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TO: Senate Committee on Natural Resources and Energy
FROM: Office of Racial Equity
DATE: January 19, 2024
RE: Summary of verbal testimony provided by Office of Racial Equity Policy and Research Analyst regarding December 2023 Natural Resources Board “Necessary Updates to Act 250” Report

- Providing testimony on behalf of the Office of Racial Equity: Mx.¹ Jay Greene, pronouns: they/them, title: Racial Equity Policy and Research Analyst, State of Vermont Office of Racial Equity (Agency of Administration)
- Thank you for the opportunity to testify on this important subject for the future of Vermont’s land use policy and, consequently, the housing market. I want to highlight Vermont Chamber of Commerce Vice President for Government Affairs Megan Sullivan’s comments on the need for adequate housing for workforce development. The youngest generations of Vermonters and the people moving to Vermont are more likely to be people of color than the current resident population, making housing development and access a priority for racial equity in Vermont.²
- The short version of my comments is that we need to be deliberate in how governance of Act 250 includes or excludes people in the community from participating in important decision-making processes that impact natural resources, environmental justice, and housing availability.
- The State of Vermont Office of Racial Equity’s purview is addressing and dismantling systemic racism in state government operations; therefore, I will be focusing the Office’s testimony on Section 5 of the Report (found on page 13) entitled Governance - Analysis and Recommendations.
- I want to reinforce, as other witnesses today stated, that all Act 250 updates in the report are presented as a package, including the professionalization of the NRB discussed in Section 5 and Appendix 3. The Office’s testimony is not focused on guiding legislators on choosing one of the three options presented in the report, but rather discussing the reasons why these updates to the NRB governance process are necessary and the ideas legislators should consider when choosing an option.
- The Office recommends that legislators consider the following when discussing updates to the Natural Resources Board’s structure:
 - First, we caution against looking only at the budget estimates. The Office recommends legislators consider how much capacity is needed at the Natural Resource Board (NRB) under the updated Act 250 requirements. The consideration shouldn't be how much governance process

¹ Mx. - A Gender-Neutral Honorific. (n.d.). Merriam Webster Dictionary. Retrieved January 19, 2024, from <https://www.merriam-webster.com/wordplay/mx-gender-neutral-title>

² National Equity Atlas. (2020). Race/ethnicity. National Equity Atlas. <https://nationalequityatlas.org/indicators/Race-ethnicity> (To view Vermont demographic data stratified by race/ethnicity and age, select the following: Indicator group: Demographics, Indicator: Race/ethnicity, Geography type: State, Geography: Vermont, Breakdown: Age)

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the State is willing to pay for, but how much staff capacity is needed at the NRB to support updates to Act 250.

- Second, is the workload for each NRB staff person commensurate with pay and benefits under a “part time” designation as recommended in some options? We recommend legislators seek further input from the NRB and District Commissioners about what workload the proposed Act 250 updates will impose and what staff or budget supports are necessary to make sure NRB can meet those needs efficiently and effectively.
- For further recommendations on the equitable structuring of workgroups/advisory boards, legislators can refer to the Executive Director and Office’s testimony to the Summer Government Accountability Committee in November-December 2023.³
- The Office has previously discussed racial equity concerns with how many important government operations in Vermont are supported in whole or in part by volunteers or part-time staff. The reliance on unpaid labor creates inequity in opportunities for participation in State governance processes. This is well illustrated by the following excerpt from the 2024 Office of Racial Equity Executive Director’s Report to the Legislature, released on January 15, 2024:⁴

