county wrote a fair housing plan that set a target of 5,000 new units of affordable housing by the end of the decade. All of the municipalities had a goal, reflecting a legal requirement from a 1975 case against New Castle that said that all municipalities had to share in the responsibility of providing affordable housing.

The plan fell far short, achieving just 2,309 units, most of them in Yonkers, Mount Vernon and New Rochelle, municipalities that already had many minority residents. Thirty-eight municipalities did not make their quotas, and 20 built no affordable housing units at all.

A new county plan adopted in 2005 set a goal of more than 10,000 units by 2015, also apportioned by a formula for every municipality. The Town of Mount Pleasant, for instance, where none of the 321 units the town was allocated in 1993 was built, now has a goal of 756 units by 2015. It still has none. There are no penalties for failing to achieve the goal.

"You can't just give a number to a community," Mount Pleasant's supervisor, Robert F. Meehan, said. "The issue is far more complex than that. Existing zoning, environmental concerns, the cost of taxes and mortgages, other town services — all these things play into an affordable market. House prices vary depending on a lot of things. You can't just say, this town has to provide 300 or 400 affordable units."

Norma Drummond, the county's deputy planning commissioner, said the county was largely helpless in changing the attitudes of town officials. The county has spent \$34 million buying land and giving it to developers for affordable housing projects since 2000, but beyond that, it is confined to a bully-pulpit role.

"We've done a video promoting the fact that there's a huge gap, to get local communities to recognize their responsibility," Ms. Drummond said.

But Craig Gurian, the executive director of the Anti-Discrimination Center, said that Westchester did not even mention race as a potential impediment to fair housing in statements that supported its grant proposals. He also said the county should have taken a harder line with the municipalities.

"Westchester was all carrot and no stick, even in the face of experience that the all-carrot approach didn't work," Mr. Gurian said.

Fulfilling the Plan

Affordable housing units that municipalities were expected to build by 2000 under Westchester County's 1993 Fair Housing plan, and the number actually built.

MUNICIPALITY	ALLOCATED	BUILT
Ardley	23	0
Bedford	198	68
Briarcliff Manor	67	0
Bronxville	42	0
Buchanan	10	0
Cortlandt	180	43
Croton	32	16
Dobbs Ferry	39	32
Eastchester	60	0
Elmsford	31	80
Greenburgh	294	112
Harrison	307	0
Hastings	30	0
Ivington	35	22
Larchmont	35	0
Lewisboro	129	8
Mamaroneck, Town	65	54
Mamaroneck, Village	86	197
Mount Kisco	59	0
Mount Pleasant	321	0
Mount Vernon	183	323
New Castle	168	65
New Rochelle	188	77
North Castle	132	0
North Salem	83	3
Ossining, Town	39	0
Ossining, Village	40	6
Peekskill	73	105
Pelham	22	0
Pelham Manor	32	0
Pleasantville	28	3
Port Chester	96	21
Pound Ridge	80	0
Rye	121	0
Rye Brook	112	14
Scarsdale	135	0
Sleepy Hollow	52	0
Somers	188	0
Tarrytown	67	123
Tuckahoe	22	11
White Plains	344	97
Yonkers	547	829
Yorktown	204	0

Source: Westchester County Housing Opportunities Commission