

# NORWALK FAIR HOUSING OFFICER'S

## ANNUAL REPORT

FY 2009-2010

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Submitted by Fair Housing Officer December 30, 2010

Accepted by Fair Housing Advisory Commission February 16, 2011

NORWALK FAIR HOUSING OFFICER'S ANNUAL REPORT  
Fiscal Year 2009-2010

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# NORWALK FAIR HOUSING OFFICER'S ANNUAL REPORT

## Fiscal Year 2009-2010

### EXECUTIVE SUMMARY

Highlights of FY 2009-2010 include:

- From July 1, 2009 – June 30, 2010, requests for assistance increased yet again, to a total of 2,292. From July 1, 2008 through June 30, 2009, a total of 2,227 requests for services were received, nearly eighteen (18%) percent higher than the previous fiscal year; (page 2)
- Norwalk tenant issues, totaling 1,303, represent an increase of nearly eleven (11%) percent, while the previous year's increase was twenty-nine (29%) percent; (page 2)
- In the prior fiscal year, Norwalk landlord/realtor inquiries as described above, totaling 1,057, represented an increase of approximately forty-two (42%) percent over fiscal year 2007-2008's 741. The trend continued in FY 2009-2010, which saw a slight increase in landlord inquiries, particularly in the area of foreclosure concerns; (page 2)
- 425 people were served through seminars and trainings provided by the FHO. The prior increase was fifty-six (56%) percent (95 to 228). In FY 2009-2010, this general demand for services increased yet again, nearly fifty-four (54%) percent; (page 2)
- Discrimination issues alone increased by seventy-five (75%) percent, from 64 to 112 in FY 2008-2009, and by nearly another thirteen (13%) in FY 2009-2010. Discrimination complaints were characterized as follows: Race 17; Creed/Religion 5; Color 17; National Origin 11; Ancestry 3; Sex/gender 7; Marital Status 8; Age 7; Source of Income 6; Familial Status 13; Disability 15; Sexual Orientation 0; (page 3)
- Quarterly newspaper columns in The Hour newspaper in Norwalk reached countless others and included the topics of: "Annual Fair Housing Event Successful" (reporting on showing of a documentary film, "Brick by Brick: A Civil Rights Story" and ensuing discussion); "\$50+ Million Dollar Landmark Fair Housing Case Recently Settled" (discussing the lawsuit against Westchester County, NY, and the finding that it improperly certified that it was furthering fair housing); "Fair Housing: Difficult Times Lead to Increased Demands" (indicating increased need for Norwalk Fair Housing services during economic downturn); "Fair Housing and Affordable Housing" (discussing how they differ and where they intersect); (page 3)
- Fair Housing issues identified and raised with the Norwalk Housing Authority include: providing trainings to residents as well as Section 8 participants, on fair housing rights and remedies; problems with removing adult family members (typically adult children) from leases, which delay by the NHA results in increased risk of eviction and unduly high rents for the families made to wait; "preferences" for admission which effectively eliminate people who have lost their jobs from receiving public housing; an inadequately written and implemented reasonable accommodation policy, which impacts the ability of

those with disabilities, particularly senior citizens, from using and enjoying their home; a security deposit policy which appears to wrongfully retain some tenant's security deposits although there is no claim of damages; a proposed truancy policy which ultimate sanction is the mandatory eviction of a household where one child is truant, although this may be beyond the mandate of a housing authority and in making a family homeless, will likely result in increasing truancy not decreasing it; (pages 4-9);

- There continues a need for affordable rental housing, with 55% of Norwalk's renters being "cost burdened", meaning they spend more than thirty (30%) percent of their income on rent; (pages 9-12)
- Norwalk's "Workforce Housing" regulation has significant fair housing issues including that it (1) limits affordable housing to areas of Norwalk that already have the most affordable housing, thereby not furthering the fair housing goal of economic and other forms of integration, (2) could actually further segregation by allowing for the affordable component of a development to be physically separated and put elsewhere from the market rate development, (3) from its name, sounds like you have to be in the "workforce" to live there, which would seem to eliminate retired seniors and those people with disabilities who do not work, from participating in "workforce housing", an issue on the face of the regulation that can be resolved by changing the name of the regulation, or defining "workforce" to include certain groups of people who do not work; (pages 12-13)
- Design and construction issues – building multifamily housing that is accessible to people with disabilities; (pages 13-14)
- The affordability gap in Norwalk – from the National Low Income Housing Coalition report, "Out of Reach"; (pages 14-16)
- Tenant discrimination complaints in Norwalk in FY 2009-2010 total 125. The FHO's investigation and/or resolution of these issues resulted in the city not having to hold hearings on such complaints and not having to defend hearing decisions in court, saving the city thousands of dollars per case; (pages 18-19)
- Norwalk Fair Housing budgetary concerns – in order to meet its federally imposed obligation to further fair housing, Norwalk needs to continue to adequately fund the Fair Housing Office. The City, FHO and FHAC are all well aware of the difficult economy and the increased needs of residents relative to housing, and the Fair Housing Office continues to do all that is included in these pages with an annual operating budget of approximately \$3,000 - \$5,000; (pages 22-24)
- Westchester County's recent failure to adequately support and engage in fair housing activities cost it \$50+ million dollars to settle a lawsuit (at risk was approximately \$600 million in federal funds). This matter is informing Norwalk Fair Housing's activities including the "Community Conversation" held by the Fair Housing Advisory Commission in early FY 2010-2011 (page ) and will further define Fair Housing Office activities in the coming year; (pages 22-26 and attached newspaper column about the Westchester case).

## INTRODUCTION.

This report is filed in compliance with an amended consent decree entered into in 2004 by the Norwalk branch of the NAACP and the City of Norwalk (the “2004 Consent Decree”).<sup>1</sup> The 2004 Consent Decree directs the Fair Housing Officer (“FHO”) to

“...file an annual report at the end of the City’s fiscal year to the Fair Housing Advisory Commission regarding his/her activities and findings and regarding enforcement and compliance in the City under Title VIII and the City’s Housing Equal Opportunity Ordinance, Chapter 59A of the City Code. Upon acceptance by the Fair Housing Advisory Commission, the report shall be submitted to the Mayor, the Housing Site Development Agency and other appropriate city commissions and agencies.”

Because housing discrimination complaints often arise in the context of landlord/tenant relationships, Norwalk’s FHO serves as the primary resource for Norwalk residents, realtors, bankers, public housing authority and community service providers with questions regarding landlord/tenant law, as well as what conduct constitutes violations of federal, state and municipal Fair Housing laws. The FHO assists residents who believe they have suffered housing discrimination by investigating claims, and, where warranted, filing and advocating complaints with local, state and/or federal enforcement bodies. She also advises landlords and realtors regarding housing law issues.

This report encompasses from July 1, 2009 through the end of the fiscal year, June 30, 2010. It includes categorization of the types of inquiries received by the FHO, as well as her specific efforts to educate, advocate, advertise and provide services to the residents of Norwalk with regard to the anti-discrimination laws applicable to housing. In addition, this report describes the activities and projects that cross fiscal year boundaries and/or those being undertaken in the current fiscal year (FY 2010-2011).

The Great Recession, which began in 2008, while technically finished according to economists, doesn’t feel like it is over, and recovery is slow at best. The substantial increased demand on Norwalk Fair Housing has continued, as people struggle economically and housing loss is a reality for many. A housing bubble and irresponsible, predatory lending were the cause of the beginning of this economic downturn. Job losses continue to compound housing problems.

Hard economic times traditionally lead to an increase in discrimination and we have seen that all across the country. It’s a perfect storm for highly challenging times for Norwalk Fair Housing.

### A. FHO’s ANNUAL REPORT FOR FY 2008-2009 (prior year report)

In the previous fiscal year, the FHO’s Annual Report (FY2008-2009) was submitted to the Fair Housing Advisory Commission (“FHAC”) for its acceptance in December, 2009. The Commission accepted the report in January, 2010. The FHO then

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<sup>1</sup> The original consent decree (which this one replaces) was entered into in 1986 and resulted in the creation of the position of Fair Housing Officer and the Fair Housing Advisory Commission, among other things. The original consent decree also directed the Fair Housing Officer to write an annual report.

distributed it to elected officials and concerned commissions, as mandated by the Consent Decree.

I. Fair Housing Officer's Activities and Findings

A. Evaluation and Outreach to Affected Groups

1. Clients Served

The FHO position was staffed on a full-time basis throughout the fiscal year. From July 1, 2009 – June 30, 2010, requests for assistance increased yet again, to a total of 2,292. From July 1, 2008 through June 30, 2009, a total of 2,227 requests for services were received, nearly eighteen (18%) percent higher than the previous fiscal year.

In FY 2009-2010, Norwalk tenant inquiries were reported as follows:

Discrimination	125
Security Deposits	357
Eviction	356
Lack of Utilities/Repairs	265
<u>Other</u>	<u>200</u>
Total	1,303

Norwalk tenant issues as described above, totaling 1,303, represent an increase of nearly eleven (11%) percent, while the previous year's increase was twenty-nine (29%) percent. Discrimination issues alone increased by seventy-five (75%) percent, from 64 to 112 in FY 2008-2009, and by nearly another thirteen (13%) this year.

Norwalk Fair Housing has never seen demand like this.

As demand is increasing, economic resources are declining, and there is no staff beyond the FHO to respond.

Norwalk landlord/realtor inquiries were tabulated using the same criteria as that for tenant inquiries, with the following results:

Discrimination	100
Security Deposits	235
Eviction	355
Lack of Utilities/Repairs	220
<u>Other (including foreclosure)</u>	<u>155</u>
Total	1,065

In the prior fiscal year, Norwalk landlord/realtor inquiries as described above, totaling 1,057, represented an increase of approximately forty-two (42%) percent over fiscal year 2007-2008's 741. The trend continued in FY 2009-2010, which saw a slight increase in landlord inquiries, particularly in the area of foreclosure concerns.

Further, 425 people were served through seminars and trainings provided by the FHO including at a seminar conducted jointly with the housing authority, Fair Rent and

Human Relations department, a statewide conference on fair housing issues, section 8 training sessions, and the Fair Housing Advisory Association luncheon event. The prior increase was fifty-six (56%) percent (95 to 228). In FY 2009-2010, this general demand for services increased yet again, nearly fifty-four (54%) percent.

