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Written Testimony of Michael L Krancer Submitted to the Senate Economic Development, Housing & General Affairs Committee and the House Committee on General & Housing – Joint Hearing, Thursday February 16, 2023 Concerning the State of Housing In Vermont, February 16, 2023

Members of the Committees, thank you for the opportunity to provide testimony which relates both my personal experience and my professional expertise to the question presented at this Joint Hearing. My testimony will focus on a particular problem that negatively impacts the state of housing in Vermont, i.e., unregulated absentee owner Short Term Rentals (STRs).

I am a part time resident of Stowe (Bull Moose Ridge Road in Sterling Valley) and my wife, Barbara and I split time between Stowe and suburban Philadelphia, PA. We have had our house in Stowe since 2012. I have a degree in Economics from the University of Virginia (1980), and a J.D. Degree from the Washington & Lee School of Law (1983). I practiced environmental law for 30 years and was formerly the Cabinet level Secretary of Pennsylvania's Department of Environmental Protection (PADEP) from 2011 to 2013. Before that I was Judge and Chief Judge of the Pennsylvania Environmental Hearing Board (statewide trial court for environmental cases) for 10 years and Deputy General Counsel, Environmental Health and Safety for the Exelon Corporation, a competitive energy generation company and parent company to the electric and natural gas public utilities known as PECO, serving the Philadelphia area, and ComEd, serving the metro Chicago area. At Exelon I also served in a non-legal energy policy development role which was part of the Government Relations department. My CV is attached hereto as Exhibit A which outlines my work history and my qualifications.

First, I will define what is not the problem. This is necessary because there has been a concerted effort by the short-term rental lobby and the short-term renter platform lobby (e.g., AirBnB) to obfuscate this issue in an attempt to mislead the public and elected officials. The problem is not Vermont property owners who are present on-site renting a room or even rooms in their houses to supplement their income or earn incidental income. Similarly, there is no issue of subjecting the 'regular person' who wants to rent a room in their house to earn supplemental income to 'burdensome regulations'.

This is what the problem is: the problem is unregulated absentee owners (often out of state absentee owners) who engage in the business of short-term rentals with bought-up second or even third homes in Vermont. I will refer to non-owner occupied, absentee owner, short term rentals as STRs for short.

By the way, another favorite stalling tactic of the pro-absentee STR interests and renting platform lobbyists is to say that the negative impacts of STRs are only 'anecdotal' and thus

should be discounted. This is false. These negative impacts which I will discuss hereinafter are observable and palpable. The Vermont State Senators and Vermont State Representative are too smart to buy the 'anecdotal' red herring. Many see these negative impacts in their districts and know they exist from their constituents. For example, Rep. Emilie Kornheiser, for one, is keenly aware of the havoc that unregulated absentee owner STRs are playing in her district (WDH-2-1, i.e., Brattleboro), which borders Massachusetts, by Massachusettsans buying up second homes for AirBnBs thus drying up the supply of affordable housing for her Vermont constituents. Ergo, she introduced H200 of 2021. Also, the negative impacts have been found as judicial fact by Judge Thomas Z. Carlson in the case of Krancer v. McCready, Civil Division Docket no. 112-8-12 Lecv (Lamoille County), a court decision I will discuss in more detail later. A copy of Judge Carlson's opinion is attached hereto as Exhibit B.

In addition, the Lamoille Working Communities Challenge has conducted a comprehensive empirical study of community members regarding information and beliefs regarding the growth of STRs in Lamoille County. The results of that work can be found at the following links outlined below. So, the assertion that information delineating the deleterious impacts of STRs is completely false.

- https://docs.google.com/document/d/1fcpwPrVjdTIawnjCikrHkhcTAbt_IUVb5Wuj5mT05U/edit
- <https://docs.google.com/spreadsheets/d/17wSrsLBjc361kxllpycKI43zw9NzgZxR5L1pVkyPvyI/edit#gid=1741533780>
- <https://docs.google.com/forms/d/1r-oZILYOsSZaAZRCXi2DaH4K-lspRSyMRNdKOyTcP0w/viewanalytics>
- https://uwlamaille.org/file_download/10d63c50-4063-430a-8986-f41efd55e729 (download link for the entire study with survey results by town in PDF form)

Another diversionary tactic by the STR lobby (for specific example the lobbyist group "Vermont Short Term Rental Alliance," <https://vtstra.org> represented by lobby firm 'MMR, LLC' in Montpelier) and rental platform lobby is to claim they are 'educating their landlords', whatever that means. Bottom line is that is merely word salad and an obvious effort to forestall reasonable and sensible regulation. It's like the say in athletics – you can't teach speed. Likewise, you can't teach 'stake in neighborhood' to absentee owners who are hundreds of miles away from the neighborhood. Also, This Legislature would not eschew environmental laws and regulations or worker safety laws and regulations or traffic safety laws and regulations because the companies are "educating" their employees, or the AAA is 'educating' drivers, nor should it be satisfied with the STR lobby mantra here.

The problem of unregulated STRs is directly related to the shortage of affordable available housing, whether long-term rental or owned in the State of Vermont. The detrimental impacts of STRs are, of course, much broader than that and I will discuss a broad range of them besides the drying up and crowding out of affordable housing.

The problems presented by this unregulated and unrestricted practice are myriad. Unregulated STRs create and present at least these categories of problems, in no particular order of ranking are set forth below. After setting forth the problems I will present to you some thoughts on potential policy solutions that you can enact to solve these problems.

It is important to note in that regard that this is a State issue because the problems catalogued here are State-wide problems requiring State level action and cannot be solved comprehensively on a piecemeal basis from one municipality to another.

- **Environmental threat to the groundwaters of Vermont**
- **Social justice inequality**
 - **Favoring the rich over the poor and middle class**
 - **Exacerbation of inequality of wealth distribution, i.e., the Wealth Gap**
- **Landlord abuses of power over tenants**
- **Favoring interests of out-of-staters over Vermont residents**
- **Regulatory unfairness, i.e., unlevel playing field vis-à-vis regulated lodging businesses in Vermont**
- **Direct threat to human safety because of fire hazards**
- **Lack of availability of long-term rentals at affordable prices exacerbates Vermont's homelessness problem and constrains the availability of workforce to Vermont small businesses which presents and the threat to the health of Vermont small businesses that depend on the availability of a workforce**
- **Neighborhood nuisances and Destruction of Character of Neighborhoods (the 'party house')**

Some of these categories overlap with each other and this may not even be an exhaustive list, but I will focus on these categories of problems and discuss them briefly.

For the record, as mentioned before, I have direct experience with the STR problem as I went to court to shut down an AirBnB "party house" which posed a nuisance to our quiet residential family neighborhood and that case was documented in the press. As also mentioned before, Judge Carlson ruled in our favor and granted a preliminary injunction to abate the nuisance. See attached hereto as Exhibit C news article by Dan D'Ambrosio which appeared in both the Burlington Free Press and USA Today in 2021.

Environmental Threat. STRs almost always advertise for house groups that are larger than the permitted capacity for on-lot septic treatment system capacity. In our case, the AirBnB STR advertisements marketed to groups "16+ guests" with "8 bedrooms" where the applicable zoning and wastewater permit provided for a maximum of only 6 bedrooms and 12 people. Thus, the zoning permit and wastewater treatment permit capacity was being violated. This situation is being played out all over Vermont with over-capacity STRs. This presents a direct threat of septic system failures and resultant pollution to the waters of Vermont.

Thus, to be in favor of unrestricted STRs or to sit idly by and allow that state of affairs to continue is to be against protecting the environment and in favor of threats and/or actual pollution to the environment. On the other hand, to be in favor of sensible regulation of STRs is to be in favor of protecting the environment.

Social Injustice. An elephant in the room about the STR problem is that absentee STRs are, by definition, owned by wealthier individuals who can afford a second (or third) home for investment purposes. Unregulated STRs thus favor the rich over the poor and middle class, i.e., or to put it colloquially; the '1 percenters over the 99 percenters'. This also

exacerbates the ongoing social injustice problem America confronts of inequality in wealth distribution.

Thus, to be in favor of unrestricted STRs or to sit idly by and allow that state of affairs to continue is to be in favor of favoring the rich over the poor and middle class Vermont workers and in favor of making the distribution of wealth (the Wealth Gap) more unequal than it already is. On the other hand, to be in favor of sensible regulation of STRs is to protect the interests of the poor and middle class working Vermonters and to do something to make more equitable the distribution of wealth.

Landlord Abuse of Power Over Tenants. The cases are myriad in this area. Landlords mercurially and suddenly demanding higher rent from long term renters in a thinly veiled effort to force them out (i.e., constructively evicting them) out so they can convert to STRs. Actual evictions are taking place as well with landlords simply refusing to renew long term leases forcing long term tenants to move out because the landlord wants to convert the space to STRs. There are other instances of wholesale repurposing of multi-unit long term rental buildings to repurpose them for STRs because there is more profit to be made. This abuse of power – based upon economic inequity and inequity of power - has no place in Vermont.

