

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ACORN (THE NEW YORK ASSOCIATION OF  
COMMUNITY ORGANIZATIONS FOR REFORM  
NOW), DAPHNE ANDREWS, VIC DEVITA, VERNON  
GHULLKIE, AND NATALIE GUERRIDO, :  
:

Plaintiffs,

v.

WEXLER, J.

COUNTY OF NASSAU, NASSAU COUNTY  
PLANNING COMMISSION, NASSAU COUNTY  
OFFICE OF REAL ESTATE & DEVELOPMENT,  
INCORPORATED VILLAGE OF GARDEN CITY, AND :  
GARDEN CITY BOARD OF TRUSTEES, :  
:

Defendants.  
----- X

Case No. \_\_\_\_\_

**05 2301**  
COMPLAINT FOR  
DECLARATORY  
JUDGMENT AND  
INJUNCTIVE RELIEF

FILED  
JURY TRIAL REQUESTED  
U.S. DISTRICT COURT, E.D.N.Y.  
MAY 12 2005

BROOKLYN OFFICE  
WALL, M.J.

Plaintiffs Daphne Andrews, Vic DeVita, Vernon Ghullkie, Natalie Guerrido, and  
the New York Association of Community Organizations for Reform Now, by and through their  
undersigned attorneys, as and for their Complaint allege as follows:

**I. NATURE OF ACTION**

1. By this housing discrimination action, plaintiffs seek redress for ongoing  
exclusionary housing practices by defendants Nassau County (the "County"), the incorporated  
Village of Garden City ("the Village"), and others acting with, or on behalf of, the defendants  
Village and County. This action challenges defendant County's ongoing discriminatory acts and  
long-standing pattern and practice of preventing African-American, other Black and Hispanic  
persons from residing in predominantly white communities of Nassau County and, specifically,  
the recent and imminent acts of the defendants that effectively prevent affordable multi-family  
housing opportunities from being developed on a 25-acre parcel of County-owned property in  
Garden City, thereby perpetuating not only the exclusion of minorities from the overwhelmingly

white enclave of Garden City, but also the pattern of racial and ethnic housing segregation in Nassau County generally, which is already one of the most segregated counties in the entire United States. By these and other illegal and discriminatory acts, the defendants have violated plaintiffs' rights under the Fair Housing Act, as amended, 42 U.S.C. § 3601, *et seq.*; the Civil Rights Act of 1866, 42 U.S.C. §§ 1981, 1982 and 1983; the Equal Protection clause of the Fourteenth Amendment to the United States Constitution; the "affirmatively furthering" obligations of the Fair Housing Act, 42 U.S.C. § 3608; and the Civil Rights Act of 1964, 42 U.S.C. § 2000d, *et seq.*

## **II. JURISDICTION AND VENUE**

2. Jurisdiction is conferred on this Court by 42 U.S.C. § 3613 and by 28 U.S.C. §§ 1343 and 2201.

3. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (c). Defendants all reside in this judicial district; the events or omissions giving rise to the claims herein occurred in this district; and the property at issue is situated in this judicial district.

## **III. PARTIES**

4. Plaintiff Daphne Andrews is an African-American woman who resides in Westbury, New York with her daughter's family. Mrs. Andrews and her husband have been seeking affordable housing in a racially integrated and diverse area in Nassau County in general, including Garden City, since approximately January 2005.

5. Plaintiff Vic DeVita is a white man who resides in Garden City, New York and desires to live in a more integrated community than currently exists in Garden City. His residence is located less than two miles from the site that defendants, by their illegal action, are preventing from becoming a racially and ethnically integrated housing development.

6. Plaintiff Vernon Ghullkie is an African-American man who resides in Hempstead, New York. Mr. Ghullkie has been seeking an affordable residence in a racially integrated and diverse area in Nassau County in general, including Garden City, for approximately two years.

7. Plaintiff Natalie Guerrido (together with Daphne Andrews, Vic DeVita and Vernon Ghullkie, referred to as the "Individual Plaintiffs") is an African-American woman who resides in Roosevelt, New York with three of her children. Ms. Guerrido has been seeking affordable housing in a racially integrated and diverse area in Nassau County in general, including Garden City, since approximately 2001.

8. Plaintiff New York Association of Community Organizations for Reform Now ("New York ACORN") is a local chapter of a nationwide nonprofit corporate entity called Association of Community Organizations for Reform Now organized and existing under the laws of the State of Arkansas.