Finally, untold numbers of Norwalk residents were reached through the Fair Housing Officer's quarterly column in The Norwalk Hour newspaper. During fiscal year 2009-2010, these columns included:

- "Annual Fair Housing Event Successful" (reporting on showing of a documentary film, "Brick by Brick: A Civil Rights Story" and ensuing discussion);
- "\$50+ Million Dollar Landmark Fair Housing Case Recently Settled" (discussing the lawsuit against Westchester County, NY, and the finding that it improperly certified that it was furthering fair housing);
- "Fair Housing: Difficult Times Lead to Increased Demands" (indicating increased need for Norwalk Fair Housing services during economic downturn);
- "Fair Housing and Affordable Housing" (discussing how they differ and where they intersect);

Of particular interest is the breakdown in the types of discrimination issues raised by tenants:

Race	17
Creed/Religion	5
Color	17
National Origin	11
Ancestry	3
Sex/gender	7
Marital Status	8
Age	7
Source of Income	6
Familial Status	13
Disability	15
Sexual Orientation	0

The FHO investigates all claims and complaints are then filed when the investigation yields evidence to support the complaints and attempts to resolve them are not fruitful. Most complaints made to the FHO during FY 2009-2010 were resolved by the FHO without the filing of a formal complaint to an adjudicative body (such as court or the state's administrative agency, the CHRO). By working with Norwalk tenants, landlords, property managers, realtors, condominium associations and more, to resolve matters short of court, substantial time and money are saved, with the city thereby avoiding costly hearings and litigation. Only two cases were referred to outside pro bono attorneys for the filing of legal claims and as those cases move through the judicial process, they do so apart from the city, costing the city nothing.

2. Outreach

a. Brochures and Flyers. The FHO distributes a fair housing brochure (published in English and Spanish) which summarizes federal, state and local fair housing laws. The FHO also creates flyers for particular purposes which are distributed in various public locations.

In addition, the FHO created and distributes handouts summarizing the roles and functions of the Fair Housing Advisory Commission (the "FHAC") and the FHO and on topics such as eviction, source of income, entry, repairs, and security deposits.

b. Seminars and Programs. The FHO organizes seminars and participates in events throughout the year targeting landlords, tenants, realtors, and social service providers. The topics include landlord/tenant issues as well as fair housing laws. During FY 2009-2010, the FHO participated in approximately 5 such seminars.

Over the course of the early 2000s, the FHO and FHAC engaged in an active and multifaceted anti-predatory lending program that was part educational and part remedial. The first element was educational and consisted of distributing thousands of flyers in a door-to-door campaign and at educational seminars. Particular neighborhoods were selected for receipt of the flyers warning about predatory lending, based upon data indicating they had higher than normal subprime lending in those neighborhoods (predatory lending is a subcategory of subprime lending).

In the case of offers of loans or actual loans themselves that appear suspicious, the FHO was able to refer those loans to the Connecticut Department of Banking and Connecticut Attorney General's office. During FY 2008-2009 and FY 2009 – 2010, the lending issues related primarily to foreclosure and foreclosure-related scams. The FHO continues to refer such cases to reputable sources for assistance, including the aforementioned state offices, as well as the judicial department's foreclosure mediation program and HUD-approved foreclosure prevention resources.

The foreclosure crisis continues, in FY 2009-2010 and beyond, fueled now by job losses due to the recession.

The predatory lending era is temporarily over. The FHO participated, through her activities with the National Community Reinvestment Coalition, in working towards financial reform, such that the dangerous and predatory lending practices that got us into this mess are addressed.

To that end, the FHO and members of the FHAC met with Congressman Jim Himes during FY 2009-2010, to discuss support of the financial reform measures then pending before Congress (and subsequently passed into law).

The need continues to assist borrowers who find themselves in financial hardship or upside down in their houses. The FHO assists by referring people to reputable pre-foreclosure programs. She also works toward the implementation of federal laws regarding lending so that predatory lending doesn't re-emerge anytime soon.

Unfortunately, predatory loans are still out there, waiting to re-set their interest rates through and including 2011, and so the trouble is not over. In addition, the predators have moved to foreclosure rescue scams, again, attempting to cheat people out of whatever equity they might have left in their home after either a predatory loan or a job loss. The need to educate and combat such schemes continues.

c. **Media Coverage.** The Fair Housing Officer enjoys good relations with the press. She has frequent contact with and coverage by the Norwalk Hour, the Stamford Advocate, and the Norwalk Citizen News. The media also frequently seeks comment on housing related issues. During FY 2009-2010, the FHO continued writing a quarterly column in The Hour newspaper, as discussed herein. Copies of these columns are in the appendix to this report. The column continues in FY 2010-2011.

d. **Advertising.** The Fair Housing Officer advertises by way of the aforementioned pamphlets and flyers, educational efforts and newspaper column. No funds have been available since FY 1996-1997 for commercial advertising.

## **B. Planning and Analysis of Housing Patterns and Practices.**

### **1. Housing Authority Policies and Practices:**

**Fair Housing Trainings:** Prior to FY 2006-2007, the FHO participated in numerous trainings (approximately one every other month) for Section 8 voucher holders and/or new tenants of the Norwalk Housing Authority. Thereafter, the FHO was invited to either none or one per year. This exclusion of the FHO from new tenant training does not affirmatively further fair housing, as the NHA is mandated to do. Over the course of FY 2009-2010, the NHA invited the FHO to participate in Section 8 trainings a few times, and the FHO is hopeful that this is on the increase.

The FHO has not been invited to participate in any NHA resident training in quite a few years, however. As both Section 8 recipients and public housing residents face fair housing issues on a regular basis, the NHA should be encouraged to make use of the FHO to provide such trainings to its residents, as it has been doing for Section 8 program participants, thereby assuring that all people participating in housing that the NHA administers are made aware of their fair housing rights.

**Removal of adult family members from lease after moving:** As reported in prior years, a continuing problem pertains to the NHA's policy for removing adults from leases, when an adult has left a NHA property household or one in the Section 8 program in Norwalk.

Usually, these are young adult children who leave and then fail to provide all the information (typically, 3 forms of proof) the NHA demands regarding their new residence.

The NHA requires multiple forms of proof of where someone has moved to – new lease, utility bill, driver's license - in order to remove them from a NHA lease. If that person refuses to provide such information (or is out of contact with their family, or doesn't have such information, as they may be living informally, with roommates who

have such records in their names), then the NHA will not remove him/her from the lease, the rent is not recalculated, and if that person gets in trouble with the law, or earns more money, the remaining family may be evicted and/or face claims of fraud and be evicted. This occurs, despite the fact that the NHA is mandated by HUD to recalculate rent and unit size whenever household membership changes.

The FHO and Director of Fair Rent and Human Relations have been seeking a revised policy on this issue since 2007, because requiring people to provide the impossible (documentation not in their possession and not within their legal ability to acquire) should never be a policy. This subject heated up substantially during FY 2009-2010, resulting in the FHO working on it throughout the fiscal year.

Cases have arisen of families defaulting on paying the rent because the rent due assumes income from someone who has left the household (and therefore, their income is not actually brought into that household), but the NHA refuses to count as gone.

Recently, a man's adult daughter left the household, giving her father no forwarding address or even phone number. The consequence of the NHA refusing to remove her name from the lease, even after she spoke to a NHA worker and confirmed she had moved (the NHA had her phone number), was that the father's rent wasn't recalculated and now represented approximately 80% of his income. He reported to the FHO that he paid his rent and utility bill and had no money left for food.

At one point the NHA informed the FHO of where the adult daughter worked (a particular Dunkin Donuts, on Sundays). This appeared to be a request by the NHA that the FHO confirm where the daughter was by tracking her down on Sunday. This is not a reasonable policy.

HUD and therefore, the NHA, require that tenants immediately advise of a change in family composition. Yet when families try to comply, they are frustrated when they are not allowed to remove the absent person from the lease. There needs to be a better way of addressing this issue and the FHO and FHAC suggested one.

At the behest of the FHAC, the FHO inquired of several local housing authorities, to see what they do in such circumstances. Fairfield, Greenwich and New Haven all report that when a household member departs, and does not cooperate in providing information as to where they have moved, those housing authorities allow the remaining head of household to submit an affidavit, swearing that the person has moved away and is no longer part of the household. This enables the housing authorities to then recalculate rent, and should that person get a job, there is no longer the duty on the remaining family members to report something they don't know to report, nor will they be liable and subject to eviction if that person who has moved gets into trouble with the law.

This was the remedy suggested by the FHO to the NHA, which, after many months, refused it, responding in writing saying it wouldn't work.

The FHA asked the NHA to reconsider its policy, after informing the NHA that these specific local housing authorities use the affidavit from the head of household when needed. The NHA did not respond to this suggestion.

In early FY 2010-2011, the NHA's draft annual plan showed that the NHA "may" allow the use of an affidavit in such circumstances. When asked why "may", instead of "will", the NHA stated that it wished to have the flexibility of allowing it sometimes and not others. No further information could be obtained as to when the affidavit would be allowed and when it would be not.

This "may" solve the problem, but will not solve the problem, if the NHA does not consistently permit people who need to use the affidavit, to do so. The inconsistent application of the policy will result in inquiry as to whether the NHA is discriminating in terms of who may avoid harsh consequences, like eviction, through use of the affidavit, and who may not.

Clearly, the policy should be that in the event an adult household member moves out of the household, and does not cooperate in providing the remaining family members and the NHA with the proof required, that the NHA "will" permit the head of household to use an affidavit to swear to the absence of that person from the household. This will then enable the prompt recalculation of rent and eliminate the risk that people will either face eviction unnecessarily, or be forced to choose between paying the rent and eating. Doing this promptly and without undue burden saves both the tenant and Norwalk time and money.

**Preferences for Admission:** As permitted by HUD, the NHA has "preferences" for admission to public housing. In Norwalk, those preferences can be fairly summarized to prefer people who work in Norwalk (as well as the disabled and elderly).

This results in the strange situation that people who lose their jobs are less likely to be able to receive public housing, due to the preference for people who have jobs. Given that public housing was conceived for just such circumstances – being down on your luck, perhaps a recent job loss – it is disturbing that the unemployed would be, effectively, excluded especially during a time when unemployment is running very high due to a national economy that has not robustly recovered.

Without public housing as a housing resource to those unemployed, the newly unemployed who have limited economic resources during periods of prolonged unemployment, are more likely to be living in their cars, in overcrowded situations or on the streets because of this Norwalk Housing Authority preference. This is an issue that remains to be addressed by the FHO seeking a change in policy from the NHA.

**Reasonable Accommodation Policy:** The NHA stated, in FY 2007-2008, that it implemented a new reasonable accommodation policy and procedure. In FY 2009- 2010, in its annual plan, the NHA proffered another new proposed reasonable accommodation policy. After much discussion, wherein the FHO advised it was in many ways worse than its predecessor policy, and less in compliance with legal requirements, it was withdrawn and no new policy has been put forth to date. Without a policy, it is unlikely that

reasonable accommodation requests are being dealt with consistently and properly, a long-standing problem at the NHA.

The NHA's Consolidated Plan consultant put forth a model policy found on HUD's website, as a suggested policy. As that policy was written approximately five (5) years ago, it appeared to need some minor tweaking. The FHO offered to participate in revising it. The NHA rejected using that model and therefore, presumably rejected the FHO's offer.

