

E·R·A·S·E



RACISM

ELIMINATING BARRIERS
TO RACIAL EQUITY

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Welcome to ERASE Racism's new periodic newsletter, *Housing News*. During 2013 we took decisive steps to engage in legal action to advance the struggle for racial equity and integration on Long Island. ERASE Racism has hired an attorney, Jennifer Simcovitch, filed a complaint against an apartment complex in Mineola, and engaged in extensive work in response to Superstorm Sandy. We hope that our new *Housing News* educates you, inspires you, and motivates you to be active on these issues. Our housing newsletter covers much of our housing work over the past year and provides additional insight on some of our future plans.

Superstorm Sandy: An Update



Superstorm Sandy hit the New York area on October 29, 2012. As Congress began to deliberate over recovery funding, ERASE Racism recognized the importance of intervening to assure that the necessary recovery funding would make its way to New York, despite some Congressional opposition. To that end, ERASE Racism organized Long Island organizations and businesses to sign-on in support of a letter that we wrote to the New York Congressional Delegation. The letter urged them to approve

President Obama's proposed recovery package and to consider the needs of low-income and minority communities in passing the recovery package. ERASE Racism also wrote to the Department of Housing and Urban Development ("HUD") to urge them to adopt standards for the allocation of recovery funding that would: (i) involve public participation and transparency; (ii) address the equity and affordable housing needs of low-income and minority residents; and (iii) mandate adherence to fair housing statutes to ensure that allocated funds do not exacerbate the severe levels of racial segregation that currently exist. In early 2013, Congress passed the Disaster Relief Appropriations Act, which provided for the distribution of funds to areas affected by Hurricane Sandy.

On March 5, 2013, HUD issued a notice about the first allocation of recovery funds, which included over \$1.7 billion for New York State. The HUD notice provided guidance for fund recipients on drafting their Action Plan, including a requirement that the Action Plan contain an impact and unmet needs assessment—covering housing, infrastructure, and job loss. The HUD guidance also required that fund recipients assess how their planning decisions may affect "racial, ethnic, and low-income concentrations, and ways to promote the availability of affordable housing in low-poverty, non-minority areas." The New York State Division of Homes and Community Renewal ("NYSHCR"), the agency responsible for drafting the Action Plan, published a draft plan in March 2013, which called for the distribution of \$888 million to Nassau County and \$282 million to Suffolk County. After reviewing the State's Action Plan, ERASE Racism was concerned that it did not adequately address the needs of low-income and minority residents, and feared that the response to Superstorm Sandy would follow in the footsteps of the response to Hurricane Katrina, which left minority and low-income communities behind in the recovery process.

ERASE Racism submitted comments highlighting our concerns that the Action Plan did not address the racial and ethnic composition of areas affected by Sandy, did not address how low-income residents would be affected by the Action Plan, did not assess the need for additional affordable housing in the affected areas, and did not ensure compliance with the HUD requirement to affirmatively further fair housing. Two additional letters were submitted by ERASE Racism analyzing subsequent Action Plan drafts and providing recommendations.

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An Introduction to Fair Housing: History and Definitions

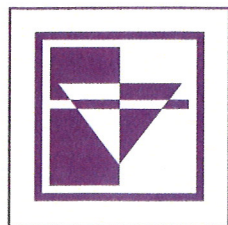


The Federal Fair Housing Act (“FHA”) was first enacted in 1968 and, as amended, prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, familial status, and disability. With leadership from ERASE Racism, similar, strengthened laws took effect in both Nassau and Suffolk Counties in 2007. The New York State Human Rights Law, as well as the Nassau and Suffolk County laws, also prohibit discrimination on the basis of age, sexual orientation, military status, and marital status. Nassau’s law also forbids discrimination based on a lawful source of income that is not derived from wages, such as assistance through government programs. Fair housing laws, whether federal, state or county, make it illegal to discriminate because of these protected characteristics in the sale or rental of housing, in land use policies, in the administration of government housing programs, and in lending.