This problem has a particularly cruel impact on Vermont's growing population of senior citizens many of whom are on a fixed income. The last census reports that Vermont's population is becoming proportionally older, and Vermont is one of the top ranked states in terms of proportion of elderly population. The Vermont Legislative Joint Fiscal Office's just published Issue Brief, "Vermont's Population Estimates by Age Group: 2021 Compared With 2010" (January 12, 2023) states that, "the number of Vermonters ages 65 to 79 increased significantly, up more than 40,000, as many baby boomers moved into retirement years; the share of Vermonters ages 65 to 79 rose from 10.5 percent to 16.4 percent."¹ A copy of the Joint Fiscal Office's Report is attached hereto as Exhibit D.

Thus, to be in favor of unrestricted STRs or to sit idly by and allow that state of affairs to continue is to be in favor of perpetuating abuse based on economic inequity and inequity of power – which impacts everyone but particularly Vermont's vulnerable elderly population. On the other hand, to be in favor of sensible restrictions on STRs is to be in favor of protecting the vulnerable over the powerful, and the poor and middle working class over the wealthy to boot.

Favoring Non-Vermonters Over Vermonters. Again, to a very large extent, absentee owners of STR investment second homes are not Vermont residents. This is evident and widely known by those familiar with the situation. You members of the Vermont Legislature represent Vermont voters and Vermont persons, not New Yorkers or Massachusetts people. The current state of affairs unfairly favors out-of-staters to your own constituents.

Thus, to be in favor of unrestricted STRs or to sit idly by and allow that state of affairs to continue is to favor out-of-staters over Vermonters (your own constituents). On

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https://ljfo.vermont.gov/assets/Subjects/Demographics/a9239392f8/VT_population_2021_vs_2010.pdf

the other hand, to favor some sensible restrictions on STRs is to favor Vermonters over out-of-staters.

Regulatory Unfairness, i.e., Unlevel Playing Field vis-à-vis Regulated Lodging Businesses in Vermont. As just discussed, and as found by Judge Carlson, STRs are ‘a determined business model for commercial use of ... property’ and they are ‘functionally indistinguishable from any one of a number of commercial hospitality businesses’ operating in Vermont. However, they are not subject to the same regulations for public health and safety, or other subjects, as are commercial lodging establishments.

This is patently unfair and discriminatory. STRs do not have to pay the costs of compliance with commercial lodging regulations as do other commercial lodging establishments. This creates a government-created unfair advantage for STRs over law-abiding other commercial lodging establishments. Also, all Vermonters are, in effect, subsidizing the STR owners and, perversely, that includes other commercial lodging establishments that do comply with applicable rules and regulations who are subsidizing their own competition.

Thus, to be in favor of unrestricted STRs or to sit idly by and allow that state of affairs to continue is to be in favor of unfair competition, discriminating against law-abiding Vermont lodging establishments who comply with applicable rules and regulations and having all Vermonters subsidize the STR commercial lodging business. On the other hand, to be in favor of sensible restrictions on STRs is to be in favor of Vermont lodging businesses who comply with the law, against unfair competition and against tax-payer subsidization of the STR commercial lodging business.

Public Safety Threat of STRs. Regretfully, it is only a matter of time before a catastrophic fire kills people at one of the overcrowded and unregulated STRs. Case in point: on a February 12, 2021 post in the Stowe Front Page Forum, an AirBnB advertisement with link was featured which states:

3 bedrooms, laundry and a bath are located downstairs **(1 of them technically isn't a bedroom bc it has a small window (best sleeping room in the house) but lacks an egress window. Nevertheless it is a small bedroom with a closet and dresser.)** The other two bedrooms boast large patio doors that flood the spaces with light. One bedroom would be perfect for kids, as there are twin bunk beds, toys, books, and an electronic drum set. We can make the bedding gender specific if you would like!

See:

https://www.airbnb.com/rooms/48110303?source_impression_id=p3_1675855364_VzvGYkzgj5svrpWL (emphasis added).

This is unlikely to be an isolated case and is exemplary of the metaphorical ticking time bombs that are dotted all over Vermont. This one is a flashing red danger light: ‘sleeping room with no egress window’. This is patently outrageous.

It is especially noteworthy that this advertisement focused on “kids”. Kids do not even get to make the voluntary or knowing choice to inhabit these fire traps and to choose

to accept the risk; their parents decide that for them. Children are particularly vulnerable then to this danger. Do we have to wait for a terrible fire with kids and others dying before we do something in Vermont about this problem?

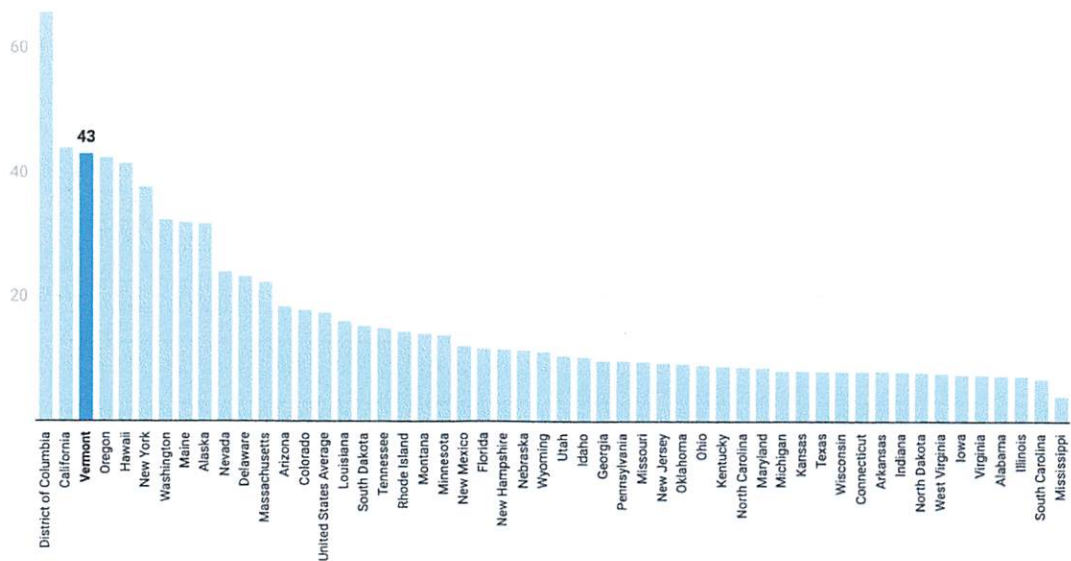
Thus, to be in favor of unrestricted STRs or to sit idly by and allow that state of affairs to continue is to turn a blind eye to a clear and present life-and-death threat in our own backyard, particularly as to children who are most vulnerable. On the other hand, to be in favor of sensible restrictions on STRs is to be in favor of protecting the safety of people including vulnerable children.

Lack of Available Supply of Affordable Long-Term Rentals And Owned Housing. This problem has been documented in Vermont and elsewhere. As the demand for houses for STRs goes up and they get bought for use as absentee owner STRs, the supply of affordable goes down as the price of housing goes up and middle-class working Vermonters and the elderly on fixed incomes are priced out of large swaths of the housing market. This problem has many tentacles and implications. Beyond being simply unfair and perilous to low income and middle-class working-class Vermonters and senior citizens on a fixed income it is a dagger in the back to Vermont's already prodigious homelessness problem and poses a shortage of supply of available workforce to Vermont small business owners because actual and potential workers cannot find affordable housing near the workplace.

- **Homelessness Problem Aggravated.** This problem is especially acute and tragic for Vermont which ranks unfortunately high in the nation in the problem of homelessness. Homelessness is directly driven by the lack of availability of affordable long term rental or owned housing. According to a VTDigger story dated July 28, 2022, "more people are known to be experiencing homelessness in Vermont now than during any other year since the state auditor's report started tracking the numbers in 2014." <https://vtdigger.org/2022/07/28/homelessness-continues-to-rise-in-vermont-since-pandemics-onset-despite-increased-spending/> Indeed, according to a recent report, Vermont "has the second-highest per-capita rate of homelessness in the country, behind only California. That's according to the **latest figures**, published in December, from the U.S. Department of Housing and Urban Development. Based on a nationwide tally taken last January, the federal government estimates that 43.1 out of every 10,000 Vermonters are unhoused." See VTDigger, February 7, 2023. <https://vtdigger.org/2023/02/07/vermonts-rates-of-homelessness-are-almost-the-worst-in-the-country/> The story cites the U.S. Department of Housing and Urban Development Office of Community Planning and Development's 2022 Annual Homelessness Assessment Report (AHAR) to Congress which is authoritative. See: <https://www.huduser.gov/portal/sites/default/files/pdf/2022-AHAR-Part-1.pdf>. Here is a telling graphic:

Homelessness rates by state

Based on a point-in-time count conducted in each state in January:



- Shortage of Workers and Economic ‘Death Spiral’.** In terms of worker shortage, the danger to Vermont’s economy is both existential and clear and present. This is already evident in Stowe and elsewhere where small business employers like restaurants, cleaning services, shops, etc. are finding it harder and harder to staff their establishments with workers. This is forcing small Vermont businesses to seriously curtail operations or shutter. This has the snowball negative impact of shuttering businesses and shrinking the economy. Ironically, this is a cannibalism problem even for the STRs. As workers become scarce and small businesses who serve the STR inhabitants close there will be an implosion of the STR market itself. This phenomenon is well known by economists and business analysts and is referred to as the “death spiral”. The term was coined to describe what happens in the electric and gas utility business when electric and or gas providers loose rate payer base to the installation and wide use of off grid power production or migration completely off the grid system.² This “utility death spiral” presents an existential risk to electric and/or gas utilities. The same phenomenon occurring here now with respect to unregulated STRs likewise presents an existential threat to Vermont’s economy.