The FHO will continue to work to have the NHA adopt a reasonable accommodation policy that reflects the legal requirements and, ideally, best practices, and then will continue to monitor its implementation. This policy is critical in that it sets forth the mechanism for a person with a disability to request a change in practice, policy or procedure which that person needs, because of his/her disability, in order to make full use and enjoyment of his/her home. Having and properly implementing an appropriate reasonable accommodation policy is required by HUD of housing authorities, and required by federal and state Fair Housing laws. The NHA's wrongful behavior with regard to reasonable accommodations (for the disabled) has been a significant impediment to Fair Housing in Norwalk.

**NHA's Security Deposit Policy:** In early FY 2010-2011, another policy came to light which is problematic. In this case, it pertains to the return of a public housing tenant's security deposit. In the instant case, the NHA has refused to return a security deposit from a tenant of more than thirty (30) years, claiming she failed to give thirty (30) days notice that she was moving out of her NHA public housing apartment, and therefore, she (allegedly) forfeits her security deposit.

First, Connecticut law does not permit an automatic forfeit of security deposits, even when a lease is breached. Rather, a landlord has what is known as a "duty to mitigate", meaning to do what they can to reduce their damages.

In the case of a tenant who moves out without proper notice, a landlord would be required to take all reasonable steps to secure a new tenant. For the NHA, this is easier than for most private landlords, as the NHA has a long waiting list for all its apartments, and the people near the top of the list are already certified as eligible for an NHA apartment by the time they are near the top of the list.

Thus, for the NHA, the mitigation the law would likely envision would be to contact the family at the top of the waiting list for the particular sized unit and offer them the unit. As the NHA expects families to move within one (1) week, when it notices a family to move, one (1) weeks is apparently sufficient time, in the NHA's own estimation, for a move-in to be completed.

In the case at hand, the tenant moved from an apartment in public housing, into a private apartment, using Section 8. As such, she necessarily worked with the NHA, from the time she applied for Section 8 (most likely several years ago), was finally granted the voucher by the NHA (several months before moving), met with her NHA Section 8 worker, attended the mandatory NHA Section 8 briefing/training, was then given the actual voucher by the NHA to go out and find an apartment, found the apartment she

wanted to rent, turned in the required paperwork to the NHA, requested the inspection of the apartment by the NHA, all the while necessarily being in near constant contact with her NHA Section 8 worker. Yet the NHA claims it didn't have notice she was moving.

The apartment was approved mid-month by the NHA, and the NHA letter she received told her that payment for it would begin the first of the coming month. She moved into the apartment.

The NHA then failed and refused to return her security deposit, allegedly because she failed to provide it with 30 days notice that she was moving.

An NHA tenant can not give 30 days notice under the NHA's policy of approving apartments mid-to late in the month, for occupancy within approximately two weeks (at the beginning of the following month). The only way she could comply with both requirements (requesting having an apartment inspected anywhere from the 1<sup>st</sup> to 15<sup>th</sup> of the month, for moving the following 1<sup>st</sup> of the month and giving 30 days notice), would be to give notice of intent to move before the new place was inspected and approved by the NHA. Yet the NHA actually tells tenants, during their mandatory briefing, that they cannot count on moving to an apartment they find until the apartment passes inspection and is approved by the NHA.

Clearly, the NHA policy requirements conflict and create an impossibility for the tenants. The NHA, while admitting the policies might create problems, still refuses to return her money, claiming she knew of the policy regarding giving 30 days notice (her knowledge is not disputed), and therefore, she should have, because the NHA would not then evict her if she didn't in fact move after giving notice, even though it could do so. The NHA went so far to claim that it isn't in the business of evicting people. Yet it is indisputable that the NHA, as a landlord, frequently evicts people. No tenant should be required to put themselves in a position where the NHA could evict them if it so desired.

In addition, the NHA, working with her to move to this new Section 8 apartment, certainly knew they were working with her for the express purpose of moving her, and certainly knew they told her to move for the first of the coming month (not 30 days or more later).

The NHA says one department doesn't know what the other is doing. This burden is the NHA's to bear, not the tenants.

This policy, which in the FHO's opinion would lead to the wrongful retention of most tenants' security deposits, will be the subject of continuing attention and likely legal action in FY 2010-2011, since the FHO's bringing this conflict in policies to the NHA's attention and requesting that the tenant's money be returned brought a flat refusal by the NHA to do so.

**NHA Proposed Truancy Policy:** Another problematic NHA policy that may run afoul of Fair Housing laws (as well as other laws) is the NHA proposed truancy policy for students in grades 1-8. The policy is a progressive disciplinary policy such that

unexcused absences from school “will” have, as the ultimate consequence, the eviction of an entire family from public housing.

While everyone is in favor of education and the remedial and enrichment opportunities provided for students (including at the NHA’s learning centers), the FHO has identified Fair Housing issues (as well as practical concerns) associated with evicting families due to childrens’ school attendance.

Some of those questions or concerns include: whether the NHA has the legal authority to condition tenancy upon school attendance or performance; the consequence to the rest of the children in the family if the family is evicted due to one child’s truancy (since homelessness negatively impacts education); and if, as the NHA says, no family will actually be evicted under the proposed policy, then the appropriateness of threatening people when there is a stated intent not to actually carry out the threat.

From a Fair Housing perspective, this is a policy which, by definition, only applies to families with children. Therefore, families with children face potential eviction from housing not faced by households without children. This is a likely housing discrimination issue.

Offering educational opportunities is a wonderful thing: using threats of eviction to require families to participate in opportunities is another. From a Fair Housing perspective, it is a policy that subjects only families with children to eviction related to school attendance. From an efficacy point of view, since homeless families are the least likely to have kids attending school on a consistent basis, it’s also a policy whose ultimate action is contrary to the stated goal.

**Other matters negatively impacting NHA residents:** These include: (1) giving tenants only 24 hours to submit paperwork at annual recertification meetings, and subjecting them to eviction if they are unable to provide the paperwork in time; and (2) drug policies which effectively bar recovering drug users, a group of people “protected by Fair Housing laws”, as having a disability (an addiction, excluding current use, is considered a disability) from obtaining housing and/or visiting NHA properties, for excessive periods of time. These are policies which the FHO (working with the Director of Human Relations and Fair Rent) will continue to seek to modify so that persons with disabilities and others will not be improperly penalized for being members of protected classes.

**2. Barriers to Affordable Housing:** Norwalk is located in the Stamford-Norwalk Metropolitan area, which is home to some of the highest fair market rents in the country.

After many years of housing prices only heading higher, in FY 2007-2008, housing sales prices fell. Connecticut Multiple Listing Service (CMLS) reported that in the first nine (9) calendar months of 2008, the average single family home in Norwalk sold for \$690,113, while the average condominium sold for \$329,653. For that same time frame in 2009, CMLS reported drops in prices again: single family homes had an average sales price of \$526,985 and condos sold for an average of \$300,402. Now, a sign that a recovery could be in the making: in the first nine (9) months of 2010, single family

homes in Norwalk sold for an average of \$564,669 and condos, for an average of \$337,205.

Similarly, the volume of housing sales decreased dramatically, as credit markets got tighter: in January to September, 2008, 326 single family homes and 237 condominiums sold in Norwalk, according CMLS. In January to September, 2009, 294 single family homes and 156 condominiums sold. In the first nine months of 2010, again, volume showed some level of rebound, with 389 single family sales and 165 condominium sales. Previously, there was approximately a 10% drop in single family homes sold and nearly a 35% drop in the sale of condominiums.

2008, 2009 and 2010 data shows us that the long-standing shortage of affordable housing in Norwalk continues. The National Low Income Housing Coalition's "Out of Reach" report (discussed later in this report) tells us that in Norwalk, nearly 50% of owners and more than 55% of renters are "cost burdened", meaning they are paying more than 30% of their income on housing. Thus, there is clearly a shortage of affordable units, both rental and ownership.

It's been over five years since Norwalk developed the Maritime Yards housing, which included ten (10%) percent affordable apartments and condominiums, a total of 20 affordable units (6 ownership and 14 rental) . During FY 2009-2010, another small, affordable ownership complex of eight (8) townhome-style condominiums was developed by the Norwalk Redevelopment Agency (NRA) in partnership with a private developer. Three (3) of these units have sold and the others remain on the market, in a Norwalk condominium market that has been lethargic.

While this addition of affordable units is good, its location is in an area that is low-moderate income and heavily minority, and does not increase affordable housing opportunities outside of low-moderate income, minority neighborhoods. As the end to segregation/integration of neighborhoods is a primary goal of the Fair Housing Act, this project does not further that goal. Adding new affordable units to the mix is laudable; the improvement will be when we mix affordable units into otherwise more segregated areas. But before we blame the developers, we should probably look at the zoning restrictions that limit multifamily development to these areas of the city.

Another indication of the need for affordable housing – the affordable condominiums and affordable rental units at Maritime Yards in South Norwalk, which first hit the market prior to this economic downturn, continue to experience a 0% vacancy rate.

An expensive housing market is a significant economic barrier to affordable housing and is difficult to overcome. NRA's Homeownership Assistance Program, along with state and nonprofit programs, assist small numbers of low-moderate income people to become first time homeowners. During FY 2007-2008, North Walke received funds from the State of Connecticut (DECD) in the amount of \$1.1 million which were used primarily during FY 2009-2010 to assist twenty-one (21) eligible first time homebuyers with down payment and/or closing cost assistance. \$550,000 more has been received from DECD for the same purpose, and it is anticipated this will be used during FY 2010-2011.

NRA also rehabilitates residential units owned and/or rented by low-moderate income persons, which helps guard against a diminution in affordable properties.

The city's newer policy seems to prefer "maintaining" affordable units (through rehabilitation, for instance) rather than adding to the supply. As previously noted, this is inadequate to address the identified need.

The stock of affordable housing remains significantly lower than the demand, and without the infusion of a substantial number of affordable units, that gap continues to widen. It was estimated by the NRA that if market rate development was consistent from 2000 – 2010, Norwalk would need to add approximately 203 affordable units per year, from 2005-2010, in order to maintain an overall city-wide housing stock that has the minimum ten (10%) percent of housing as "affordable". While we know market rate development ground to a near halt beginning in approximately 2008, it is still likely that an insufficient number of affordable units were added to the mix over that time frame.

As of FY 2008-2009, there was a net loss of 5 affordable units, thus, there were 3,840 affordable units in Norwalk or 11.38% of the housing stock was "affordable". In 2009-2010, there was a net loss of 1 unit (lost 16, gained 15), resulting in 3,839 affordable units (unofficially, per Norwalk's count, not yet confirmed by the State of Connecticut). The percentage would then drop accordingly, to 11.37%.

