



Andrew J. Spano  
County Executive

Department of Planning

Gerard E. Mulligan, AICP  
Commissioner

November 4, 2009

Deborah VanAmerongen, Commissioner  
NYS Division of Housing and Community Renewal  
25 Beaver Street  
New York, New York 10004

**Subject: Comments on Low-Income Housing Credit Qualified Allocation Plan**

Dear Commissioner VanAmerongen:

In response to the posting of the proposed rule making hearings for the Low-Income Housing Credit Qualified Allocation Plan (QAP), Westchester County submits this letter for your consideration.

As you are aware, Westchester County has successfully worked with New York State to assist in the development of a large number of fair and affordable housing units in Westchester County. Recently, the County has entered into a Stipulation and Order of Settlement ("Stipulation") with the federal government which requires that the County create 750 fair and affordable housing units primarily in communities that have less than (3) percent African American population and less than (7) percent Hispanic population, as documented by the 2000 Census. To achieve this goal, the County has created a new Fair and Affordable Housing Fund (FAHF) to contribute to funding the development of such housing in areas deemed eligible under the Settlement. As part of a comprehensive approach to packaging funding for housing in eligible areas, we look to continue our cooperative financing efforts with your agency, including the allocation of the Low-Income Housing Credits for eligible projects pursued by developers pursuant to the QAP.

In reviewing the QAP in light of the Stipulation parameters, we identified several elements in the QAP scoring system that have the potential to undermine efforts to secure DHCR funding for Stipulation-compliant projects. Specifically, because the County's obligations under the Stipulation are unique (though consistent with what we understand to be emerging federal policy in the arena of fair and affordable housing and the marketing thereof), the parameters of Stipulation-compliant projects may not fit neatly into the categories outlined in the Qualified Allocation Plan pursuant to which DHCR funding allocations are made. Because we expect that the focused and progressive housing policy which is reflected in the Stipulation is one which DHCR would actively embrace, and because it would clearly be devastating to project funding if Stipulation-compliant projects



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could not achieve the necessary points to receive priority funding, we request that DHCR consider the following requests and comments on the QAP:

### I. Section 2040.3 (f) Project Scoring and Ranking Criteria

#### A. Community Impact & Revitalization:

As you know, pursuant to Item (1), applicants have the opportunity to receive up to (15) points based on four separate criteria, each of which have a maximum of (5) possible points. With respect to the first two criteria, namely: establishing that there is (a) limited or no subsidized affordable housing and (b) low vacancy rates, the County or its delegate for the Stipulation-compliant projects will continue to independently document the qualifying data necessary to secure the available points. However, the County seeks DHCR's consideration of the following proposals with regard to the third and fourth criteria in this section. Regarding the third criteria which requires the existence of a comprehensive community revitalization plan, the County asserts that the Stipulation itself embodies a fair & affordable housing policy designed to increase both the housing stock and opportunities available regionally to populations historically underrepresented in the areas in which such housing will be built. As such, the County requests that DHCR validate that the Westchester County Housing Implementation Plan, as required by the Stipulation and accepted by HUD qualifies as a bona fide community revitalization plan, enabling all projects undertaken pursuant thereto to automatically qualify for these points. Further, with respect to the fourth criteria pursuant to which it must be demonstrated that the project is an "investment in infrastructure," the County seeks confirmation that the use of Westchester County Housing Implementation Fund or FAHF and tax relief, assuming a PILOT Agreement, would satisfy this requirement.

#### B. Marketing Plan/Public Assistance:

As you know, scoring under Items (10) & (12) provides for points to be awarded where the project parameters include preferences in marketing and selection of tenants. Specifically, the DHCR Qualified Allocation Plan identifies the qualifying categories as including those who are on public housing waiting lists, or other existing waiting lists for subsidized housing; persons living in substandard conditions; and/or persons with special needs. The County is concerned that this component of the Qualified Allocation Plan operates in direct contravention of the County's obligations under the Stipulation, namely that current federal policy discourages the use of any preferences, and that the value of affirmatively marketing housing units to a broad area and strongly encouraging outreach to applicants least likely to apply would be undermined by the use of preferences.

The County of Westchester requests that DHCR recognize the critical importance and parallel priority of the County's commitment to broadly and affirmatively market the housing units to be created pursuant to the Stipulation by allowing the County to secure the points provided for in Items (10) & (12) for Stipulation-compliant projects/applications through its development of a region-wide Affirmative Fair Housing Marketing Policy and Plan.

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C. Mixed Income

As you know, the scoring system outlined in Item (14) makes points available for those projects which provide mixed income housing opportunities, and specifically where 15% of the total units are available to households with incomes above 60% AMI. While the County agrees that it is critically important to promote mixed income development, it would like to point out that it, in the case of the housing to be developed under the Stipulation, it may be impossible to frame projects which are of a sufficient magnitude to justify the incorporation of mixed income housing with units serving incomes over 60% AMI. Nonetheless, given that the rationale for the projects to be created under the Stipulation is, in the County's opinion, of parallel importance in terms of progressive housing policy, the County requests that Stipulation-compliant projects qualify for the points under Item (14) upon documentation of such compliance.

**II. Section 2040.3 (g) Determination of the Amount for Credit Allocation**

A. Preference in allocation of Credit Dollar Amounts

This item indicates that DHCR will give preference in funding to projects that will: (a) serve the lowest household income; (b) have the longest affordability period; (c) be located in a qualified census tract; and (d) contribute to a concerted community revitalization plan. As outlined in our comments in Section I(A) above, the Stipulation itself embodies a fair & affordable housing policy designed to increase both the housing stock and opportunities available regionally to populations historically underrepresented in the areas in which such housing will be built, and is effectively a specialized community revitalization plan.

B. Set-Asides

Finally, as you know, this provision allows DHCR to make funding awards based on policy determinations which reflect the State's overarching housing goals, regardless of the total number of points awarded to any given project or application. The County is very pleased to note that there is indeed room within the Qualified Allocation Plan to apply the imperatives of sound and progressive housing policy as a deciding factor in DHCR funding allocations. In light of same, the County requests that DHCR (whether or not it is persuaded by the comments outlined above with respect to individualized project scoring) consider the promotion of fair & affordable housing policy which is designed to increase both the housing stock and opportunities available regionally to populations historically underrepresented in the areas in which such housing will be built as one of the State's primary housing goals, sufficient to warrant priority in funding applications.

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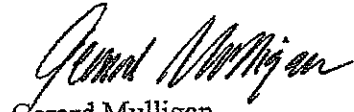
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I appreciate your consideration of the above comments.

Sincerely,



Gerard Mulligan  
Commissioner of Planning

cc: Susan Tolchin, Deputy County Executive