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Court: Racially biased code words used in NY housing case

By LARRY NEUMEISTER Associated Press | MARCH 23, 2016 — 4:00PM

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NEW YORK — Officials in an affluent suburban New York village acquiesced to race-based opposition to a housing project and changed zoning codes to discriminate against minorities, a federal appeals court said Wednesday as it also opened the door to one of America's most affluent counties facing claims it steered affordable housing to its lowest-income communities.

The 2nd U.S. Circuit Court of Appeals in Manhattan upheld a judge's finding that the village of Garden City on Long Island discriminated against minorities in a zoning decision made after Nassau County decided to sell some land. The court noted village residents used racially biased code words to convince public officials to exclude minorities by changing the land's zoning to mostly exclude multi-family dwellings.

The appeals court said that Garden City residents at public hearings, for instance, claimed multi-family housing would change the "flavor" and "character" of the village and that any construction should involve "upscale" units. It also highlighted residents' claims that their community might become like Brooklyn and Queens, New York City boroughs where minorities are the majority.

"Garden City's argument appears to boil down to the following — because no one ever said anything overtly race-based, this was all just business as usual," the 2nd Circuit said in a decision written by Circuit Judge Rosemary Pooler. "But the district court was entitled to conclude ... that something was amiss here, and that Garden City's abrupt shift in zoning in the face of vocal citizen opposition to changing the character of Garden City represented acquiescence to race-based animus."

The ruling came two years after U.S. District Court Judge Arthur Spatt ordered officials in the predominantly white village to take concrete steps to open the community to minorities. Census figures show the village, 30 miles east of Manhattan, has a minority population of 2.6 percent when dormitory students are excluded, though it is surrounded by several communities where minorities are the majority.

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In its opinion, the 2nd Circuit reinstated Nassau County as a defendant, saying Spatt must consider whether the county of more than 1.3 million people adjacent to New York City intentionally steers affordable housing to low-income, mostly-minority communities.

The appeals court recounted at length a series of public hearings attended mostly by whites, saying Garden City residents used "recognized code words about low-income, minority housing" in making subtle references to immigrant families by complaining that full families might live in one-bedroom townhouses or that the wrong kind of housing complex might cause 10 people to live in an apartment and lead to overcrowded schools.

"Citizen opposition, though not overtly race-based, was directed at a potential influx of poor, minority residents," the appeals court said, adding that a description of a Garden City public hearing was "eerily reminiscent" of a scene in an earlier court case involving housing discrimination in Yonkers.

Village and county lawyers did not immediately return messages seeking comment.

Attorney Frederick Brewington, representing fair housing activists, called the ruling a "monumental decision that sheds serious light on a major problem" in one of America's most segregated suburban communities.

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