The only problem with this count is that it's not actually accurate, as we know that the total number of units, counted as 33,753, has grown since 2005, but the state won't re-count the total number of units until after looking at 2010 Census data. It is sure that once that denominator is updated, Norwalk will fall closer or possibly even below the magic ten (10%) percent.

When a community's affordable housing stock falls below that mark, the result is that local zoning has less ability to restrict to certain areas (in Norwalk, the "core" of the city) the development of affordable housing. Since a goal of fair housing is to integrate affordable housing more broadly throughout communities, loosening local zoning restrictions may not be a bad thing in terms of fair housing concerns.

For the last few years, the Zoning Commission's "Workforce Housing" regulation has theoretically mandated the inclusion of affordable housing. But that mandate only pertains to certain areas of the city (those already having the bulk of the affordable housing), only in developments of a certain size (larger scale complexes, which are also only allowed in what is traditionally considered "core" areas of the city), and only if the developer doesn't opt out, by contributing money in lieu of housing. As discussed later in this report, zoning's "Workforce Housing" regulation is legally problematic and ineffective in adding affordable units. The FHO continues to view this regulation as an impediment to Fair Housing choice in Norwalk.

The FHO and the FHAC have identified and advised Norwalk's Zoning Commission and its staff of the significant Fair Housing problems with its regulation, and have made suggestions for this regulation to be revised. The identification of such problems and advising as to resolution of same, is squarely the FHAC's mandate as set forth by a

federal court. Yet the Zoning Commission has made no changes and been mostly unresponsive to the FHAC's communications on this topic, raised in 2007, 2008 and June 2009.

The Fair Housing concerns with the zoning regulation can be summarized as:

1) Its name: "Workforce Housing regulation". Given that the regulation actually pertains to all people of a specified, moderate income, it is misleading and discriminatory on its face to imply that one must be a member of the "workforce", since the elderly who are retired and people with disabilities who are unable to work are not members of the workforce. The FHAC suggested a simple fix to this facially discriminatory terminology – rename the regulation something pertaining to the actual criteria – moderate income – so that it is called the Moderate Income regulation or the Middle Income regulation, or to specify when the term "workforce" is used, it includes people who are senior citizens and not working, and people with disabilities.

2) The regulation allows the development of affordable housing to be physically separate, or "off-site", from the market rate housing it would accompany. Census data tells us that economic segregation usually also results in significant racial segregation. While that is not likely a policy objective, it is the likely effect, and could result in another Fair Housing claim. While requiring the building of affordable units is laudable, when developers are given the as-of-right authority (as they are here, since the regulation says the Zoning Commission "shall" approve off-site) to build the affordable component away from the market rate component, the objective of integrating people of varied income levels is lost, the housing is extremely unlikely to be of equal quality in terms of location (at a minimum), and segregation is furthered, rather than remediated. An objective of Fair Housing (and, therefore, of the FHO and FHAC) is integration, and this provision is likely to have a segregating effect, or, at a minimum, an effect that does not further desegregation.

3) The Zoning regulation provides "inclusionary zoning" in certain areas of the city only. Those areas are generally recognized as the core of the city (generally speaking, South Norwalk), Norwalk Center (the Wall Street and West Avenue areas) and along the commercial corridors of Route 1 (Connecticut and Westport Avenue). Those are the areas of the city that are already most economically and racially diverse. The areas of the city not "included" in this inclusionary zoning regulation, are predominantly higher income and white. Thus, the "inclusionary zoning" regulation excludes much of the city. One could accurately call such a regulation "exclusionary zoning". The generally accepted concept of "inclusionary zoning" is that it includes a whole municipality. As stated in the July 2006 Institute for Community Studies article, "Creative Options for Affordable Housing", by Jerry Kloby, "Inclusionary zoning can be an important tool for distributing affordable housing throughout a municipality and creating mixed-income communities". When this "mixing" is restricted to certain portions of the city, there will continue to be economic segregation and such an "inclusionary zoning" plan might contribute to, rather than diminish, racial and ethnic segregation, a concept inimical to Fair Housing.

The most obvious “barrier” to affordable housing (and, in fact, to all housing) can be a literal barrier. According to 2000 Census, nearly 50 million Americans have either a chronic condition or disability that results in their needing accessible housing. Nationally, forty-two (42%) percent of seniors (over age 65) have some kind of disability.

According to 2007 American Community Survey (Census Bureau) data, 10.9% of residents of Norwalk (age 5 or older) have a disability. This represents more than 8,000 people. The population with the highest incidence of disability is seniors. In Norwalk, among people age 65 and older, 34.5% have some form of disability, which translates to approximately 3,241 people.

For people with disabilities, housing constructed without thought to the ability to move in and through the housing can present the most effective barrier of all. The Fair Housing Act (federal law) requires that all new construction (defined as housing built and occupied since 1991) of multifamily housing (four or more units) must provide a minimal degree of physical accessibility as defined under that law. For example, entrances must not include steps, or, if they do, must also include appropriate wheelchair ramps, door jams must be at least a certain width, thresholds must not be higher than specified – in summary, people with disabilities must be able to get into and through these new housing units, and specific building standards are included in the law to effectuate this goal. This law applies to all new multifamily construction, not just affordable housing. Nonetheless, nationwide, it is estimated that 70% - 80% of “new” multifamily housing construction does not comply with the law. Yet this legal requirement, in effect since 1991, is hardly “new”.

Beginning in FY 2004-2005 and continuing to date (albeit less so now, when development is slowed), the FHO has been working to address this issue in Norwalk. For housing that was in the design stages, she met with developers and their architects working in redevelopment project areas, to discuss design plans, as it is preferable for all concerned to design at least in accordance with the minimum accessibility requirements, rather than bring an enforcement action after a building is already improperly constructed. This work will continue for the foreseeable future.

The development and architectural community has been very responsive to this approach. During FY 2005-2006, the FHAC and FHO provided an educational seminar regarding the accessibility construction standards of the Fair Housing Act, for advocates, developers and architects. As a direct consequence of this seminar, three (3) new construction housing projects were reportedly redesigned prior to construction.

Because of the obvious success of this program, and because of the continued building boom of multi-family residential development in Norwalk (prior to its end in 2008), the FHAC made another presentation to architects and developers regarding the Fair Housing Act design and construction accessibility requirements, this time more detailed and technical. The presentation, in May, 2008, was very well attended by the architectural and development community.

Some new construction in Norwalk has gone above and beyond the bare minimum of the law, as a result of this process, and the new construction is both modern in design and accessible to people with disabilities, thus appealing and available to all. When multifamily residential development moves forward more robustly again, the FHO intends to continue the conversation with architects and developers regarding accessibly designed developments in Norwalk.

3. a. **City Planning/Housing:** The City of Norwalk uses funding from its Capital Budget and from the Community Development Block Grant Program (federal funds) to support the affordable housing initiatives of the NRA and North Walke Housing Corporation (North Walke). The FHO assists in the implementation of these initiatives by advising NRA and North Walke staff regarding Fair Housing issues in their programs.

During FY 2008-2009 the FHO continued her technical assistance in support of NRA and North Walke-led affordable housing initiatives. One such initiative, North Walke's Homeownership Assistance Program (Homeownership Program), was capitalized with a \$1,100,000 grant from the State of Connecticut's HOME Investments Partnership Program. The Homeownership Program provides income-eligible, first time-homebuyers with up to \$50,000 in down payment and closing cost assistance. The program assisted twenty-one (21) first time homebuyers by the close of FY 2009-2010. NRA then received capitalization for FY 2010-2011 in the amount of \$550,000.

One development in Norwalk that recently came on-line (without public financial support) is AvalonBay's development, located on the old Pathmark shopping center site in Central Norwalk. This project was held up for several years by litigation that was resolved in FY 2007-2008. Ground was broken on the AvalonBay project in early FY 2008-2009. It is a 312 unit market rate development with none of the units considered "affordable units". It was brought on-line for rental in spring, 2010.

2000 census data indicates that approximately 31% of Hispanic householders in Norwalk are homeowners, almost 45% of Black/African American Norwalk householders are homeowners, approximately 57% of Asian households in Norwalk are owner-occupied, and nearly 78% of Whites (non-Hispanic/Latino) owned their own homes in Norwalk in 2000. Therefore, as of the year 2000, approximately 64% of Norwalk's occupied housing was owner-occupied (not rental properties). Nationwide, owner occupancy was at 66.2% in 2000.

The National Low Income Housing Coalition 2010 "Out of Reach" study indicates, as usual, that the affordable housing problem has continued to worsen. Norwalk, along with all of Connecticut, has an insufficient supply of affordable housing. We know this based upon the wages it would take to afford a two bedroom apartment, the number of people making less than that target income, and the number of units affordable to our population.

Stamford-Norwalk's 2010 median income is \$125,700 for a family of four. Stamford-Norwalk's housing wage (that hourly amount needed for a two-bedroom

apartment to be affordable with “affordable” meaning no more than 30% of income) was \$34.62, again, the highest in the nation.

Yet again, Out of Reach concludes that a full-time job is not always enough to be able to afford an apartment, especially in high-cost areas such as Connecticut and further reports that the gap between earnings and costs is ever-widening.

For a one bedroom unit to be affordable in Stamford/Norwalk, in 2010, a family needed an annual income of \$57,600 (2009: \$54,480; 2008:\$52,560; 2006:\$50,960 2005:\$48,080). Similarly, for a two-bedroom in Stamford/Norwalk to be affordable in 2010, a family needs an annual income of \$72,000 (2009: \$68,120; 2008: \$65,680; 2006: \$63,680; 2005: \$60,080).

Translated into an hourly wage, in 2006, a worker needed to earn \$24.50 per hour, and in 2010, \$34.62 per hour. The current minimum wage in Connecticut is \$8.00 per hour, such that the hourly wage needed to afford a two bedroom apartment in Norwalk is more than 4 times the minimum wage. Put another way, the minimum wage worker would have to work 168 hours per week to afford a two-bedroom apartment. Since there are typically only 40 hours per week, this really means that to afford a two bedroom apartment in Norwalk, there needs to be just over 4 minimum wage earners per household.

The necessary \$72,000 income to afford a two-bedroom apartment in Norwalk is substantially higher than the starting salaries of Norwalk’s teachers, fire and police personnel, many office workers, retail employees and hospital workers.<sup>2</sup> The situation gets worse year after year. These workers, who are essential to a thriving business community and city, must either pay more than the advisable thirty (30%) percent of their income to live in Norwalk, or must live elsewhere. In fact, in Norwalk, a staggering 55% of renters pay more than thirty (30%) percent of their income on rent. These facts graphically illustrate that it is not an exaggeration to say that the crisis in affordable housing in our region continues and that Norwalk desperately needs additional affordable rental housing.

