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# *Housing Bias Outlasts Ruling in a Long Island Village*

By **LISA W. FODERARO** APRIL 23, 2016



A storefront in central Garden City, N.Y. Last month, a federal appeals court found that the city violated federal antidiscrimination law by rezoning land specifically to block multifamily housing. Victor J. Blue for The New York Times

**GARDEN CITY, N.Y. —** Mary Crosson, a housing activist, remembers moving to Long Island from Bayside, Queens, in the 1990s and being struck by the sharp divisions that seemed to keep blacks and whites apart.

“I come from South Carolina, so I understand discrimination,” said Mrs. Crosson, 68, who is black and lives in the village of Hempstead, where nearly half the residents are African-American. “In Queens, it was more of a

mixed neighborhood. I came out here and I felt like I went back to the South all over again.”

A [federal appeals court](#) found last month that such segregation was not an accident. The court ruled that Hempstead’s next-door neighbor, Garden City, a wealthy village where 1.2 percent of the residents were black in 2010, had violated federal antidiscrimination law by rezoning land specifically to block multifamily housing — and the potential for minorities to move in.

“Something was amiss here,” a three-judge panel of the United States Court of Appeals for the Second Circuit wrote in its decision. “Garden City’s abrupt shift in zoning in the face of vocal opposition to changing the character of Garden City represented acquiescence to race-based animus.”

The ruling, which affirmed [a 2013 decision](#) by a Federal District Court judge, is a pivotal development in the long struggle to dismantle housing segregation as the federal government, courts and advocacy groups shift the battle beyond cities to white suburban enclaves that have deliberately erected barriers to integration.

The more aggressive posture reflects a growing impatience with the persistence of segregation a half-century after the passage of the federal Fair Housing Act, and an effort to apply more pressure on communities to finally open themselves up to black and Latino residents.

“It’s another signal that the tide is turning in terms of fair housing,” said [Prof. Robert M. Silverman](#), of the School of Architecture and Planning at the State University of New York at Buffalo, who has written extensively on the subject of housing segregation. “There’s a historic pattern of segregation that those places have experienced.”

In the case of Garden City, however, the legal victory may have come too late. The litigation dragged on for so long that a courthouse is now planned for the land at the center of the case, and local officials, advocates said, claim there are few other parcels on which to build.



From left, Mary Crosson, Diane Goins and Atlanta Georgia Cockrell at the headquarters of the Long Island chapter of New York Communities for Change. Victor J. Blue for The New York Times

The judges who ruled in the Garden City case raised the possibility that discrimination went beyond one community, directing the district court to determine whether officials in Nassau County, which includes [Garden City and Hempstead](#), had deliberately steered affordable housing to low-income areas with largely minority populations.

Experts on fair housing say discrimination cases are flaring where the need for more affordable housing is greatest: cities where housing costs are high and their suburbs. In recent years, legal challenges have been raised in [Westchester County, N.Y.](#); Marin County, Calif.; and the city of [Dallas](#), among other places.

The litigation in Nassau County is entering its next phase as [a new rule issued by the Obama administration](#) takes effect, requiring communities that receive federal housing aid to detail how they plan to reduce racial inequality in housing. The federal Department of Housing and Urban Development has given local governments data and mapping tools to help them address segregation.

Bryan Greene, the agency's general deputy assistant secretary for fair housing and equal opportunity, said the requirement would help prevent what happened in Westchester, where some of the country's most affluent communities sit next to hardscrabble towns and where, a judge found, officials had failed to consider race when they certified that the county had taken steps to promote fair housing.

Westchester, which entered a sweeping desegregation agreement with the federal government in 2009, helped "illustrate to many people nationwide that communities were getting millions and millions of dollars in block grant funding" without evaluating the problem of racial segregation, Mr. Greene said.

In the case of Garden City, local officials had not received federal housing money, but the Fair Housing Act applies to all housing transactions and policies, even when federal money is not involved.

The lawsuit that led to the appeals court ruling last month was filed against the village and Nassau County in 2005. It accused the village of discrimination by catering to residents who had protested the board of trustees' initial embrace of a zoning classification that would have allowed multifamily housing on a 25-acre parcel that the county owned and planned to sell to a private developer.