9. New York ACORN includes a Long Island chapter with a membership of approximately 2,000 families organized in offices in Hempstead, Roosevelt, Uniondale and throughout Nassau and Suffolk Counties. Through its Long Island Chapter, New York ACORN endeavors to organize tenants, to advocate against discriminatory local and state government decisions, and to promote better housing conditions, more affordable housing, and integrated and diverse housing opportunities, for all residents of Long Island.

10. New York ACORN has served as an advocate, working to eliminate unlawful racially discriminatory housing practices and housing segregation that affects every person who lives in or seeks to live in Nassau County. New York ACORN's mission is to improve the quality of life for low and moderate-income communities that are predominantly populated by minorities. The members of New York ACORN have been deprived of the opportunity to live in

an integrated community by the housing segregation and racially discriminatory housing practices that are pervasive throughout Nassau County. Such housing segregation and racially discriminatory housing practices further frustrate efforts of New York ACORN members to find affordable housing in communities other than those that are already predominately populated by minorities.

11. Defendant County of Nassau (the “County” or “County Government”) is a municipal corporation organized under the laws of the State of New York, having its principal offices located at 1 West Street, Mineola, New York, 11501. All references to defendant County include any individual or entity acting on behalf of, or under the authority derived from, the County.

12. Defendant Nassau County Planning Commission (“County Planning Commission”) is an agency or division of government of Nassau County and consists of nine members appointed by the County Executive. All references to the County Planning Commission include any individual or entity acting on behalf of, or under authority derived from, the County Planning Commission.

13. Defendant Nassau County Office of Real Estate Planning and Development (the “County REP&D”) (together with Nassau County and the County Planning Commission, the “County,” the “County Government” or the “Nassau County Defendants”) is an agency or division of government of Nassau County whose Director is appointed by the County Executive. All references to the County REP&D include any individual or entity acting on behalf of, or under authority derived from, the County REP&D.

14. Defendant Incorporated Village of Garden City, New York (the “Village”) is a municipal corporation organized under the laws of the State of New York, having its principal

offices located at 351 Stewart Avenue, Garden City, New York, 11530. All references to the Village include any individual or entity acting on behalf of, or under the authority derived from, the Village.

15. Defendant Garden City Board of Trustees (the "Board of Trustees") (together with the Village, the "Garden City Defendants") is an elected governing body in Garden City, having its principal offices located at 351 Stewart Avenue, Garden City, New York, 11530, from which the Garden City offices responsible for all development in Garden City derive their authority. All references to the Board of Trustees include any individual or entity acting on behalf of, or under authority derived from, the Board of Trustees.

#### **IV. FACTUAL BACKGROUND**

##### **Nassau County's Historic Pattern and Policy of Housing Segregation**

16. Housing in Nassau County is highly segregated by race and ethnicity, making Nassau County one of the most racially segregated counties in all of the United States.

17. Approximately 80% of the residents of Nassau County are white and approximately 17% of the residents of Nassau County are African-American, other Blacks, or Hispanics (hereinafter, "minority").

18. Approximately 84% of white Nassau County residents live in non-integrated, virtually all white communities, whereas approximately 64% of the minority residents of Nassau County live in communities that contain predominantly minority residents.

19. The foregoing custom, pattern, practice and usage of racially and ethnically segregated housing that exists in Nassau County has been caused, perpetuated and reinforced by the custom, pattern and practice of discriminatory actions, policies and practices of defendant County for many decades.

20. Even though minorities residing in Nassau County have a disproportionate need for affordable multi-family housing that is not restricted to elderly persons (that is to say, “non-age restricted” housing), and the County Government is fully aware that such non-age restricted affordable housing is disproportionately needed by – and used by – minorities, it is, and for many years has been, an express policy and practice of the County Government to develop and promote the development of non-age restricted affordable housing only in predominantly minority and low-income areas of Nassau County and to exclude such affordable housing from areas that are predominantly populated by white people.

21. The County Government has also adopted a policy of supporting, encouraging, facilitating, and acquiescing in the efforts by local zoning authorities in the towns and villages located within Nassau County to enact exclusionary zoning laws and ordinances that often, *inter alia*, prevent the development of non-age restricted affordable multi-family housing, and it has done so with the purpose, intent or foreseeable effect of perpetuating racial and ethnic housing segregation throughout Nassau County and creating identifiable enclaves of nearly all-white residential communities, such as Garden City. This express policy amounts to racial steering by the County Government.

22. The County Government’s own housing policies and practices also cause, perpetuate, and reinforce housing segregation on the basis of race, color and national origin. With full knowledge and awareness that the minorities in Nassau County have a disproportionate need for affordable housing in Nassau County, the County Government maintains, and for many years has persisted in maintaining, an express and deliberate policy and practice of causing and steering such affordable housing to be constructed only in a small number of lower income and predominantly minority communities such as Roosevelt, Inwood, Hempstead Village, New

Cassel and Freeport, and it has done so with the purpose, intent or foreseeable effect of perpetuating racial and ethnic housing segregation throughout Nassau County.

