HUD has posted a report on its website that identifies public housing units that may be potentially subject to a mandatory conversion.\(^3\) The report identifies public housing developments with at least 250 dwelling units on one site or on contiguous sites. Although it is too early to determine the ultimate effect of conversion, advocates should consider reviewing this report, both for accuracy and as a starting point for evaluating the impact of conversion on local communities.

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**Long Beach Ordered to Designate Additional Projects as Subject to Section 3**

Several years ago, the Legal Aid Foundation of Los Angeles (LAFLA) informed the City of Long Beach, California, that it intended to initiate litigation on behalf of several low-income individuals based on the failure of the city and its contractors to comply with Section 3 in the development of the Pike Project located in the Rainbow Harbor area of Long Beach.\(^1\) The Pike Project controversy followed an earlier legal challenge to the city’s violation of Section 3 requirements related to other aspects of the harbor development area.\(^2\)

However, LAFLA and Legal Aid Society Employment Law Center agreed not to file litigation after negotiating the Pike Project Agreement with the City of Long Beach on March 13, 2003.\(^3\) The purpose of the Pike Project Agreement was to increase economic opportunities for low-income residents and businesses in the City of Long Beach and in another neighboring community, Signal Hill. The agreement set forth a number of obligations for the city to comply with Section 3. The commitments included obligations relating to construction management, advertising, and outreach and expansion of construction training. The agreement provided for

- Staff support at the job site in a trailer to encourage the hiring of low- and very-low income individuals
- A commitment to use “best efforts” to obtain from the contractors and subcontractors workforce projections in order to determine jobs and other opportunities
- A commitment to enforce existing contract obligations of the contractors to use good faith efforts to hire low-income residents
- A commitment to use “best efforts” to encourage contractors to hire low-income residents of Long Beach and Signal Hill and to contract with Section 3 businesses
- A commitment to the “greatest extent feasible” to obtain information (income status, residence, date of hire, job classification and level) regarding the new hires and the hours worked by new hires
- An agreement to actively conduct outreach to low-income residents of Long Beach and Signal Hill and to take certain specified steps
- An expansion of the construction training and employment program by the Workforce Development Bureau\(^4\)
- A commitment to work with WINTER (Women in Non Traditional Employment Roles)
- Creation of a monitoring committee composed of five members, two designated by the city and three by LAFLA
- Monthly reporting to LAFLA and to the monitoring committee regarding specific topics such as the new hiring reporting and information about the hiring of Section 3 businesses
- A narrative description of the outreach for hiring and contracting.

The agreement designated specific projects (an airport parking garage and two libraries), listing the dollar amounts (approximately $54 million in the aggregate) of the projects, which are subject to Section 3 and the

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\(^3\)The Pike Project gets its name from the Pike, which was the name of an amusement park on the ocean in Long Beach. The Pike was closed in 1968. The larger redevelopment area is known as Queensway Bay and it includes an aquarium, convention center, Shoreline Village and the ocean liner the Queen Mary.

\(^1\)Letter from Dennis L. Rockway to Eva Plaza, Assistant Secretary for Fair Housing and Equal Opportunity, HUD, Re: Queensway Bay Project (June 8, 1998).


\(^4\)The goal of the Workforce Development Bureau, which is part of the City of Long Beach, is to build quality services that support the workforce needs of the community. The bureau sponsors a wide range of services for businesses and residents at one-stop career center locations throughout Long Beach. For more information, see http://www.longbeach.gov/cd/workforce/default.asp.


The Pike Project Agreement and the decision of the arbitrator may be helpful to other advocates because they construe terms that are key to the operation of Section 3.

Implications for Other Section 3 Advocacy

The Pike Project Agreement and the decision of the arbitrator may be helpful to other advocates because they construe two terms that are key to the operation of Section 3: “best efforts” and “to the greatest extent feasible.” Section 3 obligates public housing agencies to use “best efforts” to give low- and very-low income persons training and employment opportunities and to award contracts to Section 3 businesses.12 The agreement uses the term “best efforts” in the context of the city’s obligation to obtain workforce projections and to encourage contractors to hire low-income residents and hire Section 3 businesses. The other key Section 3 term is “to the greatest extent feasible.” The Section 3 statute requires all recipients of federal financial assistance for housing and community development programs to ensure that employment and other economic opportunities flowing from those funds are “to the greatest extent feasible directed to low and moderate income persons.”13 Again, the agreement incorporates the term “greatest extent feasible” and obligates the city to encourage its contractors to hire low- and very-low income residents of Long Beach and Signal Hill and to contract with Section 3 businesses “to the greatest extent feasible.”14