This ‘death spiral’ problem was highlighted by the recent Joint Fiscal Office Report referred to earlier. The Report states that “[s]ince 2010, Vermont’s population increased by roughly 20,000 people, including a big swell in older people, ages 65 to 79. But the number

² <https://oilprice.com/Energy/General/Is-The-US-Utility-Industry-Breaking-Free-From-Its-Death-Spiral.html> and <https://www.forbes.com/sites/energyinnovation/2017/09/25/three-ways-electric-utilities-can-avoid-a-death-spiral/?sh=5fd580a0758d>

of children and mid-career working age folks dropped.” The report further states that, “[u]nless Vermonters ages 65 and older decide to leave Vermont in droves or younger working-age people flock to the state in greater numbers, Vermonters ratio of old to working-age people will continue to rise, placing a greater burden on workers to support both young and old.” Thus, the demographic table is set in Vermont right now for the economic ‘death spiral’ and unregulated STRs are a substantial contributor to the acceleration to that end.

Thus, to be in favor of unrestricted STRs or to sit idly by and allow that state of affairs to continue is to be in favor continuing the shrinkage of affordable long-term rental and owned housing to low income, working-class and vulnerable elderly Vermonters and being complicit in both the aggravation of Vermont’s already out of control homelessness problem and the possible collapse of micro-economies or even the State economy. On the other hand, to be in favor of sensible restrictions on STRs is to be in favor of lending a hand to working-class Vermonters who want to live here (and near their places of employment), providing relief for the many homeless of Vermont who want a place to live, and small business owners who employ those in the workforce looking for a place to live so they can work.

Neighborhood Nuisances and Destruction of Character of Neighborhoods. I have direct experience with this problem; and Vermont Superior Court Judge Thomas Z. Carlson and Assistant Judge Karen Bradley saw it the exact same way we did. As mentioned earlier my wife and I sued in 2018 to attempt to quiet an AirBnB ‘party house’ which appeared in our up until that time quiet residential neighborhood.

Among other allegations we made (which the Judge found to be true) was that the activities at the house constituted a nuisance and obnoxious conditions. The Judges found in their decision granting our motion for preliminary injunction, among other things, that the use of the house was not ‘harmonious’ and was ‘noxious and offensive activity that has extended beyond a single event’. They also found, which is indeed relevant to certain other discussion points in this testimony, the operation:

‘is a determined business model for commercial use of the property that is functionally indistinguishable from any one of a number of commercial hospitality businesses on Mountain Road, except for the additional objectionable fact that the use is entirely unsupervised and unmanaged except from a distance of more than a hundred miles.’

Obviously, absentee often out-of-state commercial STR owners have no actual stake in the neighborhoods or communities in which their STRs are located – they don’t live there and are not present there. They have no interactions with neighbors, and they don’t have to. These STR owners have no accountability. As Judge Carlson wrote in the Krancer v. McCready court opinion, this is the “additionally objectionable fact that the use [of the STR by renters] in entirely unsupervised and unmanaged except from a distance of more than a hundred miles.”

As mentioned, this legal case received press attention with articles about it appearing in the Burlington Free Press and USA Today. I have attached a copy of the Judges’ Opinion and the news article to this Testimony.

Thus, to be in favor of unrestricted STRs or to sit idly by and allow that state of affairs to continue is to be in favor of nuisances and the destruction of the character of Vermont neighborhoods. On the other hand, to be in favor of sensible restrictions on STRs is to be in favor of Vermont neighbors and Vermont neighborhoods.

Conclusion and Potential Policy Solutions. Thank you for this opportunity to provide this written testimony. It is important to note that these problems presented by STRs are worsening rapidly because the number of STRs is growing rapidly and the aggressiveness of the marketing tactics to turn houses into AirBnB commercial establishments and to fill them with paying transient customers is unrelenting. As proof of that, just last December I received a solicitation via USPS at my Pennsylvania residence soliciting my participation in “looking to partner with land owners to develop 4-10 acre parcels of land, with the goal of building luxury short-term rentals that generate passive monthly cash flow.” A copy of that solicitation letter is attached as Exhibit E. In addition I have personally received numerous telephone calls from Vacasa, the vacation rental management company soliciting us to hold out our property as an STR.

There are deep pockets, lobbyists and greed, both corporate and individual, driving these efforts. These problems are fast approaching the point of no return which is exactly where the pro-STR lobby and the short-term rental platform lobby wants it to go. The people getting hurt most by the negative impacts of STRs have no lobby group or lobbyists. They are everyday Vermonters and they rely on you, their State Legislators, to represent their interests and hear them over the paid lobbyists and vested interests.

The question is whether the Vermont Legislature will be complicit in this downward spiral which hurts Vermonters or will it step up and provide for reasonable regulations.

- **Potential Policy Solutions.**
 - **The essential policy solution is to pass legislation that restricts short-term rentals (30 days or fewer) to owner-occupied dwellings only.**

Short of requiring that short term rentals be allowed only for owner occupied property, then pass legislation that:

- requires that absentee short-term rental hosts register as such with the applicable jurisdictional department of the State of Vermont government;
- requires absentee short-term rental hosts to apply for a zoning permit and register as a rental unit with the jurisdictional local and state government department;
- requires that absentee short-term rental hosts provide one parking space per rented room;
- requires that for any absentee short-term rental hosts the host or a surrogate with oversight responsibility be present at the site during the any rental period for reasonable hours during the day and night;

- requires that any absentee short-term rental premises not be allowed to be occupied by more than the limits presented by local zoning and/or the applicable on-lot septic system permit;
- requires that absentee short-term rental hosts have liability insurance in place in a minimum amount of \$4,000,000 and have a certificate of insurance visibly displayed on the premises;
- requires that absentee short term rental properties be in compliance with all applicable local and state fire code requirements;
- requires that absentee short-term rental hosts have an inspection performed by a licensed inspection firm or individual annually for compliance with all building and fire code regulations and have the host certify to the State that such inspection has been passed (and require that all inspection documents be present on the site and available to jurisdictional state and/or local officials to review upon request);
- requires that absentee short-term rental hosts pay any and all applicable state lodging and meals taxes.

None of these proposed policy solutions are new in this field of short-term rentals and, in fact, one need only look to Burlington, Vermont and Morrisville, Vermont as models for what the State Legislature can do. For Morrisville, see: <https://morristownvt.org/index.asp?SEC=1F833527-930D-444F-B161-DOB40F15360F&DE=E8BAD29D-64B3-4B11-846D-E7B552F1D2C9>. Click "Zoning Bylaws 12.2022" on the left-hand side of the displayed page.

In Morrisville for example, short-term rentals are limited to only where the subject property is the owner's/host's primary Vermont residence. The Zoning Bylaws there define the term "short-term housing" as 'a structure or combination of structures on the same lot that is required to be Owner Occupied, renting Bedrooms to persons for fewer than 30 consecutive days.' Morrisville 2022 Zoning and Subdivision Bylaws, amended as of December 2022, Section 910 (Morrisville 2022 Bylaws). The Morrisville 2022 Bylaws define the term "Owner Occupied" as '...occupancy of the premises by the property owner, where the subject property is the owner's primary Vermont residence.' The term "Bedroom" is defined as 'a room with one or more beds in it being used for sleeping purposes'.

Also, none of these measures would have any impact on, or even applicability to, owners who rent a room or rooms in their house in order to earn extra income.

As mentioned at the outset, this remains a State issue because the problems catalogued here are State-wide problems requiring State action and cannot be solved comprehensively on a piecemeal basis from one municipality to another. Furthermore, some, if not many, municipalities will be unwilling or lack the courage and fortitude to take on these issues and will simply look the other way or claim that they are waiting for State action.

My sense is that the Vermont Legislature will not be complicit in knowingly hurting large and diverse segments of its own constituents by doing nothing. I stand ready to assist the State Legislature to help it formulate sensible and reasonable regulations of STRs so that the problems discussed above, and other problems presented by unregulated absentee owner STRs, can be ameliorated in a way that is fair to everyone.

Respectfully Submitted,



2/14/2023

Michael L. Krancer, Esquire

Exhibit A – Michael Krancer CV

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EXPERIENCE

PRINCIPAL AND CO-FOUNDER, SILENT MAJORITY STRATEGIES, LLC (2016 to Present)

Silent Majority Strategies is a regulatory and permitting advisory consultancy. We are about changing the agenda and proactively advancing our clients' issues and public policy solutions. We seek to take advantage of windows of opportunity, particularly within the disruptive and unsettled arena of permitting and regulatory proceedings. By focusing on the regulatory and permitting process, we are able to achieve our clients' goals. SMS's past and/or present client base spans a wide diversity of sectors of the economy including, but not limited to, energy and environmental, agricultural, water treatment, high tech, cybersecurity, manufacturing among others.