23. As a direct and foreseeable consequence of the aforementioned deliberate policy and practice, nearly all of the government subsidized, non-age restricted affordable housing developments in Nassau County are situated in predominantly minority census blocks.

24. The County Government's customs, patterns and practices with respect to its use of the subsidized housing funds from the federal Community Development Block Grant ("CDBG") program and HOME program further cause, perpetuate and reinforce racial and ethnic housing segregation and constitute overt racial steering. The CDBG and HOME programs require, among other things, the County Government "affirmatively to further" fair housing -- specifically, that it use the funds in a manner that promotes racial integration rather than perpetuating racial and ethnic segregation, and collect data documenting the impact of its CDBG and HOME expenditures on racial and ethnic housing segregation.

25. In derogation of its affirmative obligations, the County Government maintains, and for many years has maintained, a policy and practice of directing HOME funds to local governments and non-profit entities to acquire sites for the development of non-age restricted affordable housing only in low and moderate income communities with a disproportionately minority population, but not in wealthy and predominantly white communities and segregated white enclaves like Garden City, and it has done so with the purpose, intent or foreseeable effect of perpetuating racial and ethnic housing segregation throughout Nassau County.

26. In derogation of its affirmative obligations, the County Government has not used its CDBG funds in a manner that promotes racial integration, but instead the County Government maintains, and for many years has maintained, an express and deliberate discriminatory policy of

using CDBG funds to support the development of non-age restricted affordable housing disproportionately in areas of Nassau County that it knows or should know are already predominated by minority residents.

27. In derogation of its affirmative obligations, the County Government has persistently and knowingly failed and refused to develop an "Analysis of Impediments to Fair Housing" to analyze fair housing needs and residential segregation, which is a basic prerequisite to fulfill its "affirmative obligation" to promote fair housing.

28. In derogation of its affirmative obligations, the County Government has persistently and knowingly failed and refused to track or document the effect of its CDBG and HOME expenditures on perpetuating segregation, so as to conceal and obscure the manifestly segregative effect of its CDBG and HOME programs on housing throughout Nassau County.

29. In furtherance of its policy and practice of perpetuating and reinforcing segregated housing patterns in Nassau County, the County Government maintains, and for many years has maintained, an express and deliberate policy and practice of fostering the development of subsidized senior housing only or disproportionately on sites that are located in predominantly white areas of Nassau County, even though it knows that a disproportionate percentage of the residents of such housing are and will be white persons. As a direct and foreseeable consequence of the aforementioned policies and practices of the County Government, most of the subsidized senior developments are located in census blocks where the vast majority of the population is white.

30. The defendant County's policies and practices with respect to its use and development of County-owned real estate further cause, perpetuate and reinforce the racially and ethnically segregated housing patterns that persist in Nassau County. The County Government



maintains, and for many years has persisted in maintaining, a policy and practice of disallowing County-owned properties located in predominantly white communities of Nassau County to be sold to housing developers who it knows or believes will build affordable and integrated multi-family housing opportunities (and/or has reached agreements as to redevelopment plans to prevent such development). By contrast, the County Government maintains a policy and practice of affirmatively promoting the sale of County-owned property in predominantly minority communities to developers of affordable multi-family housing, and it has done so with the purpose, intent or foreseeable effect of perpetuating racial and ethnic housing segregation throughout Nassau County.

31. More than thirty-years ago in January 1974, the U.S. District Court in *Acevedo et al. v. Nassau County et al.*, expressly found that opposition to affordable and integrated housing is racially motivated:

By far, however, the most objectionable form of housing has been low-income family housing. It is clear from all the evidence that community opposition to this form of housing has been racially motivated. In Nassau County low-income family housing is predominantly occupied by Blacks. Proposals for the construction of this form of housing have incurred immediate and vehement opposition. As can be expected such heated opposition has not been ignored by the elected officials of Nassau. There is evidence of more than one housing proposal being dropped because of vehement community opposition.

*Acevedo et al. v. Nassau County et al.*, 369 F. Supp. 1384, 1389 (E.D.N.Y. 1974).

32. Notwithstanding, and with actual or constructive knowledge of, a judicial finding of this Court that community opposition to affordable multi-family housing is racially motivated, the County Government maintains, and for more than 30 years has maintained, the policy and practice of acquiescing in and impliedly consenting to neighborhood and community opposition to the development of affordable multi-family housing and other housing that provides integrated

housing opportunities disproportionately needed by minorities or to proposed local laws or ordinances that would foster or permit such housing developments, and it has done so with the purpose, intent and foreseeable effect of perpetuating racial and ethnic housing segregation throughout Nassau County.