Out of Reach reports fair market rents in our area as follows, for 2010: One bedroom, \$1440; two bedroom, \$1800; three bedroom, \$2345 and four bedroom, \$2833. Despite an economy, particularly housing, in crisis since 2008, the costs to rent increased in our area. While housing prices and the ownership market have suffered from the predatory lending and now the foreclosure crisis, as well as limited credit being extended for home purchasing, and a more recent unemployment crisis, the rental market has actually gotten more expensive and tighter, as people don’t make the usual transition over to homeownership, or, after losing their homes, enter the rental market. In short, as things have gotten tougher for so many residents, the rental market expense has only gone up.

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<sup>2</sup> According to Out of Reach, other workers who couldn’t afford (i.e. spend no more than 30% of income) a two bedroom apartment in Connecticut, let alone in Norwalk, include: Automotive mechanics, bakers, barbers, bookkeepers, bus drivers, childcare workers, computer operators, court and municipal clerks, customer service representatives, dental technicians, EMTs, hairdressers, library assistants, medical secretaries and lab technicians, mental health counselors, painters, pharmacy workers, pre-school teachers, receptionists, salespeople, security guards, bank tellers, waiters.

3. b. Current City Development Projects.

The Reed Putnam Urban Renewal Project is the City's largest urban renewal project encompassing six major development parcels on approximately 70 acres adjacent to I-95 and the Norwalk River. Three parcels remain to be developed. As a result of the economic downturn, construction and implementation of this project has been limited to infrastructure work and the project plans are being restructured.

The "Wall Street Redevelopment Plan" (2004) and "The West Avenue Corridor Redevelopment Plan" (2006) provide the framework to guide future development in the area north of I-95. No shovels are in the ground on these projects.

POKO Partners received Zoning Commission approval of its site plan as well as Redevelopment Agency design approval of its Phase I improvements for Parcel 2a within the Wall Street plan area in prior years, and recently submitted construction plans to the city. Seligson Properties' WayPointe Project, along West Avenue, is also not being constructed at the present time. Rather, plans are being reconfigured to permit development in phases.

A "Transit Oriented Development" project, near the South Norwalk Train Station, has been the subject of numerous meetings over the course of FY 2010-2011, seeking neighborhood in-put and buy-in. This is still very early in the planning process.

4. **Other FHO Activities related to Housing Patterns and Practices:**

The Fair Housing Officer is a member of the Board of Directors of the Fair Housing Association of Connecticut ("FHACt") and in early FY 2010-2011, was re-elected as its Vice Chairperson.

The FHO, along with the FHAC, spent substantial time continuing to address issues arising out of the Zoning Commission's Workforce Housing regulation, attending to budget issues and meetings for the FY 2009-2010 Fair Housing Office/Advisory Commission budget, and preparing and holding its annual event, the showing and discussion of a fair housing documentary film, entitled "Brick by Brick: a Civil Rights Story".

In early FY 2010-2011, another FHAC event took place, "Fair Housing: A Community Conversation", focusing on how a community is supposed to self-analyze (per HUD's requirement for an Analysis of Impediments to Fair Housing Choice, as a part of the CDBG grant program), identify fair housing concerns, and plan to address identified concerns. The "how" part was based on a presentation by Erin Kemple, Executive Director of the Connecticut Fair Housing Center. The "what", meaning issues in Norwalk, were touched upon as the attendees discussed the process after the presentation. The FHAC intends to continue this community conversation later in FY 2010-2011.

In addition, the FHO continued working in conjunction with the property manager at The Jefferson at 55/77 Water Street, in reviewing and approving new tenants or those

re-releasing the affordable apartment units. Further, the FHO worked to clarify tenant income requirements, especially in an economy of dropping incomes.

Finally, the FHO spent substantial time reviewing and commenting upon Norwalk Housing Authority's various plans for conformance with Fair Housing laws and concepts, including integration, affirmatively furthering fair housing, disabilities, overcrowding and under-housing (when families report changes in composition, but transfers then trail behind the need, by years in many instances), problems with removing adults from leases, the local preference system, public notice requirements, improper reasonable accommodation request forms, and more.

The FHO and FHAC also spent significant time during the year, and half of FY 2010-2011 commenting upon (and the FHO assisted in drafting some, but not the final) drafts of the Analysis of Impediments to Fair Housing Choice, a document required by HUD as a part of the CDBG program, administered and produced by the Norwalk Redevelopment Agency.

The FHO and FHAC's work includes revising, commenting upon, and proposing for inclusion many important issues for recognition and then, hopefully, resolution. Some significant Fair Housing concerns raised by the FHO and FHAC were not included in the final version of the document. Nonetheless, the FHO and FHAC will continue to address all Fair Housing issues they identify, seeking and proposing resolutions to same, as per their respective mandates.

### C. Monitoring and Advocacy re: Fair Housing Violations.

1. **Pro Bono Attorney List.** During FY 1996-1997 the Fair Housing Officer issued an RFP in order to create a pro bono attorney list to assist residents with housing matters, particularly fair housing cases. Today, a total of 5 law firms and public interest legal providers continue to offer their invaluable pro bono services to fair housing clients in need.

2. **Complaints.** Out of the 125 tenant discrimination complaints received in FY 2009-2010, the majority of those were claims based upon race/color, disability, familial status and national origin. Interestingly, with a souring economy there were fewer complaints of discrimination based upon source of income.

During the fiscal year, most discrimination claims were resolved by the FHO prior to filing with an enforcement body or in court, with the exception of two cases, both of which were referred to cooperating attorneys on the pro bono list.

By resolving these matters short of going to trial, the FHO saves the city significant money. Were they not resolved, the city would have to hold hearings and, if appealed, defend the Norwalk's Human Relations Commission's hearing decisions. This would, undoubtedly, cost thousands of dollars for each case, and could easily cost significantly more than \$10,000 per case for those appealed and/or brought through the court system.

In all cases, the FHO expects certain commitments to be included in resultant settlement agreements. These commitments include: (1) that the housing provider agrees not to illegally discriminate in the sale or rental of housing in the future; (2) the housing provider agrees to attend a minimum of one (1) fair housing training, to be provided by the FHO; (3) the housing provider agrees to include in future advertising the words "Section 8 welcome to apply" or "Equal Housing Opportunity Provider", or words of similar ilk; (4) the housing provider agrees to distribute, at its own cost, fair housing flyers to other tenants or customers and/or permit the FHO to distribute such materials on their property, door-to-door; (5) the complainant and respondent exchange full and final releases after they have entered into a settlement agreement, so that neither can ever sue the other regarding this particular incident.

The significant housing discrimination issues of FY 2009-2010 can be summarized as follows:

- Reasonable accommodation request on behalf of a senior citizen with a disability for adult son's temporary live-in assistance;
- Request for a reasonable accommodation from the NHA, of allowing a Section 8 person to move expeditiously, after being assaulted by her landlord; NHA initially refused permission to move;
- Continuing work on reasonable accommodation case for public housing tenant with disability who was denied reasonable accommodation by landlord (case in state court handled by pro bono attorney);
- Work on and referral of Fair Housing case of woman who was having difficulty paying rent, became eligible for receiving all rental assistance needed, and landlord refused to fill out forms that would enable her to get assistance and instead, commenced eviction – referred to private Fair Housing organization for pro bono assistance in defending eviction action with Fair Housing claim;
- Reasonable accommodation requests on behalf of several people with disabilities (different cases): in each case, they lived on upper floor apartments (without elevators) and needed to be moved from those walk-up units to ground floor units due to mobility disabilities;
- Reasonable accommodation requests for people with disabilities after fire at public housing complex – children had lung conditions which made them extra sensitive to lingering smoke odor and their doctor said they could not live in any apartment that had a recent fire;
- Referral for testing of potential national origin discrimination case - apartment complex seemingly requiring prospective tenants who appear to be immigrants to answer/fill out form with illegal questions;
- Extensive review and commentary on the NHA's Annual Plan (including reasonable accommodation policy and Analysis of Impediments to Fair Housing Choice document) and Admissions and Occupancy Policy, regarding various Fair Housing issues;
- Drafting Requests for Proposals, reviewing bid responses, discussing matter with chosen consultant, working and commenting on drafts of Norwalk's Analysis of Impediments to Fair Housing Choice (a document prepared by Norwalk Redevelopment Agency), preceded by a

memorandum to Norwalk's CDBG manager, regarding the newer expectations of HUD for AI's, as evinced in a lawsuit brought against Westchester County, NY, for its failures to properly produce an Analysis of Impediments to Fair Housing Choice (settled by Westchester for \$60 million);

3. **Advocating for laws and policies:** As discussed previously, the FHO monitors and advocates for both laws (federal reinvestment, state anti-discrimination and local zoning) and policies. Other forms of monitoring and advocacy regarding fair housing in FY 2009-2010 include; continuing to request that Zoning address the Fair Housing issues in its Workforce Housing Regulation; continuing to refer victims of predatory lending to reputable programs for renegotiation of untenable mortgages or foreclosure mediation; drafting requests for reasonable accommodation on behalf of disabled tenants. On the state level, the FHO continues to: actively participate in groups that coordinate responses (education and legal/remedial) to housing discrimination and predatory lending; speak at two state-wide conferences regarding fair housing and affordable housing; work with the state's Attorney General's office regarding suspected predatory loans. On the national level, the FHO works with a professional organization, the National Community Reinvestment Coalition, to strengthen consumer protections relative to lending, and the oversight/regulation of lenders.

#### D. Professional activities.

The Fair Housing Officer is an attorney licensed to practice in Connecticut (as well as other states). Due to budgetary constraints, she has been unable to participate in continuing legal education programs. During FY 2009-2010, the FHO attended one state-wide Fair Housing conference sponsored by the Fair Housing Association of Connecticut but was unable, due to limited funds, to participate in other seminars or conferences or to maintain professional subscriptions regarding Fair Housing and Fair Lending.

The Fair Housing Officer is a member and officer (Vice Chairperson) of the Board of Directors of the Fair Housing Association of Connecticut.

## II. City Enforcement and Compliance.

### A. Under Title VIII of the Civil Rights Act of 1968.

1. Were all city programs and activities regarding housing and community development administered in a manner to affirmatively further fair housing?

#### a. Community Development Block Grants

Community Development Block Grants ("CDBG") are administered by the Norwalk Redevelopment Agency (NRA). Of the CDBG expenditures subject to the Low and Moderate Benefit Income (LMI) calculation in 2009, HUD reports that 91% were spent on LMI households. Direct benefit recipients of the funds are required to make a non-discrimination commitment in their agreement. In addition, it is the policy of the

NRA to refuse to enter into contracts with or provide service monies to developers and service providers who do not have non-discrimination polices.

The City and NRA affirmatively further fair housing when they promote the acquisition, development and rehabilitation of affordable housing through the use of CDBG funds.

During the 2009 program year, the city, through CDBG, spent \$25,000 on housing placement services for victims of domestic violence, \$16,000 on a program at George Washington Carver Center to help prepare youth for higher education, and \$10,000 at NEON for job search assistance.

