

Waterfront Demolition Displaces 175 Families

by Dan Corbitt, Esq.

Buffalo is evolving. The city and surrounding areas are experiencing an investment boom. Buildings and neighborhoods are reawakening after years of disinvestment and neglect. A major component of this resurgence is the building of luxury apartments and condos. These developments usually receive some level of public assistance



but are unaffordable for the majority of renters. Meanwhile, our area's critical lack of affordable housing is intensifying.

Buffalo remains one of the poorest cities in the country, with over 30% of city residents living below the federal poverty line.ⁱ Poverty is also increasing in the surrounding suburbs and exurbsⁱⁱ. In Buffalo, the fair market rent for a two-bedroom apartment is \$736 a month, but based on the average hourly wage of \$10.19, the average renter in our area can only afford \$539 a month without paying more than 30% of income for housingⁱⁱⁱ. Still, 55.8% of renters in Buffalo spend over 30% of their income on rent⁴. These households are less able to afford necessities such as food, clothing, transportation, and medical care. Moreover, an unexpected expense such as a \$1,000 emergency room bill or a

\$500 car repair can represent financial ruin. Our area's lack of affordable housing puts thousands of families in critical danger of homelessness.

Now, a redevelopment project on the city's West Side is further reducing the already limited supply of affordable housing. Shoreline Apartments on Niagara Street has provided affordable housing for over 30 years. Most of the residents are elderly and/or disabled and live on fixed incomes. Norstar Development USA, which owns the complex, is leveling it to make way for new construction. Already, 137 affordable units have been demolished during the first phase of the redevelopment.

Residents were told that the redevelopment would occur in three phases over several years. Existing tenants were promised that they would

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Hamburg Leads the Way

The Town of Hamburg has cemented its reputation as *the* leader in fair housing in Western New York.

After eighteen months of effort and examination, on the evening of May 23, 2016 the Hamburg Town Board by unanimous vote adopted a series of amendments to its fair housing law. Included was a section headed "Affirmatively Furthering Fair Housing," which made Hamburg the first community in Western New York to embrace the concept of inclusionary zoning.

This represented another in a series of "firsts" for Hamburg.

History in Hamburg

Three years before a Buffalo mayor vetoed fair housing legislation in the city, the Town of Hamburg had—in a bipartisan vote—quietly adopted its own fair housing law. That 1986 law was signed by Supervisor Jack Quinn (a Republican), who

went on to serve in the U.S. Congress and is today the president of Erie Community College.

While in Buffalo the political furor generated by opponents made fair housing into a third rail of city politics for the better part of two decades, Hamburg simply did it.

Community Development Director Christopher Hull has had much to do with Hamburg's Fair Housing Law. Since starting in 1988, Hull has embraced and expanded fair housing and equal opportunities for current and future Hamburg residents. This included the Town's first fair housing amendment in 2005, which he invited HOME to craft.

Mr. Hull remarks, "We never saw fair housing as anything to be afraid of. In fact, we saw it as something positive for our community."

Hamburg's strengthened law

When amending the Hamburg Fair

Housing Law, the Town Board extended protections to persons experiencing discrimination for reasons of military status and gender identity. The Town also added a provision permitting the Town to conciliate discrimination complaints, stipulating that conciliation agreements (which typically include relief for complainant) may not be confidential.

Most significantly, Hamburg declared that in all new multi-family developments of eight or more units, 10 percent of apartments will have to be affordable for families with incomes of no more than 80 percent (currently \$54,100 for a family of four) of the Erie County median income. Affordability is defined as a total burden for rent and utilities of no more than 30 percent of a household's gross annual income.

"Inclusionary zoning is intended to create housing opportunities for

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From the Director:

COLLISION IN BOSTON

By Scott W. Gehl

In our Spring issue of *Insight*, we discussed the Town of Boston's refusal to issue a permit to Community Services for the Developmentally Disabled to build a group home. Now, this year-long effort to enhance the quality of life for four developmentally disabled adults entered a new phase as Community Services and Housing Opportunities Made Equal filed suit in U.S. District Court charging the Town of Boston with discrimination.