SR. COUNSEL, CHAIR, ENERGY INDUSTRY TEAM, BLANK ROME LLP, Philadelphia, PA (2013 to 2017)

Experienced, well-known policy and substantive thought leader and expert in energy policy, development and use. Valued advisor to U.S. and global energy companies of all types regarding the full range of legal, public policy, government relations, state and federal regulatory, financial, corporate, and labor matters with 20+ years of energy industry and public policy experience at the highest corporate and policy-making levels. Clients include upstream, midstream and downstream energy companies, including several petroleum refineries.

CO-FOUNDER & PRINCIPAL, SILENT MAJORITY STRATEGIES LLC. (SMS) (2016 to Present)

SMS, which is unrelated to Blank Rome, is an energy focused strategic communications, permitting strategy and regulatory strategy firm. SMS works with the energy industry to provide the public with the facts regarding the benefits of intelligent energy policy and development. SMS also works to dispel misinformation by opponents to sensible and environmentally responsible energy policy. Our products include strategic message development and delivery, consultation on public testimony, strategy for permitting and for commenting on both state and federal rulemaking.

SECRETARY, PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION, Harrisburg, PA (2011-2013)

Served as Secretary of the Pennsylvania Department of Environmental Protection (DEP) in the Cabinet of Governor Tom Corbett. Chief Executive Officer of 2,600-employee agency with ten direct reports and more than a dozen first-level indirect reports. Oversaw the environmentally responsible development of shale natural gas and other energy sector development in Pennsylvania and was a key member of the Governor's team for policy development.

Prominent, vocal and sought-after speaker and writer before news outlets and public and private fora. Testified frequently on energy issues before the United States Congress. Created strong and effective relationships with numerous members of the Pennsylvania Federal Congressional delegation as well as other key members of Congress. Also served as Pennsylvania's Cabinet-level representative to the Republican Governors Association (RGA) Energy Policy Committee.

A prime architect of the RGA's comprehensive *Energy Blueprint for America* released in August 2012. Also consulting advisor in 2012 (personal time) for the Romney for President Campaign providing substantive input to the Romney/Ryan *Plan for Energy Independence* and twice acted as a surrogate for the Romney For President Campaign in head-to-head debates on energy policy in the Fall of 2012.

ASSISTANT GENERAL COUNSEL, ENVIRONMENTAL, HEALTH & SAFETY, EXELON CORPORATION, Philadelphia and Kennett Square, PA (2008-2010)

Provided legal counsel in the areas of environmental law, health and safety compliance, and litigation. Worked on energy policy matters and with the company's government relations team. Participated on the Exelon issue team that successfully obtained the positive House Appropriations Committee vote to amend the state's Renewable Portfolio Standards (RPS) to provide for "new nuclear" (*i.e.*, nuclear plant power uprates) to qualify as a renewable and clean energy source. Also advised the company on the impact of the District of Columbia

Circuit Court decision in the Clean Air Interstate Rule (CAIR) case and its aftermath as well as the impending EPA regulation of carbon emissions.

CANDIDATE FOR JUSTICE OF THE PENNSYLVANIA SUPREME COURT (2007)

Stepped down as Chief Judge of the Pennsylvania Environmental Hearing Board in April 2007 to devote full time to candidacy for Justice of the Pennsylvania Supreme Court. Won the contested Republican Party nomination to run for Justice on the statewide ticket through personal relationship-building with the over 300 State Committee members who elected the party nominee at the State Republican Party Convention in February 2007. Won a hard-fought statewide Republican primary election in May 2007 but was unsuccessful in the general election in November 2007.

JUDGE AND CHIEF JUDGE, PENNSYLVANIA ENVIRONMENTAL HEARING BOARD, Harrisburg, PA (1999-2007 and 2008-2011)

Judge and then Chief Judge on the five-judge Pennsylvania Environmental Hearing Board (EHB). The EHB is the state-wide trial/appellate court for environmental matters involving appeals from actions of the DEP. Nominated by Republican Governor Tom Ridge in 1999 and unanimously confirmed by the Pennsylvania Senate. Appointed Chief Judge by Governor Edward G. Rendell in 2003. While Chief Judge, provided leadership in case stewardship and docket management by ensuring that all cases were heard and decided in a timely manner. Nominated to return as Judge in 2008 and, again, unanimously confirmed by the Pennsylvania Senate.

LITIGATION PARTNER, BLANK ROME LLP, Philadelphia, PA (1992-1999)

Developed a complex commercial, white collar criminal and environmental litigation practice. Clients included oil refineries and other energy supply chain companies. Among other things, defended a Philadelphia-region oil refinery in patent infringement litigation involving a process for slipstream injection of aqueous antimony oxide catalyst for petroleum cracking.

LITIGATION ASSOCIATE AND PARTNER, DILWORTH PAXSON LLP, Philadelphia, PA (1984-1992)

Practiced complex commercial and white collar criminal defense litigation. Emphasis on environmental civil and criminal matters. Among other things, defended companies in numerous Superfund litigations, defended a criminal defendant in a RCRA hazardous waste disposal prosecution, and successfully second-chaired a federal court perjury defense trial.

EDUCATION

WASHINGTON & LEE UNIVERSITY SCHOOL OF LAW, J.D., 1983

Graduated first in class

Summa cum laude

Order of the Coif

Law Review, Notes writer and Note and Comment Editor

UNIVERSITY OF VIRGINIA, B.A., Economics, 1980

Graduated with distinction

BAR ADMISSIONS

United States Supreme Court

Pennsylvania and New Jersey (state and federal courts)

GENERAL

In 2015, Mr. Krancer was recognized by *Chambers USA* as a leader in environment law in Pennsylvania. *Chambers* stated that he is "particularly respected for his expertise in advising clients in the energy sector" and "attacks problems head-on." In 2016, he was appointed to the Energy *Law360* editorial advisory board.

Mr. Krancer is a prolific writer on energy topics, a former regular contributor to *Forbes.com* and a contributor to *Philadelphia Legal Intelligencer* as well as *Roll Call* and *The Hill* on energy and energy policy matters. He is frequently quoted on energy issues in regional and national print and other media. He has had opinion pieces published in the *Philadelphia Inquirer*, *Pittsburgh Post-Gazette*, *Pittsburgh Trib Live* and other publications.

Dated: April 8, 2022

Exhibit B – Judge Carlson Opinion in Krancer v. McCready, Superior Court, Civil Division, Lamoille Unit, Docket No. 112-8-18 Lecv. Issued August 21, 2018.

STATE OF VERMONT

SUPERIOR COURT
Lamoille Unit

CIVIL DIVISION
Docket No. 112-8-18 Lecv

Michael Krancer,
Barbara Krancer,
Plaintiffs

v.

Anders P. McCready,
Scott C. McCready,
Ann P. McCready,
Defendants

DECISION ON MOTION **FILED**
AUG 22 2018
VERMONT SUPERIOR COURT
LAMOILLE UNIT

The court heard Plaintiffs' motion for preliminary injunction today, Plaintiffs appearing with counsel Harold Stevens, Esq, and Defendants Anders and Scott McCready appearing with counsel Peter Anderson, Esq. Testimony was taken from Anders McReady and Robert Poole for purposes of Plaintiffs' case, and a variety of exhibits were admitted. Defendant elected not to offer any additional testimony at this stage. Based on the testimony and exhibits admitted, the court makes the following findings of fact and conclusions for purposes of the motion and expressly without prejudice to further hearing on the merits of the case.

Findings of Fact

Defendants purchased a residence known as 456 Bull Moose Ridge Road in Stowe, in June of 2017. Parents Scott and Ann McCready own the property as joint tenants with their son Anders. Parents McCready reside in Harvard, Massachusetts. Anders McCready has spent overnights at the property but for the most part resides with his girlfriend in the Boston area. He has a Massachusetts driver's license. He is registered to vote in Stowe but has not voted there yet.

The property rests within a nine-lot subdivision known as Bull Moose Ridge Properties. Lots within the subdivision are just over ten acres each, although four are bisected by the access road. Defendants' property is smack in the middle, surrounded on all sides by other residents of the subdivision. All lots are served by Bull Moose Ridge Road and short extensions thereof.

The property deed subjects the property to the terms, covenants, conditions, etc. of a Declaration of Affirmative and Restrictive Covenants dated June 16, 1987. That Declaration provides, inter alia:

Use Restrictions

1. In order to promote the harmonious use of the subdivision for residential purposes, the use of each lot shall be restricted to residential purposes only. This shall not preclude the use of a lot of dwelling for the incidental derivation of income provided that each tenant shall use the unit for residential purposes. Use of a unit for temporary abode while on vacation shall be considered a residential purpose...
3. No noxious or offensive activity shall be carried on in or on any lot...

The Declaration further provides that "any owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions...imposed by the provisions of this Declaration."

