

Nothing In Life Is Free - Neither is the Sustainable Communities Initiative

Program Overview

The Sustainable Communities Initiative (SCI) is a massive federal entitlement/welfare planning program that is being run under a federal partnership between HUD, the DOT and the EPA. The program, is designed to ultimately produce a Land Use and Resource Planning document that will greatly diminish our property rights, redistribute wealth, and ensure equal outcomes -- not equal opportunity – for every person all across America.

The SCI program comes with "mandatory outcomes" that must be built into the final plans. These mandates will lead towns and municipalities to be complicit with aiding the Federal government in producing a blueprint to transform our Democratic Republic to one of Central Planning under the guise of Regional Land Use and Resource Planning.

HUD is the lead federal agency that will work directly with regional planning commissions in every state across the country. These Regional Planning Commissions are comprised of unelected bureaucrats that are unaccountable to the voters.

The program is being implemented statewide in NH under an umbrella program called “[The Granite State Future](#)” (GSF). The GSF is a consortium of nine regional planning commissions, with the Nashua Regional Planning Commission (NRPC) designated as the “lead point of contact with HUD on behalf of the program.”

Terms and Conditions

The HUD requirements for the program are contained in a “grant instrument” that is defined on a [HUD-1044](#) form that contains the following statement. “This instrument (the HUD-1044, HUD 1044 Continuation Sheet) sets forth a legally binding agreement between the parties as to all amounts, deliverables, tasks, period of performance, terms and conditions, here within, whether implicitly stated or referenced. The Recipient certifies that all administrative and financial provisions of this instrument are in and will continue to be in compliance for the duration of the period of performance. All covenants, referenced or stated, are agreed to by the recipient upon signing this instrument.”

According to every Planning Board member and Selectmen that I have spoken with regarding this program (representing seven different towns), these “legally binding” documents which provide the excessively broad scope of the program via detailed specifications and requirements, were never given to our representatives for review before they were asked to sign a commitment to the program. This leads to concerns that our towns' legal council does not have an opportunity to review the agreement either.

Public Presentations

In April and May of 2012, the Rockingham Planning Commission made presentations to the Windham Board of Selectmen to encourage Windham's participation in the SCI program. A portion of the Rockingham Planning Commission's presentation included some assurances that are contradicted by the legally binding documents. Their presentation included the following statements;

- This is a “bottom up” program.
- The SCI is a completely voluntary program. Windham can drop out anytime.
- Windham will decide which parts of the plans to implement.
- Windham will retain its autonomy over Planning and Zoning decisions.
- The Rockingham Planning Commission is advisory only.
- The program does not come with mandates.

I live in Windham, and out of concern that our Board of Selectmen were not presented with the full text of the agreement, I obtained copies of the legally binding documents that are subtly referenced in the GSF Agreement . These documents define a program that is starkly different than what has been promoted.

HUD's Vision/Mandates

The SCI program stresses the need to reduce “sprawl” (sprawl is defined in one of HUD's reference documents as 3 or less houses per acre) and increase economic equality – while creating inclusive, livable, walkable communities where a majority of the population will walk or bike to work, school, the store, the park and mass transportation. High density/compact housing is one of the ultimate goals.

The SCI program comes with a predefined framework for implementation, that clearly states that there will be “**SUBSTANTIAL INVOLVEMENT**” from HUD, including:

- Review and provide recommendations on the final report/study, including final interpretation of study results.
- Review and approval of key personnel.
- Implementing HUD requirements which limit recipient discretion.
- Where appropriate substantial, direct HUD operational involvement or participation during the assisted activity.

Program participation comes with a list of “**Mandatory Outcomes**” that include:

- **Aligned federal planning and investment resources** that mirror the local and regional strategies for achieving sustainable communities.

- Increased participation and decision-making in developing and implementing a long range vision for the region **by populations traditionally marginalized in public planning processes.**
- **Reduced social and economic disparities for the low-income, minority communities, and other disadvantaged populations within the target region**
- **Decrease in per capita Vehicle Miles Traveled (VMT)** and transportation-related emissions for the region.
- **Increased proportion of low and very low-income households** within a 30-minute transit commute of major employment centers.