Fair housing laws may be violated by a practice that is motivated by discriminatory intent (a **disparate treatment** claim) or by a neutral policy or practice that has a disproportionate effect on a protected group or has the effect of perpetuating segregation (a **disparate impact** claim). These fair housing laws prohibit discrimination because of these protected characteristics in a wide variety of contexts.

- Sale or Rental of Housing: A violation can occur if an African American and a white person inquire about the availability of apartments and are given different information or treated differently; for example, if an African American is told that there are no apartments for rent, while a white person is told that there are available apartments, this conduct can be a violation of fair housing laws. ERASE Racism’s current litigation in Mineola, discussed further on page 4, is an example of this type of violation.
- Land Use Policies: Land use policies, as in the recent case against the Village of Garden City, can also violate fair housing laws. That case involved claims relating to the rezoning of property owned by Nassau County and located in Garden City. After Nassau County indicated its intent to sell the property for private development, Garden City rezoned the property as Residential-Townhouse (“R-T”) which limited multi-family housing. A federal court found that Garden City violated fair housing laws because the rezoning disproportionately affected racial minorities who are more likely to live in rental housing and to need affordable housing.
- Government Housing Programs: A recent case in Smithtown successfully challenged the Town’s administration of its Section 8 program, in which it allocated vouchers on the basis of a residency preference which favored Smithtown’s mostly white residents.
- Lending: Violations have occurred where lenders refuse to engage in mortgage lending in minority neighborhoods or target racial minorities for riskier loans or charge them higher broker’s fees or interest rates.
- Reasonable Accommodation: Violations have occurred when property owners refuse to make a reasonable accommodation to allow a person with a disability equal opportunity to live in a housing unit; for example, by refusing to rent to a person with a service animal, despite a policy against pets, or refusing to provide a reserved parking space near the disabled person’s unit, despite a “first come, first served” parking policy.
- Harassment: Threats of violence, vandalism, physical or verbal attacks, and other actions intended to drive a member of a protected class out of a building or neighborhood have also been found to violate fair housing laws.

ERASE RACISM’S LEGAL ACTION FUND



In July 2013, ERASE Racism established a Legal Action Fund in order to enlarge our capacity to help shape a more racially integrated Long Island.

To carry out these new efforts, we have expanded our small staff to include an anti-discrimination attorney and we will be hiring a community organizer to inform and rally the more than 1,000 Long Islanders who have signed up as ERASE Racism Partners so that they can become an active voice in communities across the region in support of fair housing.

If you would like to get involved please contact us at 516-921-4863. To make a contribution to this critical endeavor, please visit our website at www.eraseracismny.org to make an on-line donation (please be sure to type “Legal Action Fund” in the “Direct My Donation to” line) or mail a check, with “Legal Action Fund” in the subject line, to: ERASE Racism, 6800 Jericho Turnpike, Suite 109W, Syosset, NY 11791.

Superstorm Sandy: An Update...*continued from page 1*



In April 2013, New York State issued a final Action Plan which addressed some of our concerns but still left others unaddressed. The updated Action Plan included some assessment of how low-income and minority communities were affected by Sandy and created programs to assist homeowners with repairs and reconstruction and for the buyout of homes in the highest risk areas. The Action Plan also created programs to assist municipalities affected by Sandy by establishing Community Reconstruction Zone planning grants for communities to rebuild and increase their resiliency to future storms and by allocating money to assist municipalities that have lost property tax and sales tax revenue as a result of the storm. The Action Plan for the first disbursement of funds did not include any money for the development of new

affordable housing. After this submission to HUD and in response to the letters submitted to the State, ERASE Racism's President was invited to meet with the Commissioner of the New York State Division of Homes and Community Renewal and key department staff to discuss the State's plans to utilize the Sandy Recovery Funds. Subsequent to this meeting ERASE Racism sent a third letter with recommendations, as requested by the State.

