

**WESTCHESTER COUNTY FAIR AND AFFORDABLE HOUSING  
IMPLEMENTATION PLAN**  
August 9, 2010

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**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**



Andrew J. Spano  
County Executive

Department of Planning  
Gerard E. Mulligan, AICP  
Commissioner

November 4, 2009

Helen R. Kanovsky  
U.S. Department of Housing and Urban Development  
Office of General Counsel  
Washington DC 20419-0500

Dear Ms. Kanovsky:

This letter is submitted in furtherance of Westchester County's obligations pursuant to Paragraph 44(c) of the Settlement Agreement entered in *United States ex rel. Anti-Discrimination Center of Metro New York v. Westchester County* ("the Settlement"). In connection with this obligation, the County notes the existence of a supplemental communication from the United States Department of Housing and Urban Development (HUD) on this topic in the form of correspondence from you to the Westchester County Attorney and to counsel to Westchester County, dated August 17, 2009. In the County's view, the sum and substance of this correspondence is that, while any Unallowable Costs, as that term is defined in the Settlement, are technically subject to recoupment, HUD will not, in fact, seek recoupment of the previously-spent federal funds which are subject to Paragraph 44 of the Settlement. A copy of that August 17, 2009 letter is attached hereto.

For your information, the Westchester County Planning Department ("Planning") manages all accounting associated with the Community Development Block Grant funding received by the County from the federal government. Planning has conducted an exhaustive review of all expenses related to the investigation, defense, and corrective actions undertaken in connection with the matters covered by the Settlement, subject to the parameters outlined in both Paragraph 44 of the Settlement and the August 17, 2009 letter, referenced above. In light of the above, Planning has affirmatively rectified all of those charges with any and all amounts previously charged to the United States since the commencement of the above-referenced litigation.

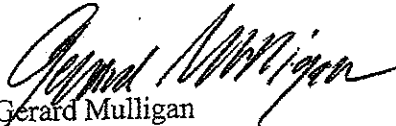
Based on that review, I have determined that the expenses incurred by the County in connection with the above-referenced litigation and Settlement which were charged against federal funds total \$470,576.43. Attached please find an itemized listing of the charges referenced herein, along with a Statement of Reconciliation made by Mark Massari, the Planning Department accountant who manages the accounting for the Community Development Block Grant program ("CDBG") funds received by Westchester County, confirming the statements made herein.



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Please do not hesitate to contact me if you should have any further questions or concerns regarding this matter. I can be reached at 914-995-4402.

Sincerely,

  
Gerard Mulligan  
Commissioner of Planning

Cc: James Cott, Assistant U.S. Attorney  
Susan Tolchin, Deputy County Executive

## STATEMENT OF RECONCILIATION

Pursuant to Paragraph 44(c) of the Stipulation & Order entered in United States ex rel. Anti-Discrimination Center of Metro New York v. Westchester County

I, Mark Massari, certify that I am employed by the County of Westchester as an Accountant III for the Westchester County Department of  
(title)

Planning. As a function of my regular duties for the Westchester County Planning Department, I manage the accounting for the Community Development Block Grant program ("CDBG") funds which the County of Westchester receives from the federal government, including the accounting of all charges made against same.

I hereby certify that I have made an exhaustive review of the charges made against the County's CDBG funds beginning on JAN. 1, 2005 and continuing through the present date, and that the charges which were made against CDBG funds for litigation, clerical or administrative services related to the matter entitled: *United States ex rel. Anti-Discrimination Center of Metro New York v. Westchester County* total \$ 470,576.43. A full accounting of those charges is annexed hereto as Schedule "A."

Dated: 11/5/09

By: Mark Massari Accountant III  
(Name)  
(Title)



GENERAL COUNSEL

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-0500

August 17, 2009

Stuart M. Gerson  
Epstein Becker & Green, P.C.  
Attorneys at Law  
250 Park Avenue  
New York, NY 10177

The Honorable Charlene M. Indelicato  
Westchester County Attorney  
County of Westchester  
148 Martine Avenue  
White Plains, NY 10601

Dear Mr. Gerson and Ms. Indelicato:

This letter sets forth how HUD intends to implement Paragraph 44 in the Settlement of *United States ex rel. Anti-Discrimination Center of Metro New York Inc. v. Westchester County* ("the Settlement"). Paragraph 44, which is standard language used in all Department of Justice False Claims Act settlements, is designed to ensure that Federal funds have not been and will not be used to litigate legal claims or for ancillary costs related to such litigation.

Accordingly, to the extent that the County has used Federal funds for any litigation, administrative, or clerical purposes related to this case, those funds are subject to recoupment. In view of the County's commitment under the Settlement to reimburse its Community Development Block Grant (CDBG) account, which consists of Federal funds, with \$21.6 million of non-Federal funds, HUD will not seek recoupment of any other previously-spent Federal funds pursuant to Paragraph 44. In addition, Paragraph 44 precludes the County from using any Federal funds for defending litigation, pursuing litigation against the Federal Government, litigating disputes related to the Settlement before the Court, or any ancillary costs related to such litigation during the implementation of the Settlement.

Moreover, the \$21.6 million of CDBG funds described in Paragraphs 2 and 3 of the Settlement shall not be used for administrative costs as defined by 24 C.F.R. § 570.206. Costs otherwise allowable under the rules governing Government programs, including Government housing grant programs, do not become unallowable as a result of the Settlement.

Sincerely,

A handwritten signature in black ink, appearing to read "Helen R. Kanovsky".  
Helen R. Kanovsky

cc: James L. Cott, Assistant United States Attorney