

## ATTACHMENT TO HOUSING DISCRIMINATION COMPLAINT

Conifer Realty LLC, a nationally recognized developer of affordable housing, files its complaint of housing discrimination against Robert Greenstein, Supervisor, Town of New Castle, William Maskiell, Building Inspector, Town of New Castle, and Russell Maitland, First Assistant Chief, Chappaqua Fire Department. The basis for the complaint is that these officials, acting in their official capacities have taken actions that will have the effect of restricting housing choice or the availability of housing on the basis of race, national origin, and disability. As more fully discussed below, the actions of said officials will have the effect of otherwise making unavailable affordable fair housing apartments in the Town of New Castle and are contrary to the obligation to affirmatively further fair housing.

On August 10, 2009, Westchester County and the United States entered into a Stipulation and Order of Settlement (“Settlement”) wherein the County agreed to develop at least 750 Affordable AFFH units, primarily in municipalities with overwhelmingly white populations. Under the terms of the Settlement, Affordable AFFH units must be built in municipalities with an African-American population of less than 3% and a Hispanic population of less than 7%. According to the 2000 census, the Town of New Castle had an African-American population of 1.25% and a Hispanic population of 2.68%. Thus, the Town of New Castle is one of the communities that was eligible for the construction of Affordable AFFH units under the Settlement.

In July 2010, the Town of New Castle finalized a rezoning process for a parcel located at 54 Hunts Lane (“Site”), so that a transit oriented workforce housing project could be developed. The Site is located in close proximity to the Chappaqua Metro North railroad station. In April of 2010, Town officials encouraged Conifer to pursue the Hunts Lane site and in September of 2010 Conifer entered into a purchase agreement with the owner of the Site. In January 2011 the Town Board endorsed Conifer’s 36 unit proposal and requested New York State to provide financing for the project. Westchester County also supported the project and informed New York State of the County’s intention to provide \$100,000 per unit in project funding. In October 2011, the State awarded financing for the Hunts Lane Project. Additionally, the project satisfies the income guidelines of the Settlement and was included by Westchester County as Affordable AFFH units under the Settlement in its report to the Federal Monitor.

In July 2012, the Town opened a public hearing on the project. The public hearing remained open for approximately one year. There were at least five formal meetings where a vocal group of residents voiced their opposition to the project. Robert Greenstein was one of the vocal opponents. Mr. Greenstein expressed the view that the Site was not acceptable for residential housing, that the residents of the proposed development would be stigmatized, that there was no public support in the Town for the project, that the Site did not “have a single blade of grass”, and that the project did not meet the criteria established by the Federal Monitor (James Johnson) for Affordable AFFH units. Mr. Greenstein conveniently ignored Mr. Johnson’s September 7, 2012, letter regarding the project wherein he stated that “the development . . . now furthers the goals of the consent decree and, if presented to me in that or substantially similar

form would meet my approval.” Other comments from the residents during the public hearing, include, but are not limited to, stating that the project would be a stigmatized ghetto, that the children who lived there would be ostracized by children who live in the Village, and that the project would be where the “blacks and Hispanics” live. Terence Dunn, a member of the Architectural Review Board, upon being told the time period by which his board must provide comments on the project, stated that he would have “45 days to move his family out of town when the building was up.” Despite the many pretextual comments that were made during the review process, on September 10, 2013, the Town Board: granted a special use permit; approved a 28 unit project; and adopted a conditional negative declaration under SEQR review.

On November 5, 2013, Robert Greenstein was elected as Town Supervisor, and Linda Katz and Adam Brodsky were elected as Town Board Members. Their campaign was based on opposition to the project. During the campaign, Mr. Greenstein pledged to repeal the approvals for the project. At a meeting prior to the election, Mr. Greenstein asked, “How do we get rid of the Conifer development?” In attendance at the meeting was Bill Spade, another vocal opponent, who stated that Conifer needed a number of variances and that the Building Inspector was opposed to the project and would not issue permits. It was also stated that Mr. Spade and the Building Inspector, and other residents, would attend a meeting of a New York State Regional Board of Review where they would oppose the project obtaining variances.

On November 11, 2013, Robert Astorino, Westchester County Executive, forwarded legislation to the County Board of Legislators (“BOL”) seeking 2.85 million dollars in funding for the project. During the committee review of the funding proposal, Mr. Greenstein, as Supervisor- elect and Mr. Spade met with committee members and voiced their opposition to the project and urged the BOL to deny funding. The committee met again on December 16, 2013. At that meeting, Mr. Maitland appeared and testified that the building even if code compliant was a “potential death trap” and he compared the 28 unit building to the Titanic and September 11<sup>th</sup>. The committees approved the funding, but the BOL voted against funding later that night. The legislators in opposition used Mr. Maitland’s words to vote against the housing. This is the first Affordable AFFH project funding proposal that was voted down by the BOL.

On December 10, 2013, Mr. Greenstein, Mr. Maskiell, and Mr. Maitland, all testified at the hearing before the Hudson Valley Regional Board of Review (“Review Board”) in opposition to Conifer’s petition for a variance. At the hearing, Mr. Greenstein stated that “the elephant in the room is affordable housing.” He also told the Review Board “you are our last line of defense.” The three town officials named herein each made statements in opposition to the project and raised safety concerns that had been fully addressed and satisfied during the review process by the Town Board. The Review Board’s next meeting is on February 11, 2014.

Conifer has filed this Complaint because of the efforts by the newly elected Supervisor and other Town or Village officials to derail an Affordable AFFH project by pretext, unsubstantiated fears about safety, stigmatization and the nature of the project. Conifer is concerned that without HUD’s intervention the efforts of Mr. Greenstein and others will lead to a biased and unfair process resulting in the denial of the request for a variance that is pending before the Hudson Valley Regional Board of Review. The actions of Mr. Greenstein and the other officials named herein constitute an effort to create roadblocks and reverse the approvals

already received by the project. If the variance request is denied the chance for building this much needed affordable housing will be significantly compromised. Accordingly, Conifer is requesting that HUD seek a temporary restraining order to maintain the status quo until after HUD has completed its investigation of Conifer's Complaint.