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March 25, 2015

Senate Economic Development, Housing & General Affairs Committee
Sen. Kevin Mullin, Chair
Statehouse
115 State Street
Montpelier, VT 05609

Re: H.123, "An Act Relating to Mobile Home Parks..."

Dear Sen. Mullin and Members of the Committee,

Thank you for inviting testimony on H.123 ("An act relating to mobile home parks, habitability standards, and enforcement"). This important legislation helps clarify a park owner's duty to maintain the roads within a mobile home park¹, and provides important enforcement oversight for both the Vermont Department of Housing and Community Development and the Office of the Attorney General to help ensure minimum habitability standards. Without adequate enforcement, the ability of the state to extend the protection of the law to park residents in this area is limited. Vermont Legal Aid therefore supports providing the Department and the Attorney General with express authorization to act to ensure Vermont mobile home parks meet the habitability standards set out in statute and rule.²

¹ Under 10 V.S.A. § 6262 (a), a park owner's failure to maintain a park road is a violation of the warranty of habitability: "The warranty [of habitability] also requires the park owner to assure that the roads, common areas, and facilities within the mobile home park are safe and fit for the purpose for which they were reasonably intended."

² And, see: Housing Division Rules Feb. 1, 2013 Part III: Warranty of Habitability 6:

12.1 Owner Responsibility. A mobile home park owner shall maintain roads within the mobile home park ("park roads") reasonably free from hazards and in a manner that ensures safe and reliable ingress, egress and use without unreasonable interruption on a year-round basis, including the adequate and timely removal of snow and mitigation of icy conditions. Park roads shall be maintained reasonably free of potholes or depressions in which surface water can accumulate and constitute a health and safety hazard. A mobile home park owner may establish rules pertaining to use of park roads by residents and their guests.

12.2 Resident Responsibility. Residents shall not damage, alter or block any park roads and shall not use park roads in any manner that could endanger any person or property. Pedestrians shall have the right of way over motor vehicles.

Additionally, in the course of discussion of this measure in the House, park owners raised the issue of abandoned mobile homes and what to do with them post-judgment in an eviction proceeding. While the House did not act on the issue, the Chair (Rep. Head), to her credit, recognized the opportunity to clarify an area of the law and invited interested parties to engage in a discussion about how best to address the concerns of both park owners and home owners. While the timing of that discussion precluded amending the bill in the House, many interested parties (the Department, the Office of the Attorney General, Vermont State Housing Authority, CAP agencies, Vermont Tenants, Inc., the Affordable Housing Coalition, and Vermont Legal Aid, among them) took her invitation as an opportunity to think about a constructive solution to the issue of abandoned homes post-eviction.

Together, the parties have agreed upon language that may be presented to your committee to amend the bill passed by the House. We believe the proposal will clarify the law in this area and give evicted mobile home owners adequate due process and an opportunity for sale or removal under the guidance of a court, and provide certainty to park owners so abandoned homes are not left at the parks indefinitely.

We will support the bill as presented to you by the House, or with amended language agreed upon by the parties considering the abandoned mobile home issue. In closing, I wish to let the committee know of the good work Deputy Commissioner Hollar and Assistant Attorney General Wendy Morgan did in convening the parties and considering a range of possible solutions and outcomes until language that addressed the needs and concerns of both park owners and home owners could be reached. And, we wish to thank counsel for the Apartment Owners Association (Angela Zaikowski, Esq.) and Vermont State Housing Authority (Nadine Scibek, Esq.) for drafting and circulating the language with input and suggestion from all participating parties.

Thank you for your consideration.

Sincerely,



Christopher J. Curtis
Staff Attorney
Vermont Legal Aid, Inc.