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HOUSING - NEW YORK

County of Westchester v. U.S. Dept. of Housing and Urban Development

United States Court of Appeals, Second Circuit - September 25, 2015 - F.3d - 2015 WL 5616304

County brought action against United States Department of Housing and Urban Development (HUD) challenging its decision to withhold funds under grant programs as a violation of the Administrative Procedure Act (APA). The United States District Court granted summary judgment to HUD. County appealed.

The Court of Appeals held that:

- HUD's decision to reject county's analysis of impediments, submitted to HUD as required part of its certification that it would affirmatively further fair housing with HUD grant funds it was applying for, was not arbitrary or capricious, and
- HUD's decision to reject county's analysis of impediments did not ever condition the release of grant funds on certain municipalities changing their zoning laws, and thus did not violate statutes that prohibiting HUD from denying funds based on the adoption, continuation, or discontinuation of any policy or law.

Department of Housing and Urban Development's (HUD) decision to reject county's analysis of impediments, submitted to HUD as a required part of its certification that it would affirmatively further fair housing with HUD grant funds it was applying for, was not arbitrary or capricious under Administrative Procedure Act (APA), and thus HUD's decision to withhold county's funds based on rejection of the analysis of impediments was also permissible under APA, where exclusionary zoning could violate the Fair Housing Act (FHA), HUD was required to further the policies of the FHA, HUD's conclusion that the county's analysis of impediments was flawed and incomplete was based on detailed reports of consent decree monitor that determined that several municipalities' ordinances were exclusionary, and HUD provided a written explanation grounded in the evidentiary record, giving county multiple opportunities to make changes and submit a revised analysis of impediments.

Department of Housing and Urban Development's (HUD) decision to reject county's analysis of impediments, submitted to HUD as a required part of its certification that it would affirmatively further fair housing with HUD grant funds it was applying for, did not ever condition the release of grant funds on certain municipalities in county changing their zoning laws, and thus HUD's rejection of county's analysis and withholding of grant funds on that basis did not violate statutes that prohibited HUD from denying funds based on the adoption, continuation, or discontinuation of any policy or law. HUD's rejection of county's analysis was based on the county's failure to assess and analyze whether certain zoning laws in the jurisdiction impeded fair housing, its refusal to acknowledge the connection between zoning restrictions and the availability of affordable housing, and its failure to identify a plan to overcome the effects of such impediments.