It was a kind of slow-motion collision in which the Town refused to pull away from the inevitable.

Early in 2015, Community Services (a respected provider of services to 1600 Western New Yorkers with disabilities) notified the Town of Boston that it had acquired two adjoining parcels near the intersection of Cole & Omphalius Roads to build a community residence. From the beginning, the Town opposed the project.

Opposition to community residences had been the reason New York State in 1978 enacted the Padavan Law, which permits group homes to bypass local zoning so long as they meet state standards, including a demonstrated need and the fact that the community will not be over-saturated with such facilities. The Town of Boston exercised its right to file a protest, and on April 30, 2015, the NYS Office for Persons with Developmental Disabilities sent a representative to the Boston Town Hall to convene a public hearing on the topic.

A few days before the hearing, Boston residents gathered in the Patchin Fire Hall to organize opposition and plot strategy. According to press accounts, those attending asserted they were not opposed to all group homes, but rather a residence at that location — which they said suffered from excessive snow, potential for power outages, poor cell phone reception, and lack

of access to emergency services. At the April 30th public hearing, residents detailed other bases for concern: lack of access to grocery stores and services, proximity to a close-by snowmobile trail, and a potential burden on the Town to provide emergency services. Also mentioned was concern for the safety of children and neighborhood residents — and, of course, the safety of those living inside the group home.

On August 13, 2015 Acting Commissioner Kerry L. Delaney issued the State's determination. Because of an unquestioned need (715 Erie County residents with disabilities were awaiting placement in community residences) and the fact that the only two other group homes in Boston were 2.2 and 4.7 miles away from the proposed site, OPWDD ruled that Community Services could move ahead with the facility. Nevertheless, the Town of Boston refused to issue a building permit.

HOME approached Community Services to discuss this apparent violation of the federal Fair Housing Act and the NYS Human Rights Law. On January 27, the CEOs of the two agencies met with attorneys Dan D. Kohane and Michael F. Perley of Hurwitz & Fine, PC to discuss legal strategy. Subsequently, Hurwitz & Fine reached out to the Town of Boston in an effort to negotiate a resolution. The overture was

rejected and Messrs. Perley & Kohane issued an ultimatum. The Town was non-responsive.

On May 6, more than a year after Community Services had first approached the Town, HOME and Community Services for the Developmentally Disabled charged the Town of Boston with violating the federal Fair Housing Act and the NYS Human Rights Law. Additionally plaintiffs asserted that Boston's discriminatory acts violated its assurance that it was "affirmatively furthering fair housing" which the Town had claimed in order to be eligible to receive federal aid.

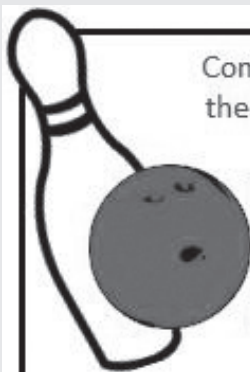
The case has been assigned to Justice Lawrence Vilaro.

Progress on Erie County law

In his March State of the County address, County Executive Mark Poloncarz had pledged to introduce a county fair housing law this spring.

On May 20, Deputy County Executive Maria Whyte invited Roseann Scibilia (past president of the Fair Housing Partnership) and me to a meeting with several County officials to report progress, review draft legislation, and discuss strategy.

The effort to bring fair housing protections to every city, town and village of Erie County continues to move forward.



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smoothly transfer to the new units as they were constructed. This past May, the plan suddenly changed when Norstar notified 175 families that they have to be out by November. The three-phase timetable had been shortened, and the rest of the complex was to be completely razed during phase two. While residents were told that they could reapply for the new units, there is no guarantee that they will get one, as the old units have only been replaced with 48 new apartments so far.

