

Written Testimony
S.186/H.639 Recovery Residence Evictions
Senate Committee on Economic Development, Housing and General Affairs
Tom Dalton, Executive Director
Vermonters for Criminal Justice Reform
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Vermonters for Criminal Justice Reform (VCJR) strongly supports the development of safe and stable housing for people with substance use disorder. Recovery residences work best when all tenants are in long-term, stable recovery. Many people who are not yet stable in their recovery seek housing through recovery residences because they have few financial resources and Vermont has a severe housing shortage. Many people have no other housing option. When groups of people in early recovery live together, recovery residences are high-risk environments. In most recovery residences, every tenant is at risk for relapse. **Unless we make sure all tenants are provided with continuous shelter and support --even during periods of relapse --no tenant is safe.**

We must make sure all recovery residence tenants are safe, including those who may struggle to keep up on weekly rent payments, house obligations like chores, or who may experience a relapse of the symptoms of their substance use disorder (compulsive drug use). To be effective, recovery residences must provide safe and stable housing for those who struggle too, because they are most at risk. To make that a reality, we need meaningful oversight of recovery residences and a system of care that prevents dangerous gaps in continuous housing during periods of use/intoxication. **Although progress is happening, meaningful oversight and a reliable safety net are not yet in place.**

People who live in certified recovery residences are currently fully covered by standard tenant protections under Vermont law. This has been affirmed by legislative counsel for the Vermont Legislature. In 2020, Vermont Legal Aid sent a letter to every recovery residence operator alerting them to their legal obligations under Vermont law. **These standard tenant protections are valuable, protective and not easily replaced.** They recognize what is often a significant power differential between landlords and tenants. They reflect hundreds of years of legislative and judicial balancing of landlord and tenant rights and responsibilities. They include important due process safeguards, judicial oversight, a robust appeals process, and mechanisms for expedited emergency review. And they are standard. This means all Vermont landlords and tenants are treated as equally valuable and equally worthy of shared protections.

Currently, **VTARR-certified recovery residences knowingly violate state law as a standard practice** by evicting tenants from their homes without judicial process. Although they commonly justify the practice by saying they must summarily remove tenants to keep other tenants safe, the reality is that **recovery residence operators often involuntarily remove tenants for a variety of reasons that do not put other tenants at risk.** Examples include for non-payment of weekly rent, violations of house rules (like being late to a house meeting or missing a chore), personality conflicts, because of overt or implicit racial bias or other forms of bias, in response to a relapse that has already ended, or simply because they say the person is "not a good fit."

Most certified recovery residences not only don't notify tenants about their existing rights under Vermont law, they seek to actively obscure from tenants that a landlord-tenant relationship even exists, refusing to use terms like "landlord," "tenant," or "lease agreement." They even call rent "membership dues." These practices are in violation of NARR (National Alliance of Recovery Residences) standards that require recovery residences to comply with all state and federal laws. VTARR (Vermont Alliance of Recovery Residences), which purports to provide oversight of certified recovery residences and to enforce NARR standards, supports the practice and has not taken action to hold the certified recovery residences accountable for their unlawful practices or for the serious harm to tenants that often results. VTARR has consistently represented the interests of recovery residence landlords and has repeatedly resisted efforts to ensure meaningful protections for recovery residence tenants. **VTARR has functioned more like a trade group for recovery residence operators than as a watchdog group and has not provided credible oversight.** NARR standards are quite general and somewhat aspirational, and Vermont recovery residence tenants are unable to use them to obtain any meaningful protection in the event that they are unlawfully evicted from their home.

The Vermont Department of Health has historically declined to provide direct oversight of recovery residences. That appears to be changing, and Department oversight is welcome and necessary. But the Department has not taken any action to stop the unlawful actions of recovery residence landlords or to hold VTARR accountable for failing to decertify residences that repeatedly violate state and federal laws and cause very serious harm to the tenants they should be acting to protect. Credible oversight of recovery residences is not yet in place.