The examples of “Substantial Involvement” and “Mandatory Outcomes” listed above does not support claims that the SCI is a “bottom up” program and that participating towns/cities will retain their autonomy in the planning process.

Who’s Represented?

As mentioned above, one of the goals of the SCI program is economic equality, with an emphasis being placed on the “[underrepresented and marginalized populations](#)”.

One of the committees that will be an integral part of the GSF planning process is called the **Regional Equity Team**. That team is comprised of “[representatives of underserved and marginalized populations](#) in their region that will ensure the voices of these populations are reflected in the Regional Plan.”

In the Windham public presentations, we were told that the Regional Equity Team would have input into the planning process, but we were assured the represented voices on that team will not be given a higher weight in the planning process.

The legal documents of the Agreement explain it differently, calling for “**an emphasis on historically marginalized populations.**” To understand the true impact the Regional Equity Team will play, it is important to understand [HUD’s definition](#) of the term “underserved populations” -- which is defined in the Agreement as “groups of individuals who fall within one or more of the categories protected under the Fair Housing Act and who are:

- a. of an immigrant population (especially racial and ethnic minorities who are non-English speaking or have limited English proficiency);
- b. in rural populations;
- c. homeless;
- d. persons with disabilities (e.g., physical or mental);

e. persons in areas that are heavily populated with minorities where there is inadequate protection or ability to provide service from the state or local government or private fair housing organizations, or

f. populations that have faced generational economic disadvantage, job dislocation, or other forces that prevent them from achieving individual and family self-sufficiency.

What I would like to know is where in this program am I represented? My family? My neighbors? Why are we not represented? Where is the Equity in the “Equity Team”? How is it equitable when the groups of the people defined in the Regional Equity Team represent of a very small minority of the population in my community and in fact, in the entire state of NH? Why aren't the MAJORITY of the population EQUALLY represented?

The SCI agreement also seeks to address [“Socioeconomic Inequity”](#). [All SCI Program Applicants are “required to document measures of segregation”](#). What do these things have to do with Land Use Planning?

Who is in Control?

Regarding the studies and reports that will be compiled under the SCI program... the Agreement specifically states; [“Anticipated substantial involvement by HUD staff may include review and provide recommendations on the final report/study, including final interpretation of study results.”](#) This means that it will be at **HUD’s discretion to define what the results mean for a study and/or report.**

This leads right into one of my concerns that there is language throughout the SCI agreement that focuses on commitments related to the Fair Housing Act. When all of the above (including requirements to “document measures of segregation”) is combined with what occurred in Westchester County, NY – any town that signs the agreement might be vulnerable to an unjustified lawsuit that would be based upon a biased interpretation of a demographics report (of which HUD would have the “final interpretation”) that would be based upon the very same data that was acquired to produce the planning document. And a lawsuit would not have to originate with HUD. It could be brought on by anyone.

It might seem like a stretch to make this statement, but a false claim of a similar nature was unjustly brought against Westchester County, NY.

To put things in perspective, according to the most recent 2010 census, Westchester County is one of the most diverse places to live in the United States.

- Westchester is the fourth most diverse county in New York, behind Brooklyn, Queens and the Bronx, tied with Manhattan, and ahead of Staten Island.
- If Westchester were a state, it would be the 7th most diverse in terms of Hispanic representation and the 14th most diverse in terms of African-American representation.

The Westchester case ended in a [\\$51.6M settlement](#) against the county (when the previous County Exec. was in office) to build 750 "affordable housing units" for low income families. The county was not practicing segregation -- but the lawsuit claimed otherwise because the demographics of Westchester County is made up of a population that is about 70% Caucasian. The lawsuit used a biased interpretation of that data to claim the county was “de facto segregated”. With the threat of losing the lawsuit and possibly having to pay \$150M, the previous County Executive settled for \$51.6M, plus \$2.5M for attorney fees.