Residents were shocked and dismayed by the new move-out date. They have scrambled to find alternate housing, but many are facing a stark realization: there is nowhere to go. Norstar has offered some tenants a small sum to cover moving costs, but this does very little against the threat of homelessness. Most apartments in the Buffalo area are either too expensive or not taking applicants. Our region's already-limited supply of affordable housing is unable

to accommodate so many people. In fact, most affordable housing in the area has a waiting list of over a year, and the wait for Section 8 Housing Choice Vouchers is nearly ten years long.

After learning of the situation, HOME took action, reaching out to key officials in state government and meeting with several soon-to-be-displaced Shoreline residents. Prompted by New York State Homes & Community Renewal, whose financial support is essential to the redevelopment plan, Norstar has withdrawn the November 1st deadline and is working on a viable relocation plan for displaced tenants.

Essential questions remain. While Norstar officials have promised to help residents find new housing, it is unclear what their level of commitment to that task will be. Furthermore, it remains to be seen if enough new units will be constructed to replace what will be lost.

As Buffalo continues to evolve,

we face great challenges as well as opportunities. For our region to experience a true recovery, everyone must benefit. Safe, decent, and affordable housing is everyone's right. We must continue to work to break down the barriers that prevent people from living in the communities of their choice. Affordable housing must be recognized for what it is: a fundamental component of equal opportunity and a key factor in the revitalization of Western New York.

ⁱ U.S. Census Bureau, 2010-2014 American Community Survey 5-Year Estimates, available from <http://factfinder.census.gov>. The federal poverty line is currently \$11,880 for individuals and \$20,160 for a family of three.

ⁱⁱ Charity Vogel, "Clusters of poverty pose vexing challenges for WNY," *Buffalo News*, November 15, 2015.

ⁱⁱⁱ Robertson, Ronald. "Housing is a Basic Human Right." *Mosaics* (2013). Available from http://issuu.com/mosaicsubssw/docs/mosaics_fall_2013_final.

^{iv} 2014 Census figures, available from <http://factfinder.census.gov>

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Buffalo is on the move — but who will be forced to move out?

by Katherine Sponaugle

On May 10th, the Erie County Fair Housing Partnership hosted a symposium to the theme of “Creating and Maintaining Affordable Housing in the Age of Gentrification.” Don’t let the long-winded title scare you off – the group of seven panelists representing housing-related programs in the area evaluated the successes and challenges brought by Buffalo’s new development in a digestible way, and they concluded with several proposed solutions.

The effects of new development on the poor are not always predictable. There are undoubtedly benefits to the arrival of wealth that wants to revitalize urban areas with business and redevelopment. In the past twenty years, we have seen neighborhoods such as The Old First Ward and the Fruit Belt transform.

Yet new development tows along a loaded term: gentrification. An opposing point of view argues that gentrification bulldozes the culture of the neighborhood, marginalizing and evicting families who have lived there for decades. Rents and property taxes increase, displacing poor families who can no longer afford to live in places they call home, such that the benefits of redevelopment and improved infrastructure are only enjoyed by the new residents. Other times, landlords force current tenants out in order to renovate or rent to upper class arrivals.

Developers behind new projects don’t always heed the best interests of current residents, either. When eviction occurs, families living in poverty are

put into worse positions: they may lose their security deposit, they may face homelessness, and they must contend with the cost of moving and relocating, often to different school districts or farther from their places of employment.

Proposed Solutions

Analysts debate whether gentrification actually causes widespread displacement, with studies turning up conflicting empirical evidence depending on their methodology. Even studies that do not find evidence of displacement, however, agree that affordable housing is a necessity for many low-income residents to flourish with their neighborhood.