The city's residential rehabilitation revolving loan program was funded by CDBG to the tune of \$416,493 and assisted 97 homeowners with repairs to their properties. CDBG also funded security repairs to several Norwalk Housing Authority properties, totaling \$48,700.

According to HUD, less than \$500,000 was spent on matters directly related to affordable housing, and nothing was identified as spent on developing new affordable rental or ownership housing. The total grant from HUD was \$970,080.

**b. Housing Authority.**

Almost all funds and activities are tied to federal or state funding, both of which have strict anti-discrimination requirements. All of the city's housing and community development programs and activities are administered by either the NRA or the Norwalk Housing Authority (NHA).

The NHA is required to conduct its own Analysis of Impediments to Fair Housing Choice due to its receipt of funding from HUD, and thereby examine its programs, policies and procedures for Fair Housing impediments, plan and conduct corrective actions, and keep records regarding same. In the FHO's opinion, the NHA's AI does not fulfill this mandate and needs to be substantially revised. Again, if the issues are not identified first, they will not be addressed. The NHA will affirmatively further Fair Housing when it properly conducts an AI, creates and implements a reasonable accommodation policy in conformance with Fair Housing laws, collaborates with the FHO on training sessions for its residents and Section 8 recipients, and other proactive activities.

For a number of years, there was almost no collaboration by the NHA with the FHO. In FY 2009-2010, the NHA began to invite the FHO to participate in meetings regarding amendments to governing documents and some Section 8 recipient (but not public housing resident) trainings. These efforts ebb and flow and the FHO seeks additional opportunities with the NHA to affirmatively further Fair Housing through outreach, education, better analysis of Fair Housing concerns and documentation of same, and proper consideration and granting of reasonable accommodations for residents with disabilities.

2. Did the city take action to affirmatively further fair housing in:  
The sale or rental of housing?
  - a. City of Norwalk Plan of Development, 1991-2000.

The City of Norwalk’s former Plan of Development, 1991-2000 began its Housing section with the acknowledgment that in the early 1990s “housing, especially the lack of low cost housing, was one of the most critical planning issues facing Norwalk...” One of the identified policies was to:

“Continue to provide capital budget funds to redevelop the Norwalk Center and Reed-Putnam areas with new housing and mixed-use development. Encourage at least 20 percent of such housing to be affordable to families with incomes at or below the Connecticut Finance Housing Authority’s (CHFA) income limits...”<sup>3</sup>

Approximately five (5) years ago, the city furthered Fair Housing in the sale and rental of new housing in the Reed-Putnam development, which included affordable and market-rate units intermixed in the one development project. Ten (10%) percent of the units in total were designated affordable and will remain affordable so long as the land use on those parcels is residential. As stated earlier, a few other for-sale affordable units were added to the mix in the past year, but the city is not adding rental units, despite the need.

- b. Funding of the Fair Housing Officer position.

**Budget:** The Fair Housing Office budget is funded by the City of Norwalk:

<u>Fiscal Year</u>	<u>Budget</u>	<u>% Increase</u>
2011-2012	\$126,805.09	4.0% <sup>4</sup>
2010-2011	\$121,799.00	2.5%
2009-2010	\$118,828.00	7.0% <sup>5</sup>
2008-2009	\$111,102.00	9.8% <sup>6</sup>
2007-2008	\$101,414.00 <sup>7</sup>	7.5%
2006-2007	\$94,414.00	11.7% <sup>8</sup>
2005-2006	\$84,509.00	4.5%
2004-2005	\$80,847.00	0.0%
2003-2004	\$80,847.00	6.8%
2002-2003	\$75,660.00	5.9%

<sup>3</sup> Plan of Development for the City of Norwalk, 1990-2000, page 35

<sup>4</sup> This budget request represents only \$5,006 in increase, planning for a salary increase comparable to NASA union employees at the same grade and level, since the FHO has not had a salary increase in 2 fiscal years (while city employees missed one fiscal year increase).

<sup>5</sup> While seemingly great in percentage (7%), the increase represents \$7,726, with under \$4,000 attributable to programmatic funding, no salary increase, and the remainder filling insurance-related cost increases.

<sup>6</sup> Personnel costs account for the entire budget. In fact, actual personnel costs exceed the entire budgeted amount by several thousand dollars, meaning there is absolutely no money for operations in 2007-2008.

<sup>7</sup> The city originally sought a flat budget, but added \$7,000 as a cost-sharing with NRA on affordable housing work.

<sup>8</sup> Nearly 50% of this increase was attributable to unavoidable group health insurance cost increases.

2001-2002	\$71,452.00	9.1%
2000-2001	\$65,500.00	3.8%
1999-2000	\$63,000.00	4.5%
1998-1999	\$60,215.00	2.5%
1997-1998	\$58,746.00	0.0%
1996-1997	\$58,746.00	3.0%
1995-1996	\$57,035.09	0.0%
1994-1995	\$57,035.09	3.0%
1993-1994	\$55,374.00	2.0%
1992-1993	\$54,219.14	0.4%
1991-1992	\$54,023.00	

Various studies, including the Comprehensive Housing Affordability Study (“CHAS”) published in 1994, and the Mayor’s Blue Ribbon Commission report, also of 1994, support the continuation, expansion, and/or increased funding of fair housing efforts in Norwalk. This has not happened. Rather, the recommended budget the past few years has been below the personnel costs, with last minute funding added to bring the program just barely into the black.

The Second Amended Consent Decree mandates how and from where the Fair Housing Office is to be funded, and what that funding shall include:

“11. The Fair Housing Officer shall prepare a proposed budget for the Fair Housing Office and submit it to the Fair Housing Advisory Commission. Any proposed expenditures for the Fair Housing Office by the Redevelopment Agency shall be included in the budget. The Fair Housing Advisory Commission shall make any revisions to the budget, and timely submit it through the city’s budget process for grant agencies.....” [and]

“13. The Fair Housing Advisory Commission may accept outside funds. The Fair Housing Advisory Commission may, as permitted by City Code and in a manner approved by the Finance Director, solicit and accept outside funds, gifts or bequests, public or private, with the assistance of the Fair Housing Officer, consistent with the purposes of the Commission, in order to finance its activities. The outside funds cannot be used to advance or pay the salary of the Fair Housing Officer. The City may reasonable consider the receipt of outside funds when considering the budget of the Fair Housing Office.”

In FY 2009-2010, the budget initially recommended would have resulted in an operating budget of \$0.59 for the entire year. A last minute plea for funding to the Mayor (by the FHAC and the NAACP) resulted in an operating budget of \$3,787.00.

At the time of the writing of this report (December, 2010), a new budget cycle has commenced for FY2011-2012. City departments are again being asked to cut operating budgets. Fair Housing’s has already been cut to the bone, and further cuts are impossible.

Instead, the Fair Housing Office budget is asking for the prior year's budget, plus 4.0% (approximately an additional \$5,000), as indicated above.

In year's past, the FHAC has had one large educational event per year and that must be reinstated. Conferences and subscriptions are the only way the FHO remains current with developments in the field of Fair Housing. In light of the economic situation, she will not attend the annual out-of-state national Fair Housing conference this fiscal year once again, and her subscriptions to Fair Housing and Fair Lending publications have all been discontinued. These minimum means of remaining current on the legal topics related to Fair Housing and Fair Lending need to be funded again. Further, the FHO's computer was purchased in 2003. No funding has been received to replace that. The FHO did not even ask for such funding for FY 2011-2012. It is certain that funding will have to be sought in FY 2012-2013 for a computer and related software.

Clearly, Fair Housing is on financial life-support, operating at the barest level of funding, all the while serving more residents than ever. In the coming year, Fair Housing anticipates remaining on financial life support and serving increasing numbers of residents facing economic and housing crises usually not of their own making. Nonetheless, Fair Housing will move onward in providing essential services to the city's residents, as mandated by court order, throughout the coming year.

Norwalk affirmatively furthers Fair Housing when it adequately funds the Fair Housing Office budget, so that the FHO and FHAC can engage in their activities, all of which assist city residents and contribute to fulfilling the city's duty to affirmatively further fair housing.

c. Litigation

There was no litigation pending concerning Norwalk Fair Housing in FY2009-2010.

3. Did the city take action to affirmatively further fair housing in The Financing of Housing?

Rehabilitation of residential units has, since the 1990s, been the primary method by which the City of Norwalk addresses the need for affordable housing. The focus has moved away from adding affordable rental units.

The city affirmatively furthers Fair Housing through the financing of housing when it funds the financing of housing rehabilitation as well as creation and/or acquisition programs of for-sale and for-rent housing at levels that address the need and recognize the level of expense in Norwalk, and when it maximizes the use of federal CDBG funding (and matching dollars) in the area of affordable housing.

In particular, adding affordable rental units needs to be reinstated as a policy of the city, given the enormous percentage (55%) of renter households that are severely cost burdened. Locating new affordable housing in areas not already heavily impacted by affordable housing will be the next step in advancing Fair Housing in Norwalk.

4. **Did the city take action to affirmatively further fair housing in:  
Under Chapter 59A of the City Code (“Housing: Equal Opportunity”).**

The declaration of the city’s policy with regard to Fair Housing is set forth in Chapter 59A of the city code as follows:

“It is the policy of the City of Norwalk to safeguard all individuals from discrimination because of race, color, religious creed, sex, age, national origin, marital status, ancestry or physical disability, including but not limited to blindness, in connection with housing, thereby to protect their interest in personal dignity and freedom from humiliation, to make available to the city their full productive capacities, to secure the city against strife and unrest which would menace its democratic institutions and to preserve the public safety and general welfare.

**a. Fair Housing Activities of the City of Norwalk Human Relations Commission and the Fair Housing Advisory Commission**

**1. Human Relations Commission.**

Norwalk’s Human Relations Commission is the Fair Housing (and employment discrimination) enforcement body for the City of Norwalk and consists of 11 Commissioners, all appointed by the Mayor and approved by the Common Council. It is a “next step” on the Norwalk Fair Housing continuum: after Fair Housing complaints are received and investigated by the Fair Housing Officer, a case (if not otherwise resolved) has to be filed with a hearing body. One option is the Norwalk Human Relations Commission. Other options include the state’s Commission on Human Rights and Opportunities (CHRO), or state or federal court.

The Norwalk Human Relations Commission affirmatively furthers Fair Housing in Norwalk by functioning as the city’s anti-discrimination enforcement body. The city affirmatively furthers Fair Housing through the staffing and funding of this body and office.

