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Present:

HON. F. DANA WINSLOW,
Justice

TRIAL /IAS, PART

21 VAG

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----X

DIANA COLEMAN, ROBERT SUMMERVILLE, :
JOHN HARRIS, ARTHUR WEAVER, EILEEN :
WEAVER, RUTH VANBOOM, :

STIPULATION

Plaintiffs, :

Index No. 97-30380

PEOPLE OF THE STATE OF NEW YORK, by :
ELIOT SPITZER, ATTORNEY GENERAL OF THE :
STATE OF NEW YORK, :

Plaintiff-Intervenor, :

THE UNITED STATES OF AMERICA, :

Plaintiff-Intervenor, :

-against- :

THE COUNTY OF NASSAU, NASSAU COUNTY :
BOARD OF ASSESSORS, BRIAN MEYER, :
RICHARD A. BIANCULLI, MICHAEL C. :
PULITZER and CHARLES R. ARTALE, :
Members of the Nassau County Board of :
Assessors, and CHARLES O'SHEA, :
Chairman, Nassau County Board of :
Assessors, :

Defendants. :

-----X

This Stipulation (the "Stipulation") is entered into by
and between plaintiffs DIANA COLEMAN, ROBERT SUMMERVILLE, JOHN
HARRIS, ARTHUR WEAVER, EILEEN WEAVER, and RUTH VANBOOM,
plaintiff-intervenor THE PEOPLE OF THE STATE OF NEW YORK, by
ELIOT SPITZER, THE ATTORNEY GENERAL OF THE STATE OF NEW YORK,
plaintiff-intervenor THE UNITED STATES OF AMERICA (collectively
"plaintiffs"), and defendants THE NASSAU COUNTY BOARD OF

ASSESSORS, CHARLES O'SHEA, CHAIRMAN, and BRIAN MEYER, RICHARD A. BIANCULLI, MICHAEL C. PULITZER, and CHARLES R. ARTALE, Members of the Nassau County Board of Assessors, (collectively "the Board"), and subject to the provisions of par. III(4) below, the COUNTY of NASSAU ("the County").

WHEREAS, this action was commenced by the individual plaintiffs through the filing of a complaint on October 30, 1997 seeking injunctive relief, including requiring the Board to reassess Class I residential properties, based on defendants' alleged violations of Title VI of the 1964 Civil Rights Act, 42 U.S.C. § 2000d, and its implementing regulations, 24 C.F.R. § 1.4 et seq., Title VIII of the 1968 Civil Rights Law, 42 U.S.C. § 3601 et seq. (the "Fair Housing Act"), and Section 603 of the Nassau County Charter; and

WHEREAS, plaintiffs-intervenors THE PEOPLE OF THE STATE OF NEW YORK, by ELIOT SPITZER, ATTORNEY GENERAL OF THE STATE OF NEW YORK (the "OAG"), having been granted permission by the Court to intervene in this action by Order, dated February 29, 2000, and having filed their complaint-in-intervention seeking similar injunctive relief for defendants' alleged violations of the Fair Housing Act; and

WHEREAS, plaintiff-intervenor THE UNITED STATES OF AMERICA, having been granted permission by the Court to intervene in this action by Order, dated March 7, 2000, and having filed its intervenor's complaint seeking similar injunctive relief for

defendants' alleged violations of the Fair Housing Act; and

WHEREAS, the Board and the County of Nassau have denied any wrongdoing or liability in this action, have denied the allegations in the plaintiffs' complaints and have maintained that their assessment practices have complied with all applicable laws; and

WHEREAS the Board by resolution dated March 2, 2000, has commenced the process of updating and modernizing the assessment rolls for the County of Nassau for all properties, including the revaluation of properties based on market value in accordance with Section 305(2) of the Real Property Tax Law, such procedures to include the preparation of a Request for Proposal ("RFP") for the revaluation project, coordination with all other County Departments and such other actions as are necessary to proceed further with revaluation; and

WHEREAS the Court has made no finding that any of the defendants have engaged in race discrimination or that the assessment system is racially discriminatory or illegal; and

WHEREAS, the parties desire to avoid incurring any further time, costs and expenses and the uncertainty of litigation and seek to fully and finally resolve all matters embraced in this action as between the parties without resort to further litigation; and

WHEREAS, in consideration of the covenants and undertakings set forth herein and intending to be legally bound

thereby, the Plaintiffs and the Board agree to the terms of this Stipulation;

NOW THEREFORE, it is hereby AGREED as follows:

I. Definitions.

The following terms shall have the following meanings throughout this Stipulation:

1. "Revaluation" shall have the same meaning as that term is defined by New York State's Office of Real Property Services ("ORPS") and shall specifically include the visual inspection of each parcel of Class I residential property from the public right of way.