ERASE Racism remains committed to ensuring that Sandy Relief Funds are used in ways that do not exclude lower-income people and people of color; adhere to basic civil rights, labor, and environmental safeguards in existing federal law; affirmatively further fair housing; and create new affordable housing to address already existing shortages compounded by the storm. ERASE Racism analyzed and responded to the State's first Action Plan and has also attempted to obtain information from the State and from direct services providers on Long Island on the numbers of low-income and minority clients who have been assisted during the recovery process. In speaking to the State, we have found that we are not able to directly discern the demographic breakdowns of people seeking assistance through State recovery programs. We have recently submitted a request to the New York State Division of Homes and Community Renewal under New York's Freedom of Information Law ("FOIL"), which provides for access to records from New York State or local agencies. This FOIL request asks for demographic information for applicants to Sandy-related housing assistance programs, documents relating to outreach about such programs, and documents relating to analysis and monitoring done by the State with respect to any of its Sandy-related housing assistance programs, among other items. We are also reaching out to direct services providers for additional information about the demographic breakdowns of their clients.

There are several additional opportunities for intervention ahead. First, in the coming months, a second round of recovery funds will be distributed, with New York State set to receive just over \$2 billion. On November 18, 2013, HUD issued a notice regarding the second disbursement of funds and required that grantees, including New York State, submit a substantial Amendment to their earlier Action Plan. The Action Plan Amendment must include an updated impact and unmet needs assessment, a risk analysis to consider risks from climate change and other hazards, and an assessment of how the State will address the "rehabilitation, mitigation and new construction needs of [Public Housing Agencies]" as well as the "rehabilitation, mitigation and new construction needs of other assisted multifamily housing developments" affected by Sandy. This would include HUD-assisted multifamily housing, developments financed through the Low Income Housing Tax Credit, and housing funded through other tax credits or subsidies. ERASE Racism will be monitoring the State's Action Plan Amendment to ensure that our concerns, and HUD's requirements for the submission are adequately addressed. We will be examining the Action Plan Amendment, which we are expecting by mid-February, for analysis of the effect of Sandy on low-income and minority communities and for a commitment to the construction of new affordable housing. In addition, we will review the adequacy of the response to our pending FOIL request. We will determine what subsequent actions are required after this analysis has been completed.

As of the date of this newsletter, ERASE Racism has also learned that Governor Cuomo has proposed using \$100 million for 3,000 new units of affordable housing in areas affected by Superstorm Sandy. As of now, there is no additional information available as to whether these affordable housing units will be located in high-opportunity areas or will contribute to Long Island's already existing patterns of segregation.

We will continue to monitor this development in the coming weeks and months.

“Apartment for Rent” Sign Does Not Apply to African Americans



On August 28, 2013, ERASE Racism, the Fair Housing Justice Center (FHJC), and three African American testers filed a lawsuit in federal district court (E.D.N.Y.) alleging that the owners and managers of an apartment building in the Village of Mineola discriminate against African American renters.

In 2012, an investigation was jointly funded and sponsored by ERASE Racism and FHJC, which included sending several teams of African American and white testers posing as prospective renters to inquire about apartments at the 74-unit Town House Apartments located at 225 First Street in the Village of Mineola, a predominantly white community in Nassau County. According to the lawsuit, an “Apartment for Rent” sign appeared at the entrance of one of the largest rental buildings in Mineola. Despite the sign, the complaint alleges that the building superintendent discouraged African Americans from renting apartments by misrepresenting the availability of apartments, not showing available apartments, quoting higher rents, and/or suggesting there could be a wait because other people were ahead of them. The lawsuit names LLR Realty, LLC based in Port Washington, NY along with the building superintendent as defendants. The suit alleges that the defendants’ conduct constitutes racial discrimination in violation of the federal Fair Housing Act (see page 2) and the Nassau County Human Rights Law.

“Fair Housing”, stated Elaine Gross, President of ERASE Racism, “the ability to purchase or rent the home of your choice in the community of your choice, regardless of the color of your skin, has been a hallmark of the civil rights movement. Yet here we are, 46 years after the passage of the Federal Fair Housing Act, with ERASE Racism fighting to make fair housing a reality on Long Island, the 10th most racially segregated metropolitan region in the country.”

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