So how does a community plan accordingly? The symposium panelists’ general tone was not indicative of *New development = bad* but rather: *What is the best way to invest in a neighborhood without changing its entire essence, without forcing out people of low income, and without disregarding the wishes and needs of current residents?*

Among the symposium presenters, University at Buffalo Professor Carl Nightingale expounded on the history of governmental solutions to affordable housing. In the 1930s, advocates championed the concept of public housing as a solution. However, even at the peak of public housing, only 1% was actually publicly owned. Today, Section 8 Housing Choice Vouchers have replaced the old solution to an extent, offering the means and expanded options for low income families to move to areas of greater opportunity. Unfortunately,

many landlords continue to discriminate on the basis of source of income.

Another panelist, Brenda McDuffie of the Buffalo Urban League, proposed solutions involving community-developer collaboration. Community benefit agreements between developers and community members would create a legally-binding agreement upon which the developer must follow through with promises to the community in exchange for its support of a project. CBA’s might include stipulations such as local hiring goals, inclusion of local businesses, and/or further creation of affordable housing.

Ms. McDuffie also suggested cooperative buying, rent stabilization, and incentives for developers to incorporate inclusionary zoning.

Many US cities are taking proactive roles as they gentrify and are already incorporating some of the above suggestions. Philadelphia’s City Council just recently voted to extend its Longtime Owner Occupants Program, which would limit property tax increases for low-income, longtime homeowners who are in areas with increasing development. And community members near Cleveland Clinic in Ohio have created co-op businesses as well as hiring agreements with the medical campus.

Another important way to include low-income residents in the growth is simply giving them a voice, listening to their concerns and addressing the community’s actual needs. Developers can collaborate with nonprofits that

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households with limited income —such as young families, senior citizens and people with disabilities—who would otherwise be excluded because of rising rents,” explains Scott Gehl, Executive Director of HOME. “It is an important tool against gentrification and increased socio-economic segregation.”

Under consideration elsewhere

Last July HOME’s Board of Directors met with Mayor Byron W. Brown to discuss whether inclusionary zoning might be one way to operationalize the Buffalo Opportunity Pledge. In the intervening months, a coalition of organizations and individuals led by HOME and PUSH Buffalo have asked that inclusionary zoning be made an element of the City’s proposed Green Code.

Inclusionary zoning is also a part of the Fair Housing Partnership’s proposed Erie County Fair Housing Law. It was a subject of discussion in a recent meeting between representatives of the Partnership and officials of the Poloncarz Administration.

“During 28 years with Hamburg Community Development, I have used fair housing and equal opportunity as tools to retain residents and welcome new people to the Town of Hamburg,” says Hull. “We have seen a positive result, which I hope will inspire other municipalities to do the same.”

On April 14th, 240 civil rights supporters gathered at the Buffalo Convention Center to celebrate HOME’s 53rd anniversary and, more importantly, the continued fight for fair housing. It was an opportunity to thank many fair housing advocates for their ardent support, acknowledge our courageous



clients, and honor several activists who have worked tirelessly for change.

Our generous members, sponsors, and attendees helped put our annual campaign at \$94,244 as we continue toward our goal of \$111,000. Through the gifts of a handful of our conscientious attendees, our Fund-a-Family donations, which go toward supporting families served by our Community Housing Center, totaled an impressive \$2,055.

The night began with a video highlighting the experiences of two of our clients, including Mr. Adam Klyczek, whose harrowing story of disability

discrimination after his service to our country prompted a standing ovation from all attendees.

The Honorable Eugene M. Fahey, Associate Judge of the New York State Court of Appeals, delivered the keynote address. With a long record of fair housing support to show for it, Judge Fahey has served on the Buffalo Common Council, Buffalo City Court, the New York State Supreme Court, the Appellate Division, and the Court of Appeals.

In addition, HOME presented the Sarah G. Metzger Human Rights Award to Christopher Hull, Hamburg’s Director of Community Development, and Joel Feroletto, Buffalo’s Delaware District Councilmember. Mr. Hull has designed programs to improve access to quality, affordable housing in Hamburg (including two affordable housing subdivisions), championed efforts to strengthen Hamburg’s fair housing law, and most recently was instrumental in enacting the first inclusionary zoning law in Western New York. Honored beside Mr. Hull was an equally impressive fair housing advocate. A former member of HOME’s Board, Councilmember Feroletto contributed critical work in amending Buffalo’s Fair Housing Ordinance to better protect the rights of persons with disabilities who use assistance animals.