These terms are discussed and applied in specific factual contexts which are common to other situations in which Section 3 applies. The arbitrator refers to case law to define “best efforts” as diligence in the performance of contract terms and more exacting than the usual contractual duty of good faith . . . . ‘Best efforts’ also requires

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Note 3, at 1.
1012 U.S.C.A § 1701u(c) and (d) (West 2001).
11Id. at § 1701u(b).
12Pike Project Agreement, supra note 3, at 2.
using all reasonable methods and requires the party
owing the duty to take all action and do all things nec-
essary to consummate the transaction contemplated by
the agreement.”15 The arbitrator relies upon Ramírez, Leal
& Co. v. City Demonstration Agency, et. al. 16 to define the
phrase “greatest extent feasible” to mean that “a munici-
pality was ‘obligated to take every affirmative action they
could properly take . . . .’”17

Applying these definitions, the arbitrator reviewed
the record and determined that there was evidence to
support the committee’s findings that the city failed to
use “best efforts” to obtain workforce projections from
the contractors. The committee concluded that, without
these projections, the city was hampered in its “ability
to plan, accurately advertise and properly tailor its train-
ing programs.”18 The city knew that it was not getting the
information that it needed and was required to obtain, but
waited nine months before it changed its reporting form
and before meeting with the contractors for the purpose
of obtaining the required information. The failure to fol-
low through with the contractors also violated another
provision of the agreement which required the city to
encourage contractors to hire low-income residents to the
“greatest extent feasible.” The arbitrator concluded that the
city’s lack of follow-through with contractors and failure
to take meaningful steps to ensure compliance provided
substantial evidence to support the committee’s findings
that the city violated the agreement.19

Recent Cases

The following are brief summaries of recently reported
federal and state cases that should be of interest to housing
advocates. Copies of the opinions can be obtained from a
number of sources including the cited reporter, Westlaw,1
Lexis,2 or, in some instances, the court’s Web site.3 Copies
of the cases are not available from NHLP.

Eviction — Late Payment of Rent;
Project-Based Section 8

Showe Mgmt. Corp. v. Hazelback, 2006 WL 1976760 (Ohio
App. July 17, 2006). The Ohio Court of Appeals affirmed a
judgment for possession in favor of a landlord in an action
for non-payment of rent. The tenant, apparently assisted
under an unspecified Project-Based Section 8 program,
tendered her rent plus late fee eight days after the end of
the payment grace period—a total of $36.00. The court
ruled, inter alia, that the landlord’s refusal of the late pay-
ment was valid under the terms of lease. The court also
rejected the tenant’s due process and inequitable forfei-
ture arguments.

Fair Housing — Affirmative Duties;
Fair Housing — Exclusionary Zoning

ACORN v. County of Nassau, 2006 WL 2053732 (E.D.N.Y.
July 21, 2006). The United States District Court for the
Eastern District of New York denied a motion to dismiss
for lack of standing and lack of subject matter jurisdiction
an action challenging zoning practices alleged to exclude
African-American and Latino residents, in particular
practices that prevented the development of affordable
housing. Plaintiffs asserted claims under the Fair Hous-
ing Act, 42 U.S.C. §§ 3601, 3608 et seq., the Civil Rights Act
Act of 1964, 42 U.S.C. § 2000d et seq., and the Equal Protec-
tion Clause of the Fourteenth Amendment.

Fair Housing — Generally;
Insurance — Duty to Defend

Washington v. Krahn, 2006 WL 1938077 (E.D. Wis. July 1,
2006). The United States District Court for the Eastern
District of Wisconsin found that an insurer had a duty
to defend apartment building managers in a housing
discrimination suit brought by housing testers and a fair

3For a list of courts that are accessible through the World Wide Web, see
http://www.uscourts.gov/links.html (federal courts) and http://www. ncsd dni.us/COURT/SITES/courts.htm#state (for state courts). See also
http://www.courts.net.