**2. Fair Housing Advisory Commission**

The Fair Housing Advisory Commission (“FHAC”), created by virtue of a consent decree entered into in 1986 (and amended in 2004), has eight (8) members. There are 2 mayoral nominees, plus 6 other members appointed by the Mayor (all of whom are approved by the Common Council) and representing various organizations. The organizations are NEON, NAACP, Norwalk Housing Authority, Norwalk Human Relations Commission, Housing Site Development Agency (i.e., Norwalk Redevelopment Agency), and Connecticut Legal Services. In early FY 2010-2011, the Mayor and Common Council appointed members to the FHAC, and a full slate of Commissioners is realized.

The 2004 Consent Decree states that the FHAC shall “shall advise and assist in the development of the City’s Fair Housing policy and program” and that:

“The Fair Housing Advisory Commission shall monitor private and public housing practices for compatibility with fair housing objectives, identify problem areas, and make recommendations to the Mayor, Common Council and Housing Site Development Agency and other appropriate City agencies and Commissions.” See, 2004 Consent Decree, page 3, paragraph 8.

The intended interaction between the FHAC and the FHO is stated as follows in the 2004 Consent Decree:

The Fair Housing Officer shall assist the Fair Housing Advisory Committee in developing policy statements, fair housing programs and internal and external communication techniques.... The Fair Housing Officer shall prepare a proposed budget for the Fair Housing Office and submit it to the Fair Housing Advisory Commission... The Fair Housing Advisory Commission shall make any revisions to the budget, and timely submit it through the City budget process for grant agencies...” See, Consent Decree, page 3, paragraph 8, and page 4, paragraph 11.

To these ends, as previously described, the FHAC sponsored a program regarding how a community should write an Analysis of Impediments to Fair Housing Choice document, which presentation was followed by a discussion of Fair Housing issues in Norwalk. Thereafter, continuing on this educational and advocacy path, the FHAC and FHO commented extensively over the course of FY 2009-2010 and into FY 2010-2011, on the city’s various drafts of the document, suggesting inclusion of items found to be important in a prominent, recent Fair Housing case (in Westchester County, NY) and perceived to be equally applicable in Norwalk.

Additionally, the FHAC and FHO drafted a budget for FY 2009-2010 and attended budget meetings related thereto, with the City’s finance director, Mayor and the Board of Estimate and Taxation. In FY 2010-2011, the FHAC and FHO are once again confronting and considering budget issues and planning, and will again seek to assure that the Fair Housing Office is funded adequately by the city, all the while accepting the reality of the current economic issues and concerns.

The FHAC held ten (10) regular meetings<sup>9</sup> during FY 2009- 2010.

## CONCLUSION.

Fiscal Year 2009-2010 was again a time of extraordinary growth and expansion in terms of providing Fair Housing services to the people of Norwalk.

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<sup>9</sup> The regular meetings took place as follows: Sept. 21; Oct. 19; Nov. 16; Dec. 15, Jan. 19; Feb. 8; March 15; April 12; May 17; June 21.

Budgetary concerns have been paramount for many years and remain critical in nature. The total cost is modest, and not subject to reduction, as there is only one staff person.

The essential costs must be covered in full, along with a modest operating budget for the program. Reasonable funding needs to be assured, despite difficult economic times. In fact, the modest needs must be met, especially because of the economy, since the need for the office increases as economic times get worse. Clearly, as the numerous housing crises continue and unemployment persists at high levels, Norwalk residents remain in greater need of Fair Housing and affordable housing services for the foreseeable future.

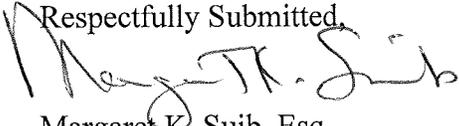
Fair Housing violations continue in the private real estate market, especially the rental market. Historically, when economic times are difficult, discrimination increases. Also, the shorter the supply of housing, especially affordable housing, the greater the incidences of discrimination. These historical trends seem to be holding true. It is expected in the coming year that the violations will at least remain steady, as people are more stressed and pressed by economic woes.

Advocacy by the FHAC and FHO for more affordable housing in Norwalk will continue during these difficult economic times, even as development is stagnant. Fair Housing violations only exacerbate the difficulties faced by persons seeking affordable and/or accessible housing in this, one of the most expensive markets in the country. It is anticipated that Fair Housing issues will continue to exist and increase as long as there is a crisis in the availability of affordable housing and that such issues only are worsened by the housing, credit and economic crises.

In conclusion, the Fair Housing Officer serves an ever-increasing number of Norwalk residents. In the worst of times, as expected, the needs of residents increase dramatically. Over the last few years and continuing to date, this is due to the credit crunch, high unemployment and a housing market in crisis (a sales market that is lethargic at best, and a rental market that is increasingly more expensive and tighter).

Fair Housing education, advocacy, monitoring and reporting were expected to increase as the economy soured and in fact have increased significantly over the last few years. The Fair Housing budget needs to recognize these substantial increases in demand, and requires modest increases yearly.

The FHO and FHAC requests for funding are already the bare-bones necessary to run the court-mandated office and program, and serve their shared mission and the city's duty, to promote fair housing and serve the residents of the City of Norwalk.

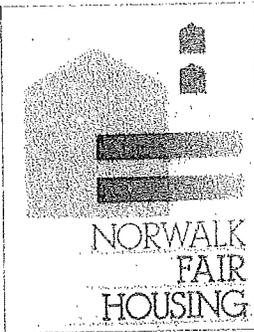
Respectfully Submitted,  
  
Margaret K. Suib, Esq.  
Norwalk Fair Housing Officer  
December 30, 2010

# ATTACHMENTS

Newspaper Columns FY 09/10

# Annual Fair Housing Event Successful!

BY MARGARET SUIB, ESQ.



Norwalk's Fair Housing Advisory Commission's 2009 event, co-sponsored by the Norwalk Branch of the NAACP, was the showing of the documentary movie, "Brick by Brick: A Civil Rights Story," followed by a discussion

among the viewers. The movie portrays the history of a fair housing lawsuit against the city of Yonkers, New York. It evokes strong reactions and interesting discussions.

In Yonkers (as in other places), housing segregation

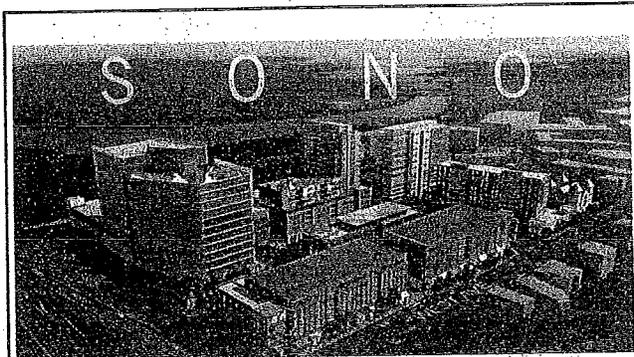
was aided and abetted by private action, in particular, real estate agents showing people of color homes only in certain neighborhoods, and government action, in particular zoning regulations and locating lower income housing in a tiny geographic area (one square mile). Consequences of these actions included segregated public schools and segregated neighborhoods, the black and white neighborhoods separated by an actual wood fence.

A lawsuit was commenced in federal court against the city of Yonkers in the 1970s and for more than 20 years thereafter, the city fought the desegregation of its schools, and, to a greater degree, the desegregation of neighborhoods. The judge and lawyers involved received death threats, a mayor committed suicide, the city was ripped apart by anger and strife.

School desegregation orders were implemented first. Finally, last year, some neighborhood desegregation was accomplished by scattering new townhouse-style lower income housing throughout various neighborhoods in Yonkers.

The movie is composed of interviews, news footage and actual city council meetings, with both elected officials and residents of Yonkers vowing to defy the federal court orders even to the point of bankrupting Yonkers and going to jail for contempt of court.

Norwalk Fair Housing purchased the movie and we are permitted to and interested in showing it to groups. We hope to have an evening showing in the fall, and would especially like to show it to school groups (high school or college) to be followed by discussion. If you are interested in having this movie shown to your group, please contact Norwalk's Fair Housing Officer.



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See Fair Housing, page 16

*Connectivity, from page 6*

pedestrian connections in terms of sidewalks and crosswalks that are user-friendly, complementary and accommodative to the uses that adjoin them, and functionally serve to encourage pedestrian mobility between and among the projects are an essential part of the equation. Pedestrian connections should allow for ease of transition from one mode (walking) to another (transit). Provisions for cyclists need to be incorporated into the system of connections through bike lanes and bicycle racks, also recently added in downtown. Certain natural connections need to be reinforced such as walkways along the river and established where they do not exist.

In summary, connections need to be considered as an integrated system of opportunities to rein-

*Fair Housing, from page 8*

Fair Housing remains a relevant topic and this movie reminds of us of how far we've come and the important work we need to continue to do to make our communities more integrated and inclusive. ■

*Volunteers, from page 9*

Pepperidge Farm employees just prior to Memorial Day. The EMCOR Group Inc. planted flowering plants and beautified Ludlow Commons, the senior citizen housing facility in East Norwalk, and PepsiCo employee volunteers conducted similar beautification efforts at the Broad River Homes senior citizen housing facility on New Canaan Avenue in Norwalk.

By each volunteer providing several hours of service to the community, this large number of volunteers has been able to achieve great success. There are far too many persons to recognize, however it is important to acknowledge two impressive youth groups who demonstrated that they keenly understand the need to protect our environment by keeping our shorelines, parks, and open spaces

force the cohesiveness of the area. While the city of Norwalk has started to recognize the importance of this planning concept, there are many more opportunities and there is much work to be done to fully realize the benefits that accrue to the community from connectivity among the projects. Thus, connectivity is not just an esoteric "planning term", rather it is a way of thinking about community and how we want to function within the community we are creating. ■

*About the author: Jack Burrill is the assistant director of the Norwalk Redevelopment Agency. He has been with the Agency since 1985, during which time he has been involved with the redevelopment of South Norwalk, the City's arts and entertainment district, as well as the City's award winning Façade Improvement Program. He is a graduate of Rutgers University with a Masters degree in City Planning from Northeastern University in Boston. [jburrill@norwalkct.org](mailto:jburrill@norwalkct.org).*

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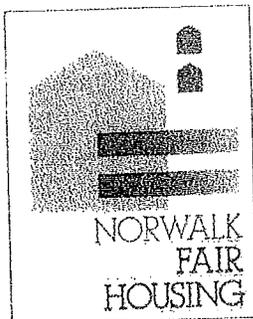
clean. Girl Scouts of Connecticut, Inc., Norwalk Troop 50464, and the girls dance group "Won Mynd," which is comprised of Brien McMahon High School students, gave up four hours of a Saturday morning in May to clean Wall Street and the surrounding sections of the Norwalk River shoreline. Their understanding of the negative impact litter and debris has on our environment combined with their high level of enthusiasm for this project is most impressive. Thank you Keep Norwalk Beautiful volunteers!