This year, the Joanne Champion Granger Scholarship went to three

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Updates from HOME

First Wednesdays in Hamburg – Summer Office Hours

As you know, we host free office hours for landlords and tenants in Hamburg on the first Wednesday of every month. Our summer hours in Hamburg will change to 2:30–4:30pm. Bring your questions, concerns, and desire to learn to the Hamburg Community Development Department (6122 South Park Ave) July 6, August 3, and September 7. Check our calendar for updates!

New Website

If you haven’t noticed, we launched

our new website this month. The new site not only looks nicer and is easier to use; it is also a more cost-effective platform. You will experience a smoother online donation process, easier navigation, and more resources and tools for learning about fair housing! Visit www.homeny.org!

Congrats to Scott!

On Saturday, June 4, HOME’s Executive Director was honored by the League of Women Voters of Buffalo/Niagara with the Making Democracy Work Award. The award, presented to Mr. Gehl by Sam Magavern at LWCBN’s

21st Annual Meeting Luncheon, is given annually to leaders who are dedicated to making positive changes in the community.



HOME's Mission:

Housing Opportunities Made Equal is a fair housing organization continuing the struggle for civil rights by working to promote the value of diversity and to ensure all people an equal opportunity to live in the housing and communities of their choice—through education, advocacy, the enforcement of fair housing laws and the creation of housing opportunities.

Housing Opportunities Made Equal, Inc. would like to give special thanks to ...

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already have their ear to the ground. For instance, PUSH Buffalo conducts door-to-door campaigns in order to understand what community members want.

On a final note, the panelists voiced a need to effect change through public policy. Various organizations are pushing for inclusionary zoning in the city of Buffalo, which would require new apartment buildings with twelve or more units to incorporate affordable units. Further, Housing Opportunities Made Equal and the Fair Housing Partnership have proposed legislation in Erie County to end source of income discrimination.

There is a way to conscientiously approach development. Creating affordable housing is a logical step to keeping our neighborhoods diverse and allowing everyone the opportunity to partake in our city's revitalization.

A Night to Honor Fair Housing and Its Advocates

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outstanding high school seniors: Jillian Daniels of Nichols (first place), Allison Walker of Williamsville East (runner-up), and Skylar Cerbone of City Honors (runner-up). Through the auspices of Dr. Carl Granger, this scholarship is awarded annually to college-bound seniors who have demonstrated both academic excellence and a commitment to human or civil rights.

On top of this wonderful celebration, to Executive Director Scott Gehl's horror and utter surprise, HOME staff and friends carried out a hidden agenda to pay tribute to his thirty-five years of service here. This

included Mayor Byron Brown declaring April 14th as "Scott Gehl Day." Furthermore, Diana Cooke presented a plaque demonstrating the Board's plan to rename HOME's "home" at 1542 Main Street after Mr. Gehl. (Afterward, the Board agreed to Mr. Gehl's request to delay the renaming until his retirement in December).

Preceding the dinner, HOME held elections for its Board of Directors at its annual meeting. Elected to the Board were Janet Barnes, Marcus Brown, Diana Cooke, Kathleen Haggerty, Todd Vaarwerk, and Bradford Watts. (Remaining on the board are Nancy Blaschak, Charles Cobb, Phillippe Deterville, Gilbert Hernandez, Andrea Mays, Leslie Vishwanath, and Scott Gehl [ex officio]). Elected to one-year terms were Diana Cooke as Chair of the Board, Nancy Blaschak as Senior Vice Chair, Janet Barnes and Kathleen Haggerty as Vice Chairs, Leslie Vishwanath as Secretary, and Philippe Deterville as Treasurer.



Mayor Byron Brown, Diana Cooke, Scott Gehl, and Phil Deterville