The State of Vermont Land Use Permit Amendment issued in 2001 for the property restricts its use to a total of six bedrooms, including five in the main house and one in an apartment. State of Vermont Water Supply and Wastewater Disposal permit for the property issued in 1998 authorizes a total of five bedrooms. Town of Stowe Zoning Permit issued in 1999 approved a two-bedroom apartment addition to the existing four bedroom home. The permitting picture is not entirely clear, but it does appear that one way and another, there are permits and approvals for a maximum of six bedrooms including the apartment.

Since Defendants acquired the property in June 2017, they have rented it out at least twenty times to short term tenants. As of August 2018, they are advertising the property on Airbnb as "Bull Moose Lodge" with 8 bedrooms, 16 beds, 5 baths and room for "16+" guests. The ad goes on to say "the home is designed perfectly for a multi-family gathering or a getaway with friends" at a cost of \$1000 per night with a minimum stay of two nights. On Stowecation.com, the property is advertised as an "expansive 6-bedroom 4-bathroom home" with "dining room table that seats 16 people in comfort." Also on that site, Defendants state that "We also offer a full array of services for larger events, and we are excited to announce the availability of a classically trained chef for weekends!" On both sites, Anders McCready is identified as the host.

Defendants offered no evidence as to their own use and occupancy of the property, other than Anders McCready's initial inability to say whether he was there for any of the rentals and then vague mention that he is "usually around at the beginning or end of a rental" and used to spend more time at the property "before this came up." (court is not intending to mean those are exact quotes but rather close approximations).

On Memorial Day Weekend 2018, neighbor Robert Poole called the police to complain about late night noise from an apparent bachelor party that had started in the afternoon and continued after midnight. Mr. Poole's home is located 1000-1500 feet away from the Defendants' house. There were 5-6 cars and a bus on the property, with about 15 guys enjoying loud music. Plaintiffs' attorney sent Defendants a cease and desist letter on June 22, 2018. Defendants' Massachusetts attorney sent a denial and refusal letter in reply. This action followed. Undaunted, weekend rentals continued through the summer, including another loud party just last week that caused Mr. Poole to call the police again and required him and his wife to move inside with windows closed in order to maintain a normal conversation and sleep.

Once again it appeared to be a bachelor party. Mr. Poole has never seen Anders McCready in the neighborhood.

Plaintiffs are owners in the subdivision, although their actual use of their property (full-time/part time) is not in evidence. Their property adjoins Defendants' property, and although distances are not closely measurable from the evidence presented so far, it appears likely that Plaintiffs' home is within about 1000 feet of Defendants' home and perhaps significantly closer. In any event, they are clearly within the same range of sound and disturbance experienced by Mr. Poole, even if this is their second home, regular use of the adjoining property as a loud party venue poses the prospect of irreparable harm.

Apparently motivated by the problem, several of the lot owners attempted in July 2018 to amend the Declaration to more clearly prohibit rental use of homes in the neighborhood. Defendants question the validity of the attempted amendment and testimony did not extend to the specifics of its' adoption so the court makes no finding as to its validity for present purposes.

Discussion and Conclusions

Although the Declaration obviously predated Airbnb by about 30 years, and "incidental derivation of income" from the property by way of Airbnb rentals would appear permitted subject to the other use limitations expressed, Defendants' current use of the property is not consistent with all apparent intent and meaning of the residential use restriction in the Declaration. It is neither "harmonious" nor "incidental." By all appearance so far, it is a determined business model for commercial use of the property that is functionally indistinguishable from any one of a number of commercial hospitality businesses on Mountain Road, except for the additionally objectionable fact that the use is entirely unsupervised and unmanaged except from a distance of more than a hundred miles. Defendant offered no evidence of limitation on the offered use of the property for transient occupation by large parties. This is clearly not the residential use contemplated in the Declaration.

Moreover, Defendants' business invitees have clearly engaged in "noxious and offensive activity" that has extended beyond the "single event" as Defendants' lawyer characterized it. And they have offered no reassurance of any kind that it will not occur again and again given the nature of Defendants' marketing of the property as a venue for large parties without management or supervision.

For those reasons and the prospect of irreparable harm found above, the court concludes that the right to relief is clear. See *Committee to Save the Bishop's House v. Medical Center Hospital of Vermont*, 136 Vt. 213, 218 (1978). The more difficult question is how to fashion a remedy by way of preliminary injunction and the specific acts to be enjoined. See *Brower v. Hill*, 133 Vt. 599 (1975). The court does not see that all rental of Defendants' property is prohibited by the Declaration. It clearly contemplates at least "incidental... income" from rentals. The court does see that general advertising of the property for short term use by large groups without on-site management and without limitation of frequency is a recipe for ongoing violation of the Declaration and should be enjoined.

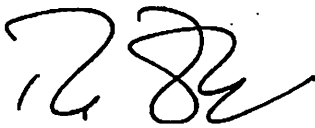
The court further concludes that given the clarity of the reasons for an injunction in this case and the parameters of permitted rentals generally set forth above, there is good cause to waive any requirement of security as generally required by Rule 65(c). The court is not going to shut down all rental income from the property. The court can imagine prospects for substantial ongoing rental income from the property, operating within the parameters of injunction outlined above. The court also notes that Defendants opted not to offer any evidence of prospective lost income if their existing marketing scheme were to be restrained, so there is no specific balancing of harm to be done or means of calculating reasonable security at this point.

The court is going to give the parties until August 28, 2018 to try to reach an agreement as to specific restrictions to be incorporated into a preliminary injunction by way of implementing the court's conclusion above. If no such agreement is filed by noon on August 28, the court will fashion its own specific injunction. Any such agreement would be without prejudice to further hearing and the terms of any final injunction that may be issued after full hearing on the merits.

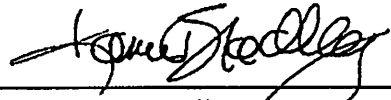
In the meantime, Defendants shall not agree to any further rental booking of the property pending issuance of further preliminary injunction. Any rental booking confirmed as of the date hereof may proceed, with Defendants liable to Plaintiffs for any further violation of the Declaration arising therefrom by way of noxious or offensive activity.

So Ordered.

Electronically signed on August 21, 2018 at 04:14 PM pursuant to V.R.E.F. 7(d).



Thomas Z. Carlson
Superior Court Judge



Karen Bradley
Assistant Judge

ENTRY REGARDING MOTION

Krancer et al vs. McCready et al

112-8-18 Lecv

FILED

AUG 22 2018

VERMONT SUPERIOR COURT
LAMOILLE UNIT

Title:

Motion to Intervene, *R. 24 M to Amend C per R. 15*

No. 3

Filed on: August 8, 2018 (*same day as service*)

Filed By: Stevens, Harold B. III, Attorney for:
Plaintiff Bullmoose Ridge Properties
Plaintiff DBLB, LLC

Response: NONE

Granted Compliance by _____

Denied

Scheduled for hearing on: 9/14/2018 at 11:00AM Time Allotted 45 min

Other

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.....
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.....
.....
.....
.....

[Signature]
Judge

8/22/18
Date

Date copies sent to: 8/22/2018

Clerk's Initials AP

Copies sent to:

- Attorney Harold B. Stevens III for Plaintiff Michael Krancer
- Attorney Harold B. Stevens III for Plaintiff Barbara Krancer
- Defendant Anders P. McCready
- Defendant Scott C. McCready
- Defendant Ann P. McCready } P. Anderson
- Attorney Erin Miller Heins for party 1 Co-counsel
- Attorney Erin Miller Heins for party 2 Co-counsel
- Attorney Harold B. Stevens III for Plaintiff Bullmoose Ridge Properties
- Attorney Harold B. Stevens III for Plaintiff DBLB, LLC

Exhibit C – Burlington Free Press article by Dan D'Ambrosio, BFP, February 25, 2021

Burlington Free Press

NEWS

Airbnb listing is for 'Bull Moose Lodge': VT considers laws for short-term rentals

Dan D'Ambrosio Burlington Free Press

Published 6:45 a.m. ET Feb. 25, 2021 | Updated 6:45 a.m. ET Feb. 25, 2021

STOWE - Bob Poole noticed the traffic first.

Poole and his wife bought a house on Stowe's Bull Moose Ridge Road in 2014 because of the solitude. Poole, a former executive editor of National Geographic magazine, spent four decades working in the Washington, D.C., area. Vermont was his Nirvana.

"My wife and I both loved it here," Poole said. "We started looking around. We found this place and made plans to sell everything in Virginia and move here. The big attraction was the quiet."

One example: Every spring the woodcocks would put on a dramatic show of mating rituals just across the narrow dirt road from Poole's home. On a busy day, three or four cars might pass by. There are only nine houses on the private road, marked by a custom wooden sign.

Then, in 2018, everything changed.

More: 'Summer people': Greensboro is ground zero for the fight over short term rentals

"When the trouble started, the first thing I noticed was the traffic, mainly on weekends, a parade of cars blasting back and forth, making clouds of dust," Poole said.

Poole quickly realized the destination for this parade of cars was his next-door neighbor, about 300 yards up the road.

