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Hogan Lovells Lands Win For Fair-Housing Advocates

By **Andrew Strickler**

Law360, New York (June 13, 2014, 4:50 PM ET) -- A battle over 24 acres in a wealthy Long Island community ended in a trial victory for affordable-housing advocates and Hogan Lovells lawyers who say they dedicated thousands of pro bono hours in hopes of heading off housing discrimination in other communities.

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"Residential segregation remains a serious problem in the U.S. and has a lot of negative impacts on minority communities," said Hogan Lovells employment partner Stanley Brown, who called the case the firm's longest and most time-intensive pro bono matter.

"Our major reason for taking this case was we thought it would have a significant impact, not only in Garden City but in fact send a message across the county that this will not be tolerated," he said.

The publicly owned parcel — among a group that holds a former social services building, the county police headquarters, parking lots and a garage — became a point of contention after Nassau County moved to sell the land to the village of Garden City, a nearly all-white community of about 21,000 with no low-income housing.

In 2004, a consultant working for Garden City began a study that showed that a mixed-use development including affordable housing could be built on the site without overburdening local schools, creating undue traffic problems or altering the character of the community.

But at later public hearings, Brown said, community members raised a series of concerns about things like sanitation, traffic and whether affordable housing would cause Garden City to be "overrun."

"After a year's study there is an abrupt turnaround, and they end up with zoning that favors expensive, single-family homes that makes affordable housing impossible on the site," Brown said.

A group of individuals and organizations sued Garden City, village trustees and the county, saying the change was racially motivated and in violation of the Fair Housing Act.

After lengthy procedural and discovery battles, changes of judges and the dismissal on summary judgment of the county, a three-week bench trial before U.S. District Judge Arthur D. Spatt was held last year.

Much of the plaintiffs' case was made through interviewing adverse witnesses, Brown said.

"This case was typical of discrimination cases, or many of them, particularly in fair housing, because it wasn't a situation where anyone said explicitly, 'We don't want African-Americans in our neighborhood,'" Brown said. "But there were many things done along the way to show the zoning decision was motivated by racism."

In a December decision, Judge Spatt agreed, saying **racially charged opposition** fueled the village's rejection of multifamily zoning in favor of higher-cost, single-family homes.

The zoning change "had a disparate impact on minorities in Garden City and tended to perpetuate segregation in that community," Judge Spatt wrote.

Final judgment was entered in the case in April requiring Garden City to take measures to address the discrimination.

In the course of the multiyear litigation, the county reversed its decision to sell the land.

Today, the land "sits fallow on a corner for some day in the future, and that doesn't make any sense," said Long Island attorney Frederick Brewington, who also represented the plaintiffs.

"In my view, the decision not to sell was consistent with why we brought the lawsuit ... and if the property was to be made available for affordable housing to any degree, there was resistance," Brewington said.

The plaintiffs have appealed Nassau County's dismissal in the Second Circuit and are seeking \$5.6 million in legal fees.

In addition to Brown and Brewington, Hogan Lovells partner Pete Dennin and associates Chava Brandriss, Andrew Sein, Sarah Gregory, Ben Fleming, Leah Rabinowitz, Ben Reed and Caroline Cheng, and former Hogan partner Paul Sweeney and former associates Sabrina Cochet, Kim Bykov, Toby Smith, Jenny Rubin Robertson, Renee Garcia and Luz Henriquez made significant contributions.

The plaintiffs were also represented by Joseph Rich of the Lawyers' Committee for Civil Rights Under Law.

Garden City is represented by Cullen & Dykman LLP and Jones Day.

The case is Mhany Management Inc. et al. v. County Of Nassau et al., case number 2:05-cv-02301, in the U.S. District Court for the Eastern District of New York.

Pro Bono Spotlight is a recurring Law360 series profiling law firm pro bono efforts.

--Additional reporting by Alex Lawson. Editing by Jeremy Barker and Katherine Rautenberg.

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