**Garden City's History of Housing Segregation**

33. Defendant Village has cooperated with, facilitated and affirmatively acquiesced in the County Government's segregative policies and practices, including those that target the placement of non-age restricted affordable multi-family housing only in predominantly minority communities of Nassau County but not in predominantly white communities or in white residential enclaves like Garden City.

34. Garden City is a highly segregated, nearly all-white residential enclave, located near the center of Nassau County.

35. The population of Garden City is approximately 95% white, with a total of only 23 African-American households (constituting approximately 1% of the Garden City population).

36. The Village of Hempstead, which directly borders Garden City on the South, has a population of which approximately 84% are minority. Uniondale, which is located Southeast of Garden City, has a population of which approximately 79% minority. The Village of Westbury, which is located Northwest of Garden City, has a population of which approximately 43% minority.

37. Defendant Village of Garden City has continuously acted to reject and obstruct the creation of any affordable and integrated multi-family housing opportunities by engaging in exclusionary zoning practices, and it has done so with the purpose, intent or foreseeable effect of

excluding minorities from residing within the borders of Garden City and thereby perpetuating racial and ethnic housing segregation in Garden City itself and throughout Nassau County, generally.

38. Despite its opposition to the construction of affordable multi-family housing that would be likely to attract a significant proportion of minority residents, defendant Village has not blocked the development of other multi-family housing and apartment buildings that by their design are likely to be inhabited by predominantly white residents. The Village has by its past actions encouraged and permitted the building of luxury multi-family housing in Garden City that it knew or should have known would be inhabited by only or virtually only white residents.

39. Upon information and belief, with actual or constructive knowledge that government-subsidized, multi-family unit housing is likely to attract a significant proportion of minority residents and provide an opportunity for integrated and diverse housing for residents of Garden City and the surrounding communities, the defendant Village has not permitted the construction of even a single instance of such housing within the boundaries of Garden City.

40. Consistent with and in furtherance of its policy of maintaining Garden City as, for all intents and purposes, an entirely white residential enclave within Nassau County, officials of defendant Village have engaged in the open and notorious exclusion of minority persons from Garden City's public parks and its public streets.

**The Social Services Site: An Opportunity  
for Affordable Integrated and Diverse Housing**

41. In or about May 2002, the County Government began drafting a Real Estate Consolidation Plan ("Consolidation Plan"). The purpose of the Consolidation Plan was to inventory the approximately 2500 County-owned properties, to consolidate County Government

operations, and to sell certain County-owned properties that would no longer be necessary for County Government operations.

42. Among the subjects of the Consolidation Plan was certain property located in Garden City known as the "Mineola Complex", which houses a courthouse, certain administration buildings, and parking facilities. Within the Mineola Complex is a parcel of approximately 25 acres of land located at 101 County Seat Drive, Garden City, known as the "Social Services Site".

43. The 25-acre Social Services Site consists chiefly of 21.44 acres located on the eastern side of County Seat Drive on which a social services building and a parking lot are situated, and an additional 3.03 acres located on the Western side of County Seat drive on which the Old Laboratory Building and County Garage are situated.

44. Throughout its preparation of the Consolidation Plan, the Nassau County defendants consulted with the Garden City Board of Trustees to discuss the plans for the Mineola Complex, and specifically for the Social Services Site.

45. The County Government issued its Consolidation Plan in December 2003 which called for, *inter alia*, the relocation of all the governmental operations then performed at the Social Services Site, and consolidating such operations with those performed at the County's facility in neighboring Uniondale. The Consolidation Plan further called for the sale of the Social Services Site to a private developer.

46. The defendant County requested the defendant Village's cooperation in rezoning the Mineola Complex, including the Social Services Site. At the time, the Social Services Site was zoned "P," that is to say, for public use. The County Government sought to rezone the

Social Services Site to allow for non-governmental uses, which would facilitate the sale of the Social Services Site to a private developer. Throughout their planning of the rezoning and redevelopment of the Social Services Site, the County Government and the Village cooperated, facilitated and coordinated their efforts.

47. The defendant County knew or reasonably should have known that the Social Services Site presented a uniquely attractive opportunity to address the County's need for affordable integrated housing opportunities, since it was centrally-located, publicly-owned, well-served by public transportation, situated nearby to uses compatible with affordable multi-family housing, including retail establishments and employment opportunities, and lacked barriers that the County has frequently identified as impediments to the development of affordable multi-family housing, such as land availability and willing developers.