2. "Update" shall have the same meaning as that term is defined by ORPS and shall specifically include an adjustment, based upon recent comparable sales data, of the appraised values of Class I residential parcels.

II. Required Relief.

Plaintiffs and the Board agree as follows:

1. Nassau County, acting through the Board of Assessors and the Department of Assessment, shall take necessary action to update and modernize the assessment rolls for residential properties and shall adopt a revaluation system and tax assessment roll to that end that is fair, nondiscriminatory, scientific and equitable (as defined in paragraphs 6, 7 and 10 below) in accordance with Section 305(2) of the RPTL, consistent with standards adopted by ORPS and that uses fair market value as

the basis of valuing Class I residential properties in Nassau County.

2. On or before March 15, 2000, the Board shall approve the drafting of an RFP to be distributed by the Board for bidders to conduct the Revaluation;

3. On or before May 15, 2000, the Board shall submit the proposed RFP to the Court for review and approval. The Board shall simultaneously provide all parties to this action with a copy of the proposed RFP, and all parties shall have 15 days to appear in Court to object and/or present evidence and/or present argument why the proposed RFP would not lead to an assessment system that meets the requirements of par. II(1) above and, thus, should not be approved. In the event that the Court determines that the proposed RFP would not lead to an assessment system that meets the requirements of par. II(1) above, the Board shall, within ten days of such disapproval, submit to the Court and all parties for comment and approval, a revised RFP that conforms to the requirements of the Court and this Stipulation.

4. Within five days after approval by the Court as set forth above, the Board shall distribute the final RFP to solicit proposals. The deadline for submission of bids shall be 30 days from the distribution set forth herein.

5. Within 60 days after the deadline for submission of bids, (a) the Board shall submit to Nassau County for its approval the proposed contract for the awardees to conduct a

Revaluation, consistent with the terms of this Stipulation; and
(b) the County shall approve the contract, with such other terms not inconsistent with the terms of this Stipulation as it deems appropriate (subject to the provisions of par. III(4) below).

6. Upon the signing of the contract, the Board shall commence a Revaluation, which shall be implemented through the creation and promulgation of a new assessment roll by January 1, 2003. The Court, any expert that may be designated by the Court, and the plaintiffs will have the opportunity to review any data before the implementation of the various stages or steps for which the data are being tested and collected. If the Court determines, at any stage, that the process will not lead to a final assessment roll that meets the requirements of par. II(1) above, the Court shall have all equitable powers to order corrective action. The Board shall make diligent good faith efforts to implement a Revaluation that results in a zero percent variation in the ratio of assessed value to market value among school districts.

7. After the data are available, and in sufficient time to allow for implementation by January 1, 2003, the Board shall propose and submit to the parties and the Court, for approval, a new Class I residential property real estate tax assessment roll that (i) relies upon fair market value; (ii) meets the requirements of par. II(1) above, and (iii) assesses all Class I residential property in Nassau County at a uniform

percentage of value (fractional assessment) such that the uniform application of such fractional assessment rate does not result in any assessment for any individual parcel of Class I residential property that would require the application of RPTL 1805 to limit any assessment; except that if the fractional assessment rate selected results in not more than .5% of the total residential properties being subject to the limitations of RPTL 1805, such rate shall not be considered in violation of this paragraph.

8. On or before April 15, 2000, the parties shall propose, and the Court may thereafter select, an independent expert. This expert shall assist the Court in monitoring the various steps taken by the Board to implement the new system. The cost of such expert shall be borne by the Board, provided, however, that the cost shall not exceed \$25,000.

9. Within 20 days of the Court's determination that the proposed roll (as outlined in par. II(7) above), meets the requirements of par. II(1) above, the Board shall adopt the proposed roll for the January 1 next following. In the event that the Court determines that the proposed roll does not meet the requirements of par. II(1) above, the Board shall make any changes to the proposed roll that the Court deems necessary to render the proposed roll in conformity with the requirements of par. II(1) above.