"We realized this was an Airbnb being rented as a party house," he said.

Short-term rentals like Airbnb have been a magnet for controversy across the country, including in Vermont, and not just because they sometimes turn into party houses.

Why are short-term rentals bad?

There are currently bills in both the Vermont House and Senate to address other issues related to short-term rentals, including health and safety concerns.

Those concerns were brought to the forefront by the COVID-19 pandemic. No one knows how many short-term rentals are in the state, who owns them, or how often they're rented. Tim Piper, co-chair of the Vermont Lodging Association, estimates there are as many as 6,800 unlicensed short-term rentals in Vermont.

When the pandemic hit, the state realized it had no way to contact the owners of those rentals to make sure they were following the same rules as the rest of the hospitality industry, including quarantining, and shutting down completely for certain periods.

"There are intense public health implications for an unregulated party house in the middle of a pandemic that makes all this feel more urgent," said Rep. Emily Kornheiser, D-Brattleboro, one of the sponsors of the House short term rental bill.

Don't ask us not to party

The music was loud, blasting from speakers on the deck at 456 Bull Moose Ridge Road, just up the road from Bob Poole.

"I walked up the road a couple of times and asked them to turn it down," Poole said. "They didn't appreciate some old crackpot from down the road asking them not to party."

As soon as he returned to his house, the music would be cranked up again. Poole called the cops. The same scenario played out. Turn it down when the cops come. Turn it up when they leave.

Across Vermont, variations of this theme play out as short-term renters are drawn to some of the state's most scenic and iconic locations by Airbnb and other rentals.

"Just beyond this neighborhood I can't tell you how many people I've heard in this area, which relies on tourism, who have this problem, all over Stowe," Poole said. "I'm sure all over Vermont."

The owners of the party house — Scott and Ann McCready of Harvard, Massachusetts, and their son Anders — got a restraining order against Poole to keep him from going on their property. The only problem? He never went on their property.

"I said in court, 'I've never met either of these gentlemen, father and son, in my life, never seen them or talked to them because they're not available to talk to,'" Poole explained. "I stayed in the road and called somebody to the road. I never set foot on the property."

Can you help me out of this ditch bro?

Poole never met the McCreadys because they were never there, said Poole's friend and neighbor, Mike Krancer. Krancer lives at the summit of Bull Moose Ridge Road, in a rambling, contemporary house named Mount Haven.

The all-encompassing view from Mount Haven is spectacular, taking in the entirety of this mountain valley from its deck. Far below, the party house, a red, lodge-like structure that Krancer points to, is difficult to see from such a distance. It's not, however, difficult to hear, he said.

"We had a direct line of audibility," Krancer said. "When they played the music, oh my god, yeah."

The valley acted like a natural amphitheater, gathering the sound up and delivering it to Mount Haven.

In the winter, the party animals caused another problem. They got stuck a lot, trying to drive the narrow, snow-covered road in their ill-suited cars. Another of Krancer's friends who lives on the road, Bill Wengel, would have to rescue them.

"Billy would have to pull them out," Krancer said. "He's Vermont true and true, born here, and knows how to pull them out of the ditch."

What counts as a short-term rental?

Both the Vermont House and Senate bills are designed to rein in short-term rentals, and impose on them the same rules and regulations that govern commercial inns and hotels.

Kornheiser's bill, as well as the Senate bill, calls for the creation of a short-term rental registry, with the names and contact information of everyone who owns such rentals in the state.

Kornheiser said the registry is important both for "health and safety reasons" related to COVID-19, but also to provide "technical assistance" from a tourism perspective.

The second aspect of Kornheiser's bill is a residency requirement for owners of short-term rentals. This is intended to address the problem of affordable housing in Vermont, by preventing people from buying properties and renting them out as short-term rentals rather than living in them, or turning them into long-term rentals.

"It has a big impact on the rental market and the community if you have houses with people living in them without permanency," Kornheiser said. "It gives a really transient, unstable feel to a neighborhood."

Kornheiser said she doesn't want to interfere with people renting a room or two in their houses through Airbnb as a way of paying their mortgages, or their property taxes.

"There has to be a way of balancing the needs of people in homes trying to make ends meet, and folks engaged in the tourism economy, but not regulated," she said. "If you want to be in a non-regulated category called short-term rentals, you need to live in the home you're renting."

Conversely, if you want to rent out a home you're not living in on a short-term basis, more power to you, Kornheiser said, but you need to follow the same rules governing Vermont's hotels and B&Bs.

Noxious or offensive activity not allowed

Krancer sued the McCreadys in Vermont Superior Court in Lamoille County for violating the covenants and conditions of the nine-lot subdivision known as Bull Moose Ridge Properties. One of the restrictions is to use the lots for "residential purposes only." Another is a prohibition against "noxious or offensive activity."

On Aug. 22, 2018, Judge Thomas Z. Carlson ruled in Krancer's favor and gave the parties six days to work things out. If not, he would work it out for them.

Carlson found that since buying the property in June 2017, the McCreadys had rented it out at least 20 times — at a cost of \$1,000 per night — to short-term tenants.

"As of August 2018, they are advertising the property on Airbnb as 'Bull Moose Lodge' with 8 bedrooms, 16 beds, 5 baths and room for '16+' guests," Carlson wrote.

Carlson noted that the defendants had "offered no evidence as to their own use and occupancy of the property."

Krancer, a former litigator, had a few questions of his own for the defendants during the discovery process of the civil litigation. Eighty-six questions, actually, including "What are you telling the Internal Revenue Service you're using the property for?"

"Mike is a great lawyer and a good guy," Poole said. "He's not a guy you want to pick a fight with. He's like a Jack Russell terrier. He doesn't let go."

Soon, Krancer received an overture from the McCreadys, looking to settle. They offered to put the house on the market.

"I said 'No, that's certainly not good enough, because you'll keep renting,'" Krancer said. "And if you put it on the market, you could put it on at a price that would never get a bite."

The solution turned out to be Krancer buying the house himself, for about \$900,000. He lets friends and family use it — quietly — and has no plans to sell it or rent it.

Clearly, not everyone can handle a party house problem the way Michael Krancer and his wife did. All the more reason Vermont needs more robust rules and regulations governing short-term rentals, according to Sen. Michael Sirotkin, D-Chittenden.

Sirotkin is leading the effort in the Vermont Senate to regulate short-term rentals.

"As this short term rental platform becomes more prevalent — and it's growing very fast — we need greater enforcement and inspections over them," Sirotkin said. "We have to know for certain where and who they are."

Contact Dan D'Ambrosio at 660-1841 or ddambrosio@freepressmedia.com. Follow him on Twitter @DanDambrosioVT. This coverage is only possible with support from our readers.

**Exhibit D – Vermont Legislative Office Joint Fiscal
Office Issue Brief, Vermont’s Population Estimates
by Age Group: 2021 Compared with 2010, January
12, 2023**



VERMONT LEGISLATIVE Joint Fiscal Office

1 Baldwin Street • Montpelier, VT 05633-5701 • (802) 828-2295 • <https://ljfo.vermont.gov>

Issue Brief

January 12, 2023

Joyce Manchester, Senior Economist

Vermont's Population Estimates by Age Group: 2021 Compared with 2010

Executive Summary

Following the 2020 Decennial Census and the COVID-19 pandemic, many people want to know how Vermont's population by age group has changed. A state's population by age group affects not only the demand for public services but also its labor force, revenues, and overall economic activity. This Issue Brief compares 2021 Census Bureau estimates with those based on the 2010 Decennial Census. Between those years, Vermont's population increased by roughly 20,000. The distribution of the state's population by age group changed significantly over that time as well, with the biggest increase in Vermonters ages 65 to 79. Over the same time, the number of children and mid-career working-age folks dropped.

Since 2010, Vermont's population increased by roughly 20,000 people, including a big swell in older people, ages 65 to 79. But the number of children and mid-career working-age folks dropped.