**The Original Proposed Plan and Its Significant Housing Opportunities for Minorities**

48. In response to the County Government's request, the Board of Trustees appointed a "P Zone Committee" to address issues relating to the Mineola Complex and hired planning consultants, the firm of Buckhurst Fish & Jacquemart Inc. ("BFJ"), to assist the Village in drafting rezoning proposals in response to the County Government's plan to sell and redevelop the Social Services Site.

49. During 2003, Garden City's P Zone Committee and BFJ held public workshops to discuss the development of the Social Services Site.

50. During 2003 BFJ and the P Zone Committee also met with representatives of the County Defendants to discuss issues related to the County's proposed real estate consolidation,

including among other things, the Village's future zoning of the Mineola Complex and the Social Services Site.

51. In its final proposal, BFJ recommended that a new zoning designation of "CO-5b" be used for the Social Services Site ("Proposed Zoning"). Under the Proposed Zoning, the CO-5b zoning would use existing residential multi-family zoning controls (commonly referred to as "R-M" zoning) and would allow single-family homes, townhomes and multi-family apartments.

52. Under the Proposed Zoning, and consistent with the existing R-M zoning, a multi-family dwelling would be subject to, *inter alia*, the following limitations: a maximum building height of 35 feet or two and a half stories; the dwelling could cover no more than 25% of the plot; a minimum of 25% of the plot must be open space; and the maximum number of multi-family housing units equal to one unit per 3000 square feet, or 14.5 units per acre. The Proposed Zoning therefore allowed for a maximum of 355 affordable multi-family units to be constructed on the 25-acre Social Services Site.

53. In its proposal, and in accordance with the Proposed Zoning, BFJ contemplated the construction of a 311-unit multi-family housing development on the Social Services Site ("Proposed Plan"), with each unit of sufficiently small size (approximately 1000 square feet per unit) and of sufficiently dense lot size as a whole so as to make it economically feasible for a developer of affordable multi-family housing to develop such housing.

54. The Proposed Plan as developed by BFJ expressly stated that the Proposed Zoning permitted the development of housing that fit well with existing uses around the Social Services Site, which sits in a transitional area between single-family houses, retail/commercial areas, public/governmental offices and multi-story parking garages.

55. Under the Proposed Plan, a developer could have constructed 311 affordable apartments and, therefore, could have created a substantial number of integrated and diverse housing opportunities disproportionately needed by minorities in Nassau County. The Proposed Plan represented a meaningful step forward towards attenuating the persistent racial and ethnic housing segregation that existed in Garden City, its surrounding communities and Nassau County.

**Neighborhood Opposition to the Possibility of Integrated Housing**

56. On January 8 and February 5, 2004, the Village held hearings on the Proposed Zoning of the Mineola Complex and the Social Services Site.

57. During those public hearings, Garden City residents vociferously objected to the construction of affordable multi-family housing on the Social Services Site, and sought repeated assurances from Village and County officials there present that no such affordable multi-family housing would be built on the Social Services Site.

58. In accordance with its long-standing policy and practice, the defendant County acquiesced in neighborhood and community opposition to the development of affordable housing on the Social Services Site and cooperated with, facilitated and affirmatively supported in the Village's segregative zoning policies and practices by assuring Garden City residents, during the public hearings and at other times, that the County would not take any action antagonistic to Garden City's wishes and agreeing to act in concert with the Village to reject the Proposed Plan and to permit only luxury multi-family housing to be built on the Social Services Site.

59. In direct response to the aforementioned neighborhood and community opposition, the County Government, by its County Executive the Honorable Thomas R. Suozzi, acting consistent with and in furtherance of the County's long-standing policy and practice of

acquiescing to neighborhood and community opposition of white residents to any housing developments likely to encourage or facilitate racially and ethnically integrated and diverse housing and acting, further, with conscious knowledge and awareness that affordable multi-family housing was actually needed in Nassau County and, in particular, those areas of Nassau County near to and around Garden City, gave express assurances that only luxury housing -- that is to say, housing that defendant County knew or should have known was likely to attract predominantly white residents -- would be allowed to be developed on the Social Services Site and gave as the reason therefor that given "the character of Garden City," only such housing "would be appropriate."

60. In June 2004, the defendant Village -- with the express and deliberate support, encouragement, acquiescence and consent of the defendant County -- rejected the Proposed Plan and Proposed Zoning, which had been recommended by its own planning consultants, and adopted for the Social Services Site an entirely new zoning classification, designated "R-T", which had not previously existed under the Village's proposed zoning ordinance ("Special Zoning").