10. The Board shall provide sales data to ORPS in the manner and time frame required by RPTL § 574(2). If, in any year

while this Stipulation is in effect, (a) the median ratio of assessed value to sales price for any school district deviates more than 5% from the median ratio of assessed value to sales price for Nassau County (as periodically computed by ORPS); or (b) the median ratio of assessed value to sales price for any school district deviates more than 6% from the median ratio of assessed value to sales price of any other school district, the Court after consultation with the parties and review of ORPS procedures shall issue such orders as are necessary to bring the ratios into compliance with this Stipulation.

11. The Board shall take any and all steps to implement the provisions of this Stipulation and any resolution passed by the Board necessary for compliance with this Stipulation may be submitted to the Court for approval and upon such approval shall be incorporated into this Stipulation as if contained herein.

12. Within thirty days of the effective date of this Stipulation, plaintiffs' counsel will submit an appropriate application for attorneys' fees and costs, pursuant to relevant federal and state statutes. Defendants will have an appropriate opportunity to contest plaintiffs' entitlement to any such attorneys' fees or costs or the amount of such request.

III. Jurisdiction and Other Provisions

1. This Stipulation shall remain in effect and the Court shall retain jurisdiction over this action for a period of

three years following the adoption of the new assessment roll under par. II(9) above, unless sooner stayed, modified, terminated, or suspended by the Court upon stipulation by the parties or by order of the Court after notice to all parties with an opportunity to be heard. The time period shall be extended for an additional period of not more than three years if there is a deviation in ratios, as set forth in paragraph II(10), above, necessitating corrective action.

2. Agreement to enter into this Stipulation shall not be deemed or construed to be an admission of, or evidence of, any violation of any statute, law, or regulation or of any liability or wrongdoing or of the truth of any of the claims or allegations contained in the complaint or complaints-in-intervention, and may not be used against defendants in any other action or proceeding.

3. Notwithstanding any provision of this Stipulation to the contrary, the plaintiffs may, in their sole discretion, grant written extensions of time to defendants to comply with any provision of this Stipulation.

4. This Stipulation shall not become effective unless and until it is approved by the County, is executed by a duly authorized representative of the County, and is approved by the Court. Upon such approvals, this Stipulation in its entirety shall become an Order of the Court, binding on all parties, including the Board and the County. Each party shall take all necessary steps to implement the terms of this Stipulation.

5. The signatories to this Stipulation are duly authorized by their respective parties.

6. This Stipulation may be executed in multiple counterparts, each of which shall be deemed a duplicate original.

7. This Stipulation shall bind the parties and their respective successors.

8. This Stipulation may be amended or modified only pursuant to a writing executed by all parties hereto and approved by the Court if requested by either party.

9. The parties hereby waive, and shall not have, any right to appeal any of the terms of this Stipulation or in any way to challenge the validity of any of the terms of this Stipulation in any forum. Nothing herein shall preclude either party from contesting or appealing from any order entered after this Stipulation has been approved and so ordered by the Court. Defendants shall withdraw all pending appeals by separate stipulation.

10. All of the terms of this Stipulation are contractual and not merely recitals, and none may be modified or changed except by a writing signed by the parties or their respective authorized legal counsel.

11. This Stipulation shall inure to the benefit of and be binding upon the legal representatives and any successor agency or successor in interest of the parties.

12. The parties may seek to enforce this Stipulation by motion before the Court to the full extent of the law.

13. Nothing in this Stipulation is intended to confer any right, remedy, obligation or liability upon any person or entity other than the parties hereto and their respective successors.

14. In the event of a dispute among the parties regarding any issue that arises under this Stipulation, the parties shall seek in good faith to resolve the dispute among themselves before seeking the Court's intervention.

15. The Court shall have the power to issue any order necessary to enforce the terms of this Stipulation and to order all applicable equitable remedies to ensure compliance with this Stipulation. Nothing in this Stipulation shall preclude plaintiffs from applying for interim relief, and the Court shall have authority to grant such relief, provided that such interim relief is limited to the sending of notice to interested parties and the conveying of information concerning possible remedies under existing law. Defendants shall have the right to object to the form of any interim relief.

16. All communications and notices regarding this Order shall be sent by first class mail and facsimile, if twenty-five (25) pages or less in length, to:

Plaintiffs-Intervenors, The People of the State of New York

Andrew G. Celli, Jr.
Assistant Attorney General
Civil Rights Bureau
120 Broadway, 23rd Floor
New York, New York 10271
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Plaintiffs-Intervenors, The United States of America

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Assistant U.S. Attorney
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Plaintiffs

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Farrell Fritz, P.C.
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fax (516) 227-0777

Nassau County Attorney
One West Street
Mineola, N.Y. 11501
(516) 571-3001
FAX (516) 571-6604

IN WITNESS WHEREOF, the parties hereto, intending to be
legally bound hereby, have executed this Stipulation on the date
written below.