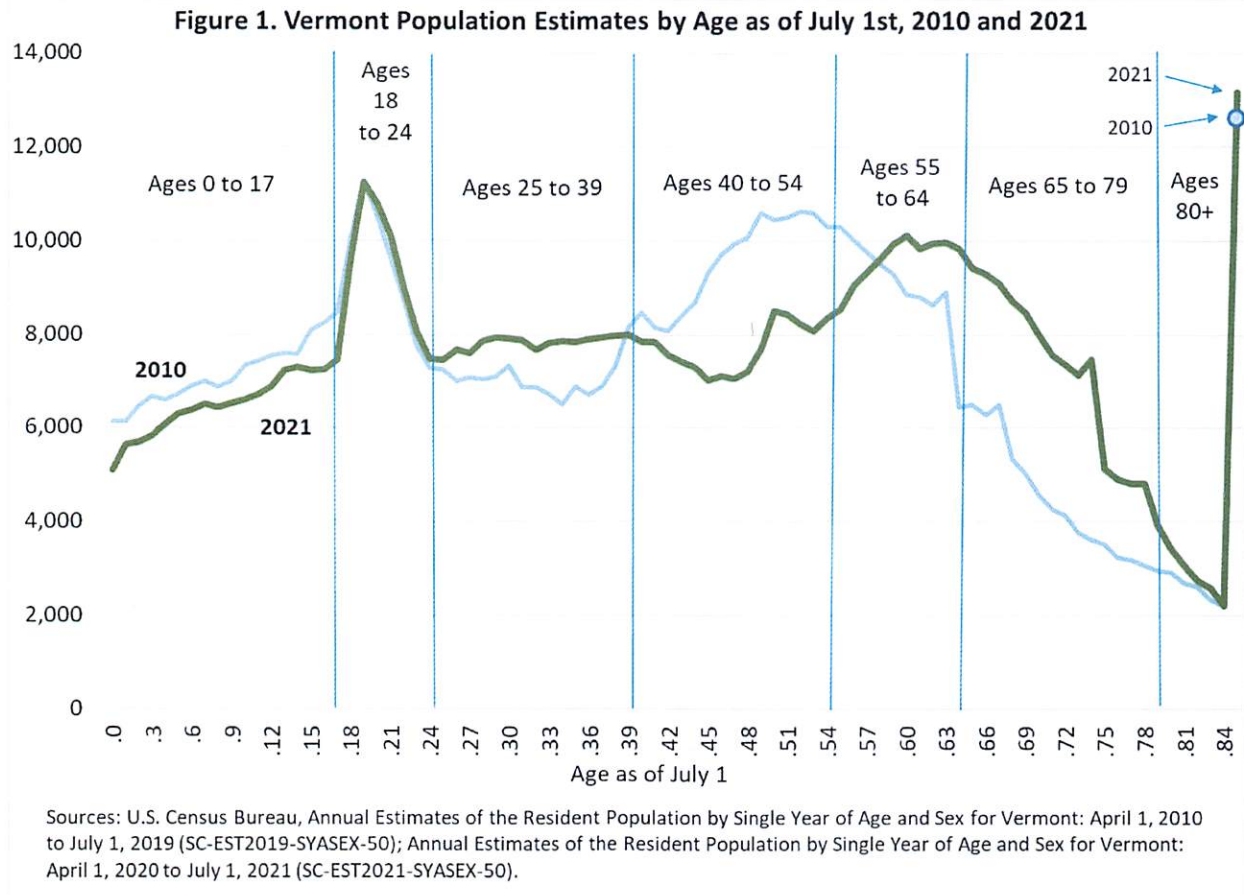
Vermont's population numbers for 2021 come from the U.S. Census Bureau estimates using the 2020 Census and other current data sources. The population estimate based on the 2010 Census remains the most reliable for comparison. Estimates for the intercensal years (2011 through 2019) were based on small surveys and will be revised in the coming year using data from the 2020 Census.

- Overall, population estimates for Vermont increased almost 20,000 from about 625,900 in 2010 to about 645,600 in 2021.
- The number of Vermonters ages 65 to 79 increased significantly, up more than 40,000, as many baby boomers moved into their retirement years; the share of Vermonters ages 65 to 79 rose from 10.5 percent to 16.4 percent.
- The number of young people in the higher education years, ages 18-24, remained about stable.
- Both the child population and mid-career working-age population, ages 40 to 54, declined.
- Our understanding of recent population changes associated with the pandemic will be clearer once the Census Bureau adjusts the 2011 to 2019 estimates to align with the 2020 Census.
- Policy makers can smooth the way for an even older population in the coming years by taking a comprehensive look at investments in health care, human services, housing, transportation, employment and income security, and business development.

Estimates of the Population by Age, 2021 and 2010

Currently, the 2021 population estimates represent the best available data on the number of Vermonters by age. They are informed by the 2020 Census as well as vital statistics on births and deaths, data on international

migration, and Medicare enrollment. The 2010 Census represents a detailed look at Vermont's population in that year. The postcensal estimates for 2011 through 2019 were based on the much smaller American Community Survey and will be revised later this year using data from the 2020 Census.¹ As a result, 2010 is the most recent year with reliable numbers to compare to the 2021 estimate. All reported estimates are as of July 1st (see Figure 1). Because the number of individuals ages 85 and older are reported in a single group, Figure 1 shows a dramatic increase between ages 84 and 85 that does not reflect actual age distribution.*



The aging of the baby boomer generation is the most noticeable change in the age distribution of Vermont's population from 2010 to 2021. The baby boomers, defined as those born between 1946 and 1964, were ages 46 to 64 in 2010. Many were at or near the height of their working careers. In 2021, however, many had left the labor force and were ages 57 to 75.² The 65-to-79 age group saw an increase of about 40,000 from 2010 to 2021. That increase is the largest of any age group and more than double the overall population gain of about 19,600 people (see Table 1 for exact numbers).

A notable increase in Vermont's younger working-age population and a small expansion in the near-retirement age group partially fills the void retiring baby boomers left in the workforce. The younger population, ages 25 to 39, is up about 11,500. Some of that increase could be explained by pandemic-related migration to Vermont. Whether new residents stay permanently or go back to their place of origin will be interesting to watch. The number of people ages 55 to 64 increased by about 5,600, providing a good supply of older workers until they decide to retire.

¹ <https://www.census.gov/programs-surveys/popest/about/schedule.html>

² Further aging of the baby boomers suggests that Vermont's labor force will continue to shrink for some time.

**Table 1. Vermont Population by Age Group,
2010 and 2021**

	2010	2021	Change
0-17	128,792	116,976	-11,816
18-24	65,214	66,194	980
25-39	105,734	117,271	11,537
40-54	143,988	115,692	-28,296
55-64	90,605	96,179	5,574
65-79	65,907	106,063	40,156
80+	25,639	27,195	1,556
Total	625,879	645,570	19,691

Sources: U.S. Census Bureau, Estimates as of July 1 based on 2010 Decennial Census and 2021 Population Estimates

The biggest decline by age group was among working-age people ages 40 to 54. That age group saw a drop of more than 28,000 from 2010 to 2021 as younger baby boomers aged out and some members of the Gen X (born 1965 to 1976) and Millennial (born 1977 to 1995) cohorts moved into their 40s and 50s. The smaller (relative to baby boomers) Gen X cohort partly explains why the labor force in Vermont today has declined relative to the last decade.

Two age groups remained relatively stable in size. The number of Vermonters ages 80 and older increased by about 1,500. The uptick might have been a bit larger, but excess deaths associated with COVID-19 in 2020 and the first half of 2021 took the lives of 145 Vermonters in that age group. The number of young people in the higher education years, ages 18-24, rose by about 1,000 between 2010 and 2021 as Vermont continued to attract young people to its institutions of higher learning.

Some Vermonters are concerned that the number of children continues to fall. From 2010 to 2021, the number of children ages 0 to 17 fell by almost 12,000, or about 9 percent. Fewer children in schools leads to higher per pupil expenditures in many cases and may signal smaller working-age cohorts in the future.

Shares of Vermont's Population by Age Group

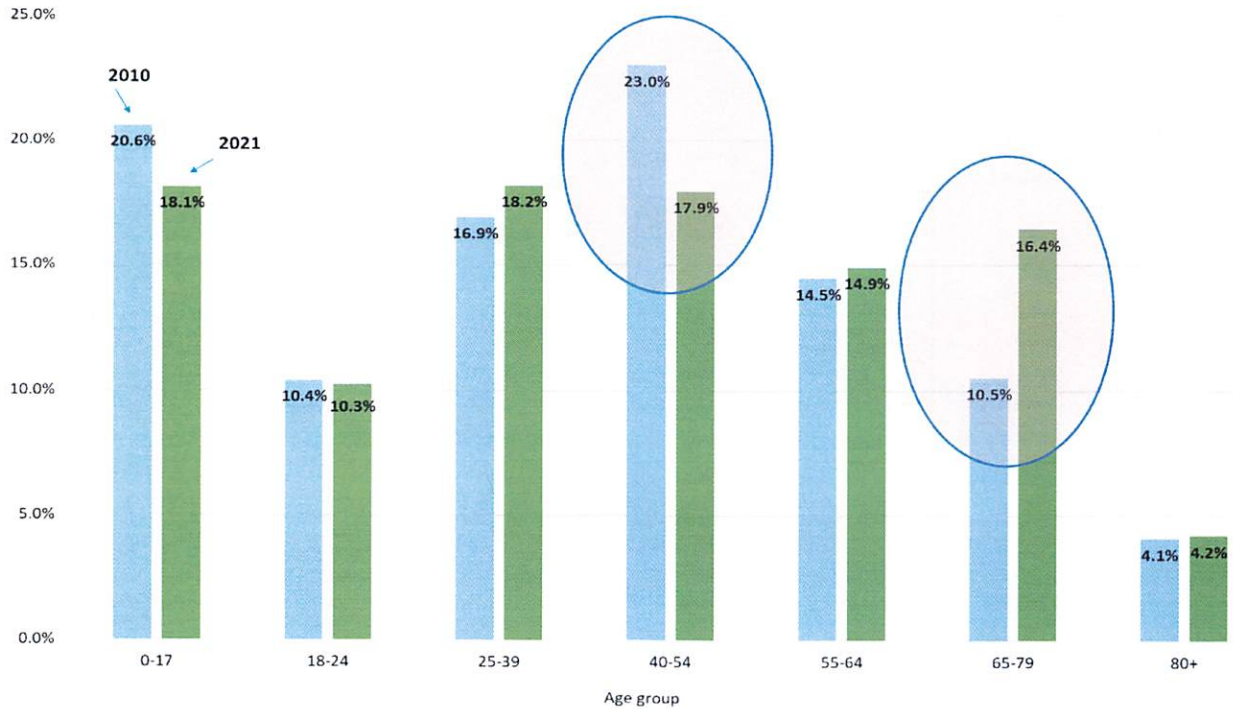
Looking at shares of the population in different age groups may help Vermont policy makers identify pressures on services, revenue sources, and labor force issues. Understanding changes in those population shares in the past and likely changes in the shares going forward can help policy makers target resources with an eye to the future.