“Vermont finds itself in a difficult stage: It is a small state with high civic engagement and a very accessible state government, so it has historically been able to accomplish a great deal of intensive policy work through the low-cost or no-cost labor of workgroup members and “citizen legislators.” However, over the years, the volume of research, drafting, deliberation, public engagement, investigation, and convening has grown substantially. So has the opportunity cost for performing those activities. As a result, that increased burden creates disparities in who can afford to be civically engaged and who cannot, especially when workgroups seek more diversity in their membership and call upon the same dozen well-known people and organizations to represent the interests of historically marginalized groups. Yet, despite the increased need for this important work, the State does not currently appear to be financially equipped to be able to afford to hire or meaningfully compensate those civically engaged community members whose service on the State’s boards and commissions has fueled important policy and budget transformation. Put plainly, the State is too large to keep relying on volunteers to keep government going, yet too small to be able to pay what the work is truly worth. One wonders how many members of State-created workgroups would have vested in the State pension by now if the hours they contributed had been deemed staff hours instead of committee appointment service.” (page 11)

- Staff of the Office have observed that the people participating in Boards, Commissions, and Advisory Councils tend to be independently wealthy or retired people, people who are able to afford

³ Links to Executive Director Davis’s/Office of Racial Equity testimony to Summer Government Accountability Committee (Act 53, Sec.s 2 &2a, 2023) available at

<https://legislature.vermont.gov/committee/document/2024/384/Witness/Xusana%20Davis#documents-section>

⁴ Davis, Xusana R. (January 15, 2024). Report of the Executive Director of Racial Equity & Five-Year Lookback.

<https://racialequity.vermont.gov/sites/reap/files/documents/2024%20EDRE%20Report%20to%20Legislature%20FINAL.pdf>

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childcare, or people whose children are independent or no longer living at home.⁵ The State’s reliance on unpaid labor systematically excludes people subject to the structural barriers imposed by a history of racially discriminatory access to high income employment, housing, and childcare.

- The United States has a history of selectively imposing discriminatory structural barriers to public governance on the basis of race. Vermont is not an exception to this history of racial bias and discrimination, which continues in both overt and less obvious systemic forms today.³ The Executive Director of Racial Equity position and subsequently the Office of Racial Equity was created to dismantle systemic racism in State governance.

Questions from Senate Committee on Natural Resources and Energy and Racial Equity Policy and Research Analyst Greene’s Answers:

- In response to a question from Sen. White about whether Act 250 was racially discriminatory: Act 250 may not have been enacted with explicitly discriminatory intent, but it is part of a policy landscape that created the current conditions of racial inequity we see in Vermont’s housing markets. This concept is well demonstrated by the racial disparities in home ownership in Vermont.⁶ I want to clarify that we should not assume that all people of color are impoverished. Rather, race and ethnicity in the United States is highly correlated on a population level with poverty due to a history of systemic racism. Systemic racism and other forms of discrimination have created disproportionate generational poverty for communities of color due to lack of access to banking, mortgages, and opportunities to build generational wealth.⁷
- In response to a question about Act 250 application processes potentially having disparate impacts on people of color: I don’t have data to answer that question. The Office of Racial Equity generally supports policy changes that promote the success of business owners of color in Vermont. I recommend reaching out to representatives of the Vermont Professionals of Color Network for further insight from business owners of color who may have gone through the Act 250 permitting process regarding whether they’ve experienced discrimination or systemic barriers.
- In response to a question from Chair Bray on environmental justice implications of Act 250 updates: I recommend seeking testimony from Agency of Natural Resources Director of Civil Rights, Diversity, Equity, Inclusion, and Environmental Justice Karla Raimundi, Esq.

⁵ This mirrors recommendations regarding legislators’ compensation from the second report of the Racial Equity Task Force published in 2021 (available here: https://racialequity.vermont.gov/sites/reap/files/doc_library/RETF-Report-2-Final.pdf). The Office of Racial Equity is planning to conduct a survey of State advisory bodies to gather demographic data of their members in the near future, but has faced significant challenges distributing the survey due to the lack of a definitive list of State level Advisory Boards, Councils, and Commissions and contact information for their Chairs.

⁶ Vermont Housing Finance Agency. (2019). Homeownership rate by race. HousingData.Org. <https://www.housingdata.org/profile/homeownership-costs/homeownership-by-race>

⁷ For in-depth discussion of the history of systemic racism against Black people in the United States, refer to Coates, T.-N. (2014, June). The Case for Reparations. The Atlantic. <https://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631/>