Most people who are wrongfully evicted from a recovery residence have no safe place to go. **When a recovery residence violates the rights of a tenant by forcing them to leave the safety and sanctity of their home with no safe place to go, the tenant often experiences a parade of horrors.** Someone who had a home is now homeless. Many lose their belongings because they have no way to store them while living on the street. If they hadn't relapsed prior to sudden unlawful eviction, they almost always experience a relapse once they are unhoused. Lack of safe and stable housing means that relapses are prolonged and a return to sobriety is delayed by months or years. Overdose risk skyrockets over 1,000 percent. With no place to go, some will go and stay with their drug dealer. Some will return to an abusive partner. Some will stay with someone who wants to exploit them. Some engage in survival sex or experience sexual assault. Some sleep outside. Some become victims of violent crime because it is unsafe to sleep outside or in other unsafe settings. Some engage in survival crime and become incarcerated. Those who were employed are usually unable to maintain their jobs. Some with children experience the termination of their parental rights. All-cause mortality increases dramatically and some lose their lives.

Although VCJR generally supports S.186 as passed by the Senate, we adamantly oppose any provision in H.639 or S.186 that would remove standard legal protections for recovery residence tenants because doing so would place every recovery residence tenant at increased risk of harm. We suggest that the Health Department assessment and report called for under S.186 should provide data and analysis about the stated reasons for removal/eviction and the outcomes that follow. The assessment and report should include information about whether or not people who leave recovery residences are continuously housed without unsafe gaps in housing. This should include information about the existence and effectiveness of the recovery stabilization beds called for in the pending budget bill.

VCJR strongly opposes the removal of standard tenant protections for people living with substance use disorders. Doing so would sanction and codify dangerous and harmful recovery residence practices. And an alternative system of protections capable of providing continuous safe housing, due process safeguards and credible oversight is not yet in place. The removal of standard tenant protections from this particularly vulnerable group of tenants has been highly controversial, for good reason. Bills creating an exemption failed to pass out of committee repeatedly over a period of years. Past media coverage has highlighted the harms to tenants who are forced to leave recovery residences with no safe place to go. A letter to legislators opposing the removal of standard tenant protections for recovery residence tenants was signed by the **National Alliance on Mental Illness (NAMI), ACLU of Vermont, Vermont Interfaith Action, Women’s Justice and Freedom Initiative**, Vermonters for Criminal Justice Reform and a number of family members who have lost loved ones to overdose.

It's worth noting that the Vermont Department of Corrections has changed their approach to transitional housing. DOC data showed that zero tolerance rules were causing harm. National experts advising Vermont through the Justice Reinvestment process recommended restricting evictions from DOC funded transitional housing due to relapse. They recommended housing providers use harm reduction and restorative justice approaches. In response, DOC's next housing RFP asked applicants to “describe how provisions will be made to prevent discharging existing residents to homelessness or prison due to program violations.” DOC has been moving away from high-risk congregate living settings in which groups of people in early recovery live together toward individual, supported apartments.

Vermont should establish recovery stabilization beds where recovery residence tenants can be offered safe and continuous housing during a period of instability without surrendering their housing or standard tenant protections. **VCJR suggests that legislators consider leaving existing tenant protections in place and instead amend the public inebriate statute to treat intoxication at a recovery residence as public intoxication. This would allow temporary removal of intoxicated tenants from the recovery residence and enable the use of public inebriate/recovery stabilization beds to shelter and monitor recovery residence tenants during periods of acute intoxication using standard public inebriate processes.**

VCJR urges legislators to use extreme caution and restraint in limiting standard tenant protections for this most vulnerable group of disabled tenants. If legislators choose to provide an exemption, VCJR urges legislators to **provide a very narrow exemption for the temporary removal of tenants who are intoxicated and leave all other tenant protections in place.** A blanket exemption that permits extra-judicial evictions for reasons that do not place other tenants at imminent risk of significant physical harm (non-payment of rent, violations of house rules) should not be provided.

If legislators choose to provide an exemption, **VCJR urges legislators to ensure that a fully functioning system of meaningful oversight and a fully functioning system of recovery stabilization beds is in place first.** Legislators should allow the Health Department to complete the assessment and data collection, get policies and procedures in place, and report back to the legislature for an oversight plan review BEFORE removing or limiting existing tenant protections provided under state law.

Removal of standard tenant protections for recovery residence tenants is not necessary or sufficient to increase the availability of sober housing in Vermont --any more than eliminating standard tenant protections for all Vermonters is necessary or sufficient to solve Vermont's rental housing shortage. There are better and less dangerous opportunities to encourage more landlords to operate recovery residences without removing standard protections from tenants who are at such imminent risk for homelessness, overdose, incarceration, exploitation and death.