While the classification did not specifically refer to affordable housing, the appeals court said, residents who opposed the move raised the specter of such housing being built and urged the trustees to "play it safe" by allowing only townhouses or single-family homes on the property. The trustees did just that.

Using what the appeals court called code words, residents said that multifamily housing would change the "flavor" and "character" of the village and would lead to "four or 10 people in an apartment," and demanded a guarantee that the housing be "upscale."

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"The tenor of the discussion at public hearings," the judges wrote, and a flier that circulated in the village,

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“shows that citizen opposition, though not overtly race-based, was directed at a potential influx of poor, minority residents.”

Garden City officials have yet to decide whether to appeal. The trustees said in a statement that the village had already begun to apply remedies ordered by the district court judge, Arthur D. Spatt, adopting a fair-housing resolution and

appointing a fair-housing compliance officer.

Judge Spatt also ordered Garden City to require that 10 percent of new residential developments with five units or more be set aside for residents with household incomes of 80 percent or less of Long Island’s median income.

Advocates doubt the village will create such housing anytime soon. “They’ve been saying to us the whole time that they don’t have enough land to build anything,” said Diane Goins, chairwoman of the Long Island chapter of [New York Communities for Change](#), a plaintiff in the case.

Nonetheless, Ms. Goins, who lives in Hempstead, called the ruling historic. “Having grown up in African-American communities on Long Island, I always knew that we were locked into certain places,” she explained. “You could visit Garden City, but you could not stay.”

The lawyers for the plaintiffs said Garden City and Nassau County were not unusual. “There are many violations going on all across the country, but unless someone catches them, it’s of no moment,” one of the lawyers, Frederick K. Brewington, said.

The broader implications of the case, and the appeals court’s question about whether Nassau had engaged in racial steering, could be far-reaching.

Nassau “is one of the most segregated counties in the country,” said Stanley J. Brown, another lawyer for the plaintiffs.

In Westchester, the events that eventually produced a desegregation agreement started with a challenge by an advocacy group, the [Anti-Discrimination Center](#), which accused the county of lying when it claimed to have followed fair-housing requirements while applying for federal housing money.

A federal judge agreed, ruling that the county had “utterly failed” to meet its obligations. The county said it would build 750 units of affordable housing in 31 overwhelmingly white communities. The units — intended for working, middle-class families — were to be aggressively marketed to nonwhite residents.



In Garden City, 2.6 percent of residents were black and Hispanic in 2000. “Something was amiss here,” judges with the appeals court wrote in their decision. Victor J. Blue for The New York Times

At the end of 2015, according to county officials, financing was in place for 649 units, 588 of which had building permits or certificates of occupancy.

But a thornier element of the Westchester settlement required the county to “use all available means as appropriate” to promote nondiscriminatory housing. That included pressing local governments to change zoning rules that discouraged the construction of apartments.

The federal housing agency has repeatedly accused Rob Astorino, the Westchester County executive, of moving too slowly on the issue. He, in turn, has accused the agency of trying to expand the agreement’s scope.

In a [recent opinion article in a local newspaper](#), Mr. Astorino, a Republican, said the housing agency was trying to “assault local zoning.”

The Nassau and Westchester cases have their roots in a much older housing-discrimination battle near New York: a seminal case in Mount Laurel, N.J.

The Mount Laurel case began in the 1960s when a group of African-Americans found themselves priced out of the township, a Philadelphia suburb. They sued in 1971, after local officials blocked an affordable-housing project.

The case reached New Jersey’s highest court, which in two key rulings limited the use of exclusionary zoning to prevent the construction of affordable housing.

More important, the ruling, known as the Mount Laurel doctrine, asserted that all municipalities had an obligation to provide a “fair share” of affordable housing. Since the mid-1980s, a total of more than 65,000 units have been built across New Jersey’s 21 counties.

Professor Silverman of SUNY Buffalo said continued litigation of fair-housing cases highlighted both the intractable nature of the problem and the robust enforcement now unfolding nationally.

“The fact that discrimination has been sustained over time, despite a series of different court challenges, has kept the issue salient,” he said. “People see the inequalities.”

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