Since 2010, the share of Vermonters in the mid-career age group, ages 40 to 54, has declined from 23 percent to not quite 18 percent (see Figure 2). Slight upticks in the shares of both younger and nearing-retirement working-age people did not fill the gap, suggesting that the potential pool of workers relative to children and retirees has shrunk. At the same time, the sharp increase from 10.5 percent to 16.4 percent in the share of the population that is ages 65 to 79 suggests greater demand for services that help older people thrive – housing, transportation, health care, and the like. As that population ages over the next ten years, the demand for those services will rise.

Those who want to get a sense of the movement in the shares by age group since 2010 will note the steady dip in the share of people ages 40 to 54 and sharp increase in the share of people ages 65 to 79 (see Figure 3). However, the detailed patterns in shares may change after the postcensal population estimates for the

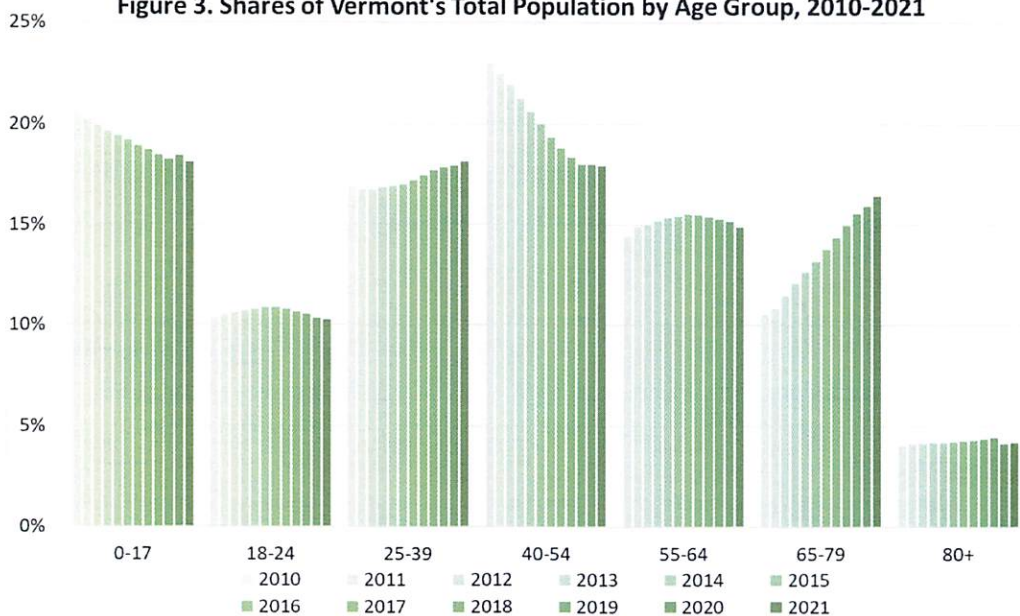
years 2011 to 2019 are revised. Of particular interest may be the seeming increased share of children and slowdown in the declining share of working-age people ages 40 to 54 during the pandemic years. But those shifts could disappear if revised population numbers go up in the latter years of the last decade based on information gleaned from the 2020 Census.

Figure 2. Shares of Vermont's Population by Age Group, 2010 and 2021



Sources: U.S. Census Bureau, Annual Estimates of the Resident Population by Single Year of Age and Sex for Vermont: April 1, 2010 to July 1, 2019 (SC-EST2019-SYASEX-50); Annual Estimates of the Resident Population by Single Year of Age and Sex for Vermont: April 1, 2020 to July 1, 2021 (SC-EST2021-SYASEX-50).

Figure 3. Shares of Vermont's Total Population by Age Group, 2010-2021



Sources: U.S. Census Bureau, Annual Estimates of the Resident Population by Single Year of Age and Sex for Vermont: April 1, 2010 to July 1, 2019 (SC-EST2019-SYASEX-50); Annual Estimates of the Resident Population by Single Year of Age and Sex for Vermont: April 1, 2020 to July 1, 2021 (SC-EST2021-SYASEX-50).

Considerations for Legislators

Several questions are paramount as legislators consider future statewide program demands and revenues to fund them:

- **Is Vermont's aging situation different from the United States overall?** One way to look at the quantitative impact of our aging economy is to examine the number of young and old people relative to the number of working-age people – sometimes called the dependency ratio. The United Nations defines the overall ratio as the number of people under age 15 and at least 65 years of age and older relative to the number of people ages 15 to 64. Population ratios can help illustrate broad trends in needs for social support.
 - *Ratio of young to working age:* In 2010, about 24 children ages 14 and under lived in Vermont per 100 people ages 15 through 64 (see Table 2). In 2021, about 23 children lived in the state per 100 working-age people. The ratios in the United States were higher at about 30 in 2010 and 28 in 2021.
 - *Ratio of old to working age:* Vermont's ratios have changed significantly relative to the U.S. ratios in the number of older people ages 65 and above compared to the number of working-age people. In 2010, Vermont's ratio stood at about 21 but rose to almost 32 in 2021. The ratio for the U.S. as a whole rose from almost 19.5 to more than 26. The increase in Vermont's older dependency ratio was notably higher than the increase in the national ratio.
 - *Overall ratio:* Counting the young and old together and comparing that sum to the working-age population reinforces the idea that Vermont's demographics have changed markedly relative to the U.S. in the last 12 years. Vermont's overall ratio was almost 45.5 in 2010, well below the national ratio of 49. In 2021, Vermont's overall ratio rose to 54.7, surpassing the U.S. ratio of 54.5.

	2010	2021	Change, 2021 vs 2010
Young/working age			
VT	24.2	22.8	-5.8%
U.S.	30.2	28.2	-6.6%
Old/working age			
VT	21.3	31.9	49.8%
U.S.	19.4	26.3	35.6%
(Y+O)/working age			
VT	45.4	54.7	20.4%
U.S.	49.0	54.5	11.3%

Notes: Y = Young, under 15 years of age
O = Old, ages 65 and older

Sources: Author's calculations for Vermont using U.S. Census data and World Bank using United Nations population data.

- **Will demographic changes lead to smaller growth in State revenues?** An aging population implies lower tax revenues per capita, all else being equal.
 - As reported in *The Vermont Tax Study, 2005-2015*, the 45-to-54 and 55-to-64 age groups paid the highest effective tax rate (3.7 percent) on 2014 income under the Vermont income tax (*Tax Study*, Figure 42). As the large baby boom cohort continues to age out of the higher earnings age groups, income tax revenue may decline.
 - Lower sales tax collections may accrue as well, as spending for the aging population shifts away from goods and toward services, such as health care, that are not taxed or are taxed lightly (*Tax Study*, Table 31).

- Vermont's property tax system provides relatively constant shares of income paid in net education taxes as people age (*Tax Study*, Figure 46). Because incomes tend to fall at older ages, more households will pay lower education property taxes as the share of the population over age 65 increases.
- **How can Vermont's economy best adapt to its changing demographics?** Unless Vermonters ages 65 and older decide to leave Vermont in droves or younger working-age people flock to the state in great numbers, Vermont's ratio of old to working-age people will continue to rise, placing a greater burden on workers to support both young and old. Potential policy options include:
 - Increasing in-migration of young working-age people, either through raising the cap on international migrants or attracting more workers from other states.
 - Investing in infrastructure such as health care, broadband, housing, and climate change adaptation and mitigation strategies to enable smooth relocation for remote workers and others interested in Vermont's amenities.
 - Planning now for comprehensive approaches to support an aging population across health care, human services, housing, transportation, workforce, income security, and safety.
 - Recent research suggests that almost half of adults who survive to age 65 receive some paid care for long-term services and supports over their lifetime (Johnson, 2019).
 - Older adults face transportation barriers because they drive less frequently, or not at all, as they age. Some face economic constraints as well.
 - Support systems are key in mitigating the multiple challenges older adults faced during the pandemic, such as increased health risks and social isolation.
 - Five states have developed "master plans" that lay out long-term, comprehensive approaches to support older adults' social, physical, and economic well-being. Vermont may want to take a comprehensive look at its current four-year State Plan on Aging; its focus is on critical services that support older Vermonters in the greatest social and economic need.³

References

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