61. The new Special Zoning adopted by the Village was unique to, and expressly limited to the Social Services Site, and imposed more severe restrictions on the construction of affordable multi-family housing that had theretofore existed under the "R-M" designation for residential multi-family zoning. Most importantly, the new Special Zoning imposes stringent and unique limitations on multi-family housing unlike those found elsewhere in the Village's zoning regulations and, by design or foreseeable effect, prohibits the development of and integrated housing on the Social Services Site.



62. The discriminatory Special Zoning permits multi-family dwellings only by special permission and only on a tiny sliver of the Social Services Site -- namely, the 3.03 acre plot on which the Old Laboratory Building and County Garage were situated -- constituting less than 15% of the Social Services Site's 25-acre area. The discriminatory Special Zoning permits at the very most construction of only about 36 affordable multi-family housing units, as compared to the 311 units of affordable, multi-family housing that had been permitted under the Proposed Plan and Proposed Zoning.

63. Even if special permission were to be obtained, the exclusionary Special Zoning adopted by the Village for the Social Services Site decreases the maximum number of multi-family units permitted on the 3.03 acre sliver of the Social Services Site, thereby making it economically unfeasible for any affordable integrated and diverse housing units to be developed on the Social Services Site.

64. Under the exclusionary Special Zoning, even if special permission were obtained the maximum number of multi-family units permitted on the 3.03 acre sliver is only one unit per 4000 square feet, as compared to the Proposed Zoning and existing R-M zoning, which permitted one unit per 3000 feet.

65. The discriminatory Special Zoning requires that single family homes and townhouses on the Social Services Site must be constructed of such a significant lot size and minimum square footage that the only economically feasible development on the Social Services Site will be of luxury single-family homes and townhouses, which are housing units likely to attract and to be inhabited by predominantly white residents.

66. The Proposed Zoning was rejected and the Special Zoning was adopted by defendant Village with the purpose, intent or foreseeable effect of preventing and excluding

minorities from moving into the Village and the housing units to be constructed on the Social Services Site and into Garden City generally.

67. The reason asserted by defendants for rejecting the Proposed Zoning and adopting the Special Zoning was a concern with increased traffic and an increased burden on the school system from additional children that the Proposed Plan would cause.

68. The purported concern with increased traffic and an increased burden on the school system from additional children that the Proposed Plan would cause was not the real reason that the defendants rejected Proposed Zoning and adopted the Special Zoning.

69. The real reason for and foreseeable effect of the Board of Trustees' decision to reject the Proposed Zoning and the Proposed Plan and to adopt the exclusionary Special Zoning was to prevent and curtail the availability of affordable, racially integrated housing in Garden City and to assure that the only housing allowed to be developed on the Social Services Site would be housing likely be inhabited by only or virtually only white residents.

**Nassau County's Promotion Of and  
Consent To the Discriminatory and  
Exclusionary Special Zoning That Excludes  
Housing Opportunities for Minorities**

70. With knowledge of the Village's discriminatory conduct in adopting the exclusionary Special Zoning, the County Government failed and refused to object to those provisions and conditions of the Special Zoning that eliminated the opportunity for affordable, integrated and diverse housing on the Social Services Site. Whereas, in May 2004, the County Government affirmatively informed the Village of its objections to certain other provisions and conditions of the Special Zoning, that did not prevent or curtail the opportunity availability of affordable and integrated housing.

71. The defendant County failed and refused to object to certain provisions and conditions of Special Zoning that prevented or curtailed the availability of integrated housing -- namely those limiting the permitted density of the housing units and the availability of multi-family housing -- notwithstanding its belief that such provisions and conditions of the Special Zoning reduced the potential revenue from its sale of the Social Services Site and negatively affected the County Government's overall Consolidation Plan.

72. In or about July 2004, after the discriminatory Special Zoning was adopted, the County Government issued a Request for Proposals for the Social Services Site that set forth an asking price for the Social Services Site was \$30 million.

73. Upon information and belief, the defendant County has selected developer Myron Nelkin to develop the Social Services Site and to construct only luxury single family dwellings and townhouses likely to attract only or virtually only white residents, and unlikely to provide integrated and diverse housing opportunities.

74. The County Government and Mr. Nelkin do not propose to develop on the Social Services Site any affordable and integrated housing units in Garden City.

75. The development of the Social Services Site as currently contemplated by the County Government perpetuates and reinforces racial and ethnic housing segregation in Garden City and Nassau County.

76. Unless enjoined by this Court, the sale by the County of the Social Services Site will perpetuate and reinforce racial and ethnic housing segregation in Garden City and Nassau County.