For more information on Norwalk's Keep Norwalk Beautiful campaign contact the city's Neighborhood Improvement Coordinator, David L. Shockley at [dshockley@norwalkct.org](mailto:dshockley@norwalkct.org) or 854-7810 ext. 46782. ■

*About the author: David L. Shockley is the Neighborhood Improvement Coordinator for the Norwalk Redevelopment Agency. [dshockley@norwalkct.org](mailto:dshockley@norwalkct.org).*

# \$50+ Million Dollar Landmark Fair Housing Case Recently Settled

BY MARGARET SUIB, ESQ.



Fair Housing and affordable housing are terms that are often used interchangeably. A landmark federal lawsuit, *United States ex rel. Anti-Discrimination Center of Metro New York, Inc. v. County of Westchester* ("Westchester case"), settled in August 2009 and receiving final approval by Westchester in September 2009, addresses both fair housing and affordable housing.

In the Westchester case, a fair housing advocacy group claimed that Westchester County, NY, made "false claims" under the federal False Claims Act of 1863, a law initially intended to redress the fraudulent claims for payment that were being made by private contractors during the Civil War.

Specifically, the lawsuit alleges that Westchester County, in seeking federal Community Development Block Grant Funds ("CDBG funds"), annually certified that it was "affirmatively furthering fair housing," a prerequisite to receiving CDBG funds, but that it was not, in fact, doing so. Rather, it alleges that Westchester was focusing on affordable housing, without due consideration as to fair housing (discrimination) issues and racial segregation, in particular. The remedy, under the False Claims Act, would be, at a minimum, the return of the CDBG funds received, here, in excess of \$50 million. Westchester denied any falsity or wrongdoing.

Prior to settlement, in its partial summary judgment ruling, the Court found that Westchester's analysis of impediments to fair housing choice focused, wrongly, "... through the lens of affordable hous-

ing, rather than fair housing and its focus on protected classes such as race." The Judge noted, among other things, that Westchester didn't analyze racial discrimination or segregation patterns, did not challenge resistance to affordable housing, and did not study how its use of funds impacted racial segregation.

In the settlement, Westchester agreed to spend more than \$50 million for the development of affordable housing, the vast majority of which must be in towns and villages where the black population is three percent or less, and the Hispanic population is under seven percent — places such as Bedford, Bronxville, Eastchester, Hastings-on-Hudson, Harrison, Larchmont, Mamaroneck, New Castle, Pelham Manor, Rye, and Scarsdale. Westchester committed to taking legal action against any towns that fail to cooperate or hinder this affordable housing development, and to making sure these homes are marketed to minorities in Westchester and New York City. Westchester will also properly analyze barriers to fair housing, especially race and municipal resistance.

According to Westchester County Board of Legislator's Media Center release of September 23, 2009, the county board approved the "landmark fair housing settlement agreement and bond act" after careful consideration of various things, including an "internal analysis" showing that its risk of an adverse verdict and damages could run in "... a range of \$180-\$200 million dollars on the low end, and up to \$540 million dollars on the high end ..."

In the Department of Housing and Urban Development's (HUD's) press release, Deputy Secretary Ron

See *Fair Housing*, page 14

*Railroad, from page 3*

port economic development. Public sector investment of this type is essential to the city's long term economic health, ensuring that the most basic elements of infrastructure, namely streets and utilities, are in place and properly sized to support future development in those areas that the city has identified for economic growth. To the extent that the West Avenue Corridor represents the core of the city, it is a priority area for investment in infrastructure improvements that are necessary precedents, not only to attracting growth, but directing such growth into the areas designated by the city policymakers.

With the substantial completion of the railroad underpass, the city and its contractor for Phase II of the improvements, Deering Construction of Norwalk, have turned their attention to the next phase of the project that will include widening of West Avenue, and upgrades to the I-95 and Route 7 on and off ramps in the vicinity of the Reed Putnam project. In addition to upgrading the existing roadways and streetscape, this phase of the work will replace and increase the capacity of storm drainage and sanitary sewers, as well as gas, elec-

*It is critical to the long range planning and development of Norwalk that the city use this opportunity to better position itself for the next upturn in the economic cycle.*

tric, and water service in a critical core area of the city. These are oftentimes unseen and unrecognized improvements that are essential to attracting new development in the 21<sup>st</sup> century. The West Avenue work will extend over a 24 month period providing employment and engaging numerous local subcontractors to complete the project.

While the economic cycle grinds its way through the current downturn, it is critical to the long range planning and development of Norwalk that the city use this opportunity to better position itself for the next upturn in the economic cycle. Therefore, it is with this goal firmly in mind that the completion of a new railroad bridge and commencement of road improvements on West Avenue represent important milestones worthy of celebration.

*About the author: Jack Burritt is the assistant director of the Norwalk Redevelopment Agency. He has been with the Agency since 1985, during which time he has been involved with the redevelopment of South Norwalk, the City's arts and entertainment district, as well as the City's award winning Facade Improvement Program. He is a graduate of Rutgers University with a Masters degree in City Planning from Northeastern University in Boston. [jburrirt@norwalkct.org](mailto:jburrirt@norwalkct.org).*

*Fair Housing, from page 8*

Sims is quoted as saying: "The resolution of this case is a positive step toward creating new housing opportunities and advancing integrated residential patterns in Westchester County. This settlement reflects an approach to equitable development in suburban areas that can serve as a model for build-

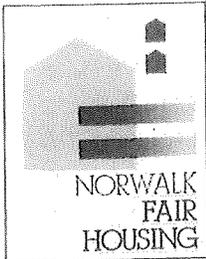
ing inclusive, diverse, and sustainable communities across the country."

*About the author: Margaret K. Suib, Esq., Norwalk's Fair Housing officer since 1996, is an attorney assisting residents in combating housing discrimination, and is Norwalk Redevelopment Agency's affordable housing coordinator. [msuib@norwalkct.org](mailto:msuib@norwalkct.org).*



# Fair Housing: Difficult Times Leads to Increased Demands

BY MARGARET SUIB, ESQ.



The Great Recession of 2008 is predicted by economists to continue for several years. Norwalk Fair Housing has seen the impact of these economically challenging times, including greatly increased demands on its very limited resources.

Housing prices and the ownership market have suffered from predatory lending and the consequent foreclosure crisis. Banks have severely limited the credit they are extending for home purchasing. Add in the more recent unemployment crisis, and the rental market has actually gotten more expensive and tighter as people don't make the usual transition over

to homeownership, or, after becoming unable to stay in their homes, turn back to the rental market.

Unfortunately, hard economic times traditionally lead to an increase in discrimination, and an increase in need for housing related services. It's a perfect storm of highly challenging times for Norwalk Fair Housing. In fact, in fiscal year 2008-2009, the number of people requesting assistance from the Norwalk Fair Housing Office rose by 18 percent, with tenant inquiries about discrimination, in particular, rising by 75 percent.

Despite all that, Norwalk Fair Housing is fortunate. While the money the city provides is extremely modest (this year, \$3,787 is available for operations after personnel costs), this monetary resource is heavily leveraged in human resources. This includes attorneys of Connecticut Legal Services, the Connecticut Fair Housing Center in Hartford, and a handful of local private attorneys who collaborate with Norwalk's Fair Housing officer and represent, pro bono (without charge), those who have experienced housing discrimination, as well as an impressive network of others, including members of the Fair Housing Advisory Commission, the Connecticut Attorney General's Office (regarding mortgage lending issues, in particular), nonprofit affordable housing groups, other Norwalk offices (the Redevelopment Agency, Human Relations, Fair Rent, and Health Department, to name a few), and most recently, private nonprofit groups providing eviction and foreclosure counseling services.

I am privileged to do legal work in the civil rights arena. I am also extremely fortunate to have a network of human resources that is second to none. Without them, little could be accomplished by a one-person office. I am incredibly grateful for such colleagues and for the city's continued support. ■

*About the author: Margaret K. Suib, Esq., Norwalk's Fair Housing officer since 1996, is an attorney assisting residents in combating housing discrimination, and is Norwalk Redevelopment Agency's affordable housing coordinator. [msuib@norwalkct.org](mailto:msuib@norwalkct.org).*

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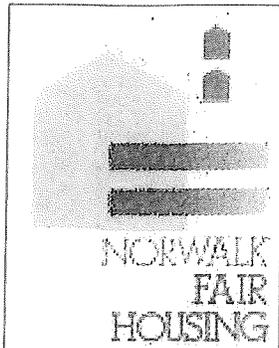
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# Fair Housing and Affordable Housing

BY MARGARET SUIB, ESQ.



What is affordable housing? Are affordable housing and fair housing the same thing? How do they differ and do they relate to each other?

Fair Housing is a body of law prohibiting illegal discrimination in housing,

with a goal of furthering the integration of our housing markets and neighborhoods. In order to realize the goals of fair housing, a community must have, as part of its housing stock, housing that is affordable to not only families of the greatest means, but also to those of more modest means, including those in low and middle income jobs, seniors, and those with disabilities.

Affordable housing is housing that is, well, affordable. That word leads to a lot of confusion, because we tend to define it subjectively. Can we make it less confusing, and give it a standardized meaning? In Norwalk, we tend to use the State of Connecticut's definition of "affordable housing."

Under Connecticut General Statutes Section 8-30g (and following), affordable housing is defined as housing that is restricted by covenant or deed restriction, and it requires that the housing units be sold or rented only at or below certain prices, and only to persons whose household incomes meet or are below certain levels. More precisely, the definition limits the percentage of income a household spends on its housing to no more than thirty percent (30%), and puts a ceiling on the income of households that will be eligible for the affordable housing, with total income less than or equal to eighty percent (80%) of the

Area Median Income ("AMI").

How does that translate today, into real numbers, in Norwalk? First, it's a moving target, because median income changes over time. However, in 2009, the AMI for the area that includes Norwalk was approximately \$122,000 (for a family of four). Eighty percent of \$122,000 is approximately \$96,000. Therefore, we could be talking about "affordable housing" for families earning up to \$96,000.

That's well more than I earn, and not, therefore, what I would call "affordable." Therein lies the danger of using our own situation as the benchmark for "affordable."

Sometimes, the target income group for affordable housing in Norwalk will be those earning sixty percent (60%) of AMI — in other words, \$73,000 or so per year for a family of four and, even less frequently, for those earning less.

"Affordable," therefore, is not necessarily affordable, at least not to each of us. It can and usually is a patchwork approach. Different developments target different income groups, with different sources of subsidy. They all share the goal and effect of increasing housing opportunities in different parts of the city for different people. More housing stock, available to more income groups, in more parts of the city is how affordable housing intersects with the desegregation goal of fair housing. ■

*About the author: Margaret K. Suib, Esq., Norwalk's Fair Housing officer since 1996, is an attorney assisting residents in combating housing discrimination, and is Norwalk Redevelopment Agency's affordable housing coordinator. [msuib@norwalkct.org](mailto:msuib@norwalkct.org).*