Dated: New York, New York
March 16, 2000

Leon Friedman
By Leon Friedman
148 East 78th Street
New York, N.Y. 10021
(212) 737-0400

Donald Shaffer
Donald Shaffer
Nassau Chapter of
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Union
210 Old Country Road
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(212) 549-2612

Irving Like
Irving Like
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Ambrosino & Vetri
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Koppel, Martone, Leistman
& Herman

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William D. Siegel
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Garden City, N.Y. 11530
(516) 294-8880

Attorneys for Individual Plaintiffs

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Attorney General of the State of
New York
Attorney for Plaintiffs-
Intervenors, The People of the
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New York, New York 10271
(212) 416-8250

By:



ANDREW G. CELLI, JR.

Bureau Chief

MARK G. PETERS

Deputy Bureau Chief

TYNIA D. RICHARD

Assistant Attorney General
Civil Rights Bureau

LORETTA E. LYNCH

UNITED STATES ATTORNEY

Attorney for Plaintiff-
Intervenor

The United States of America

BILL LANN LEE

Acting Assistant Attorney General

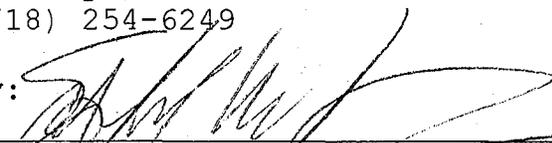
United States Attorney's Office

One Pierrepont Plaza

Brooklyn, New York 11201

(718) 254-6249

By:



SANFORD M. COHEN

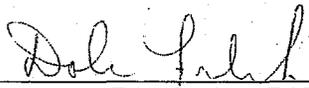
Assistant U.S. Attorney

Chief, Civil Rights Litigation

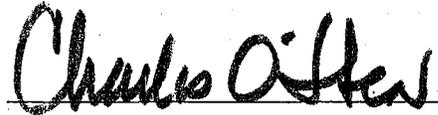
ISABELLE THABAULT

Deputy Chief, Housing and Civil
Enforcement Section

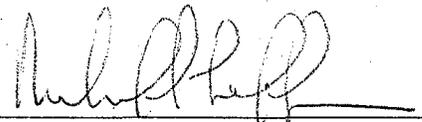
FARRELL FRITZ, P.C.
Attorney for Defendants
NASSAU COUNTY BOARD OF ASSESSORS,
BRIAN MEYER, RICHARD A. BIANCULLI,
MICHAEL C. PULITZER, and CHARLES
ARTALE, Members of the Nassau
County Board of Assessors, and
CHARLES O'SHEA, Chairman, Nassau
County Board of
Assessors
EAB Plaza
Uniondale, New York 11556-0120
(516) 227-0602

By: 
DOLORES FREDRICH

THE BOARD OF ASSESSORS

BY 

NASSAU COUNTY ATTORNEY

By 

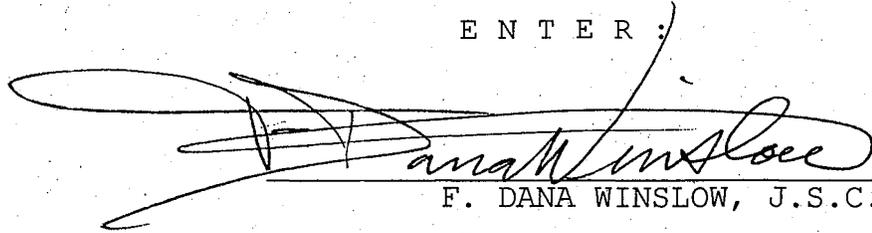
THE COUNTY OF NASSAU

BY 
Deputy County Executive

Dated: March 27, 2000

THIS STIPULATION IS APPROVED AND SO ORDERED:

ENTER :



A handwritten signature in cursive script, appearing to read "F. Dana Winslow", is written over a horizontal line. The signature is fluid and somewhat stylized.

F. DANA WINSLOW, J.S.C.

ENTERED
MAR 29 2000
NASSAU COUNTY
COUNTY CLERK'S OFFICE

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COUNTY CLERK OF NASSAU COUNTY

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COUNTY CLERK OF NASSAU COUNTY
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