**Injury To Plaintiffs As Resulting  
from Defendants' Wrongful Conduct**

77. Due to the pervasive pattern of racial and ethnic segregation in housing in the residential communities surrounding Garden City and throughout Nassau County, plaintiffs Andrews, Ghullkie and Guerrido have been unable to find any suitable affordable housing outside of predominantly minority communities.

78. Plaintiffs Andrews, Ghullkie and Guerrido desire to live in such housing, including such housing in Garden City, and likely have sufficient financial resources to afford an apartment in affordable multi-family housing built on the Social Services Site were it not for defendants' discriminatory conduct and practices.

79. By virtue of the defendants' discriminatory policies and actions, plaintiffs Andrews, Ghullkie and Guerrido are being and, unless the relief herein requested is granted, will be, deprived of integrated and diverse housing opportunities outside predominantly minority communities of Nassau County and excluded from residing in predominantly white communities of Nassau County such as Garden City.

80. As a result thereof, Plaintiffs Andrews, Ghullkie and Guerrido do not have access to basic public services that they desire and which are available in Garden City, but not available in predominately minority communities of Nassau County, such as adequate law enforcement and public schools, available public parks, convenient public transportation, and more expansive shopping areas such as that located near the Social Services Site in Garden City.

81. By virtue of defendants discriminatory polices and actions, plaintiffs Andrews, Ghullkie and Guerrido are being and, unless the relief herein requested is granted, will be deprived of the ability to live in an integrated and diverse residential community, including the many benefits of interracial associations that would come with living in an integrated and diverse

portion of Garden City and will be forced to experience the social stigma that results from living in highly segregated Nassau County.

82. As a white resident of Garden City, Mr. DeVita desires to live in an integrated residential community, and by virtue of defendants' discriminatory practices is being and, unless the relief herein requested is granted, will be, deprived of that opportunity of living in a more integrated community then currently exists in Garden City, and of the benefits that result from living in an integrated and diverse residential community, including the many benefits of interracial associations that would come with living in an integrated and diverse portion of Garden City.

83. Due to the defendants' ongoing discriminatory conduct and practices that perpetuate and reinforce housing segregation generally and limit availability of affordable integrated housing developments to predominantly minority communities in particular, New York ACORN's members are being and, unless the relief herein requested is granted, will be, deprived to find suitable affordable housing located outside areas of minority concentration in the County.

84. Due to the defendants' ongoing discriminatory conduct and practices, New York ACORN members are being and, unless the relief herein requested is granted, will be deprived of the opportunity to live in integrated and diverse communities and the associated benefits of interracial associations that come with such housing opportunities.

85. Due to the defendants' ongoing discriminatory conduct and practices, New York ACORN members do not have and, unless the relief herein requested is granted, will be, deprived access to basic public services in Garden City such as adequate law enforcement and

public schools, available public parks, convenient public transportation, educational facilities and more expansive shopping areas located near the Social Services Site in Garden City.

**FIRST CAUSE OF ACTION**  
**(Violation of the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*)**

86. Plaintiffs repeat and reallege the foregoing paragraphs as if fully set forth herein.

87. Defendants' discriminatory practices, motivated by malice and/or callous disregard for the rights of Plaintiffs, deprive plaintiffs of their right of equal access to housing, otherwise make housing unavailable, and perpetuate segregation on the basis of basis of race, color, and national origin in violation of the Fair Housing Act, 42 U.S.C. §§ 3604(a).

**SECOND CAUSE OF ACTION**  
**(Violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981)**

88. Plaintiffs repeat and reallege the foregoing paragraphs as if fully set forth herein.

89. Defendants' discriminatory practices, motivated by malice and/or callous disregard for the rights of plaintiffs, deprive plaintiffs of their right to make and enforce contracts to purchase, lease, or otherwise hold or convey property, on the basis of basis of race, color, and national origin (and thus deprive them of the same such rights as are enjoyed by white persons) in violation of the Civil Rights Act of 1866, 42 U.S.C. §1981.

**THIRD CAUSE OF ACTION**  
**(Violation of the Civil Rights Act of 1866, 42 U.S.C. § 1982)**

90. Plaintiffs repeat and reallege the foregoing paragraphs as if fully set forth herein.

91. Defendants' discriminatory practices, motivated by malice and/or callous disregard for the rights of plaintiffs, deprive plaintiffs of their right to purchase, lease, or otherwise hold or convey property on the basis of basis of race, color, and national origin (and

thus deprive them of the same such rights as are enjoyed by white persons) in violation of the Civil Rights Act of 1866, 42 U.S.C. §1982.