The organization that brought the lawsuit was awarded over \$7M from the settlement -- which is quite an incentive to bring other lawsuits. That organization has 7 employees; one fulltime, one half time and 5 working 30 minutes per week. Once the lawsuit was initiated, HUD stepped in and assumed control and costs going forward. With this scenario, anyone could be tempted to form a non-profit and bring this type of legal action against other towns using similar demographic data... data that the SCI program mandates the towns themselves collect and incorporate into the final plans that are presented to HUD... who has (according to the "legally binding" agreement) "[final interpretation of study results](#)".

For your reference, New Hampshire is more than 95% Caucasian. With this in mind, I spoke directly with the Chief of Staff for Westchester County Executive Robert Asterino to voice my concerns that the same might happen to Windham, and he [reinforced and justified my concerns](#).

What is HUD's Goal?

Former HUD Deputy Secretary Ron Sims, who commented at the time of the Westchester County settlement, [“we've taken an important step toward building what we call geography of opportunity.”](#) [He went on to say “At HUD, we believe this approach to equitable development can serve as a model for building strong, inclusive sustainable communities across the entire United States.”](#)

This comment seems to be aligned with the public presentation by the Rockingham Planning Commission, who said the Regional Equity Team would “look at housing opportunities in the region to see where they may be inadequate.”

And there is more to the Westchester story, as County Executive Robert Asterino describes in this [OpEd](#), “HUD’s approach is to unilaterally move the goalposts in the middle of the game. Its technique is to repeatedly reject a routine document called an Analysis of Impediments (AI).”

Astorino added, “HUD is clearly using the AI to try to expand the terms of the settlement from a straight-forward stipulation to build housing into an open-ended, Utopian integration order, which HUD then plans to use as a model across the country.”

The statistics for Windham as well as for the state of NH would be even more compelling for a similar type of unjust lawsuit to be filed – even though we welcome ALL people to live here. Inability to purchase a home is NOT discrimination – but it appears the SCI provides a path to codify that bias into law.

This type of scenario becomes even more of a concern after reading that HUD is beginning to [qualify non-profit organizations for “fair housing enforcement.”](#)

Conclusion

So What Should We Do? When the Windham Selectmen asked the Rockingham Regional Planning Commission what benefits our town would realize by signing the Agreement, they were told they would “get a seat at the table” to provide input into the regional plan. But after reading in the Agreement that HUD will be involved with “Implementing HUD requirements which limit recipient discretion”, it’s unclear how much real input, if any, a town will have. Especially since many of the committee members have already been assigned and the legal documents clearly state that there is no guarantee that a town will be represented on any of the committees.

And if the GSF is a “bottom up”, voluntary program as we have been told in multiple public presentations – then why is there a need to sign the Agreement in the first place?

With the troubling goals of the program clearly spelled out, I have serious concerns why any of my elected officials would want a seat at the table and participate in this type of centralized planning program. As I read through many of the details of this program, two thoughts kept coming to mind: (1) James Madison’s warning that Liberty and Property are inseparable, and (2) Karl Marx’ statement “From each according to his ability, to each according to his needs.”

This massive new entitlement/welfare planning program goes against every principle of our founding documents. To dismiss concerns by saying this is only planning... and then include our town in this program is a reckless disregard for the fundamental values that our liberties and freedoms are based upon.

The focus of the SCI program targets equal outcome for all, not equal opportunity – through the imposition of changes to land use and resource planning and zoning.

This program is not designed to provide any benefits for those of us who are paying for it. We should heed the warnings from [County Executive Astorino’s OpEd](#) regarding HUD’s overreach through unjustified demands:

“That the county dismantle local zoning laws, a power HUD knows full well the county does not possess as New York is a home rule state. The ‘specific zoning practices which must be addressed’ include limitations on the size, type and number of developments in a community; lot size and density; and the number of bedrooms in a unit. In other words, all zoning.”

It doesn’t take much imagination to envision what the impact would be from a multitude of lawsuits (or even threat of a lawsuit) like the one in Westchester County -- if they were brought all across America. It concerns me deeply that Ron Simms sees this an [approach to equitable development that can serve as a model for building strong, inclusive sustainable communities across the entire United States.](#)