**FOURTH CAUSE OF ACTION**  
**(Violation of the Civil Rights Act of 1871, 42 U.S.C. § 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States)**

92. Plaintiffs repeat and reallege the foregoing paragraphs as if fully set forth herein.

93. Defendants' discriminatory customs, patterns, practices, and usages in contravention of plaintiffs' constitutional and federal statutory rights motivated by malice and/or callous disregard for the rights of plaintiffs, deprive plaintiffs of their right of equal access to housing under color of law in violation of the Federal Civil Rights Act of 1871, 42 U.S.C. §1983, and their rights under the Equal Protection Clause of the United States Constitution with regard to housing.

**FIFTH CAUSE OF ACTION**  
**(Violation of the "Affirmatively Furthering" Obligations Under the Fair Housing Act, 42 U.S.C. § 3608)**

94. Plaintiffs repeat and reallege the foregoing paragraphs as if fully set forth herein.

95. In connection with their use of federal funds related to housing, including funds from the federal CDBG and HOME programs, the defendants County, County Planning Commission, and County REP&D, have used the funds received in a discriminatory manner which promotes segregation and otherwise failed to meet the "affirmatively to further" obligations of the Fair Housing Act.

**SIXTH CAUSE OF ACTION**  
**(Violation of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*)**

96. Plaintiffs repeat and reallege the foregoing paragraphs as if fully set forth herein.

97. Defendants' discriminatory practices with regard to the administration of federal programs, motivated by malice and/or callous disregard for the rights of Plaintiffs, violate the Civil Rights Act of 1964, 42 U.S.C. §2000d *et seq.*

#### **PRAYER FOR RELIEF**

WHEREFORE, plaintiffs respectfully demand that this Court enter a judgment:

a) Declaring that defendants' acts, practices, and policies complained of herein violated and violate plaintiffs' rights as secured by Fair Housing Act, as amended, 42 U.S.C. § 3601 *et seq.*; the Civil Rights Act of 1866, 42 U.S.C. § 1981; the Civil Rights Act of 1866, 42 U.S.C. § 1982; the Civil Rights Act of 1871, 42 U.S.C. § 1983; the Equal Protection clause of the Fourteenth Amendment to the U.S. Constitution; and the "affirmatively furthering" obligations of the Fair Housing Act, 42 U.S.C. § 3608, and the Civil Rights Act of 1964, 42 U.S.C. §2000d *et seq.*

b) Enjoining defendants, their agents, employees, successors, assigns, and those acting in active concert, combination or participation with them, from engaging in any policies or practices that deprive plaintiffs of their rights secured by any and all of the statutes cited in sub-paragraph (a), above, including among other things:

(i) Enjoining the Nassau County Defendants from proceeding with any sale of the Social Services Site, or continuing with any plans for redevelopment of the site, under the discriminatory Special Zoning;

(ii) Enjoining the Garden City Defendants from enforcing or attempting to enforce in any way the discriminatory or exclusionary provisions of the Special Zoning;



(iii) Ordering the Garden City Defendants to approve zoning ordinances for the Social Services Site that are substantially the same as the Proposed Zoning;

(iv) Ordering the Nassau County Defendants to issue a Request for Proposals consistent with the Proposed Zoning and substantially the same as the original Proposed Plan, including provisions that will require the development of affordable and integrated housing units at the Social Services Site;

(v) Enjoining the Nassau County Defendants from selling the Social Services Site to any person or developer that will not agree or commit to building affordable and integrated housing units at the Social Services Site to the maximum extent permitted under the Proposed Zoning;

(vi) Ordering all defendants to take all actions necessary to assure the redevelopment of the Social Services Site so as to maximize the availability of affordable and integrated housing at the site, including taking such steps as the Court deems necessary and appropriate to support and/or subsidize such redevelopment;

(vii) Enjoining the Garden City Defendants from granting, and ordering the Garden City Defendants to withdraw, any permits, letters of approval, or other consents allowing steps toward redevelopment of the Social Services Site to continue;

(viii) Enjoining all Defendants and their agents, employees, successors and assigns, from engaging in any other discriminatory acts that perpetuate or contribute to segregation in the Garden City and Nassau County; and

(ix) Ordering all Defendants to take and/or fund affirmative steps, supervised by this Court, to overcome the effects of past discriminatory practices, including the funding of remedial activities necessary to overcome the perpetuation of segregation in Nassau County and Garden City;

c) Awarding such other relief as this Court deems reasonable, necessary and just; and

d) Awarding Plaintiffs their costs and attorneys' fees in this action.

\* \* \*

Dated: New York, New York  
May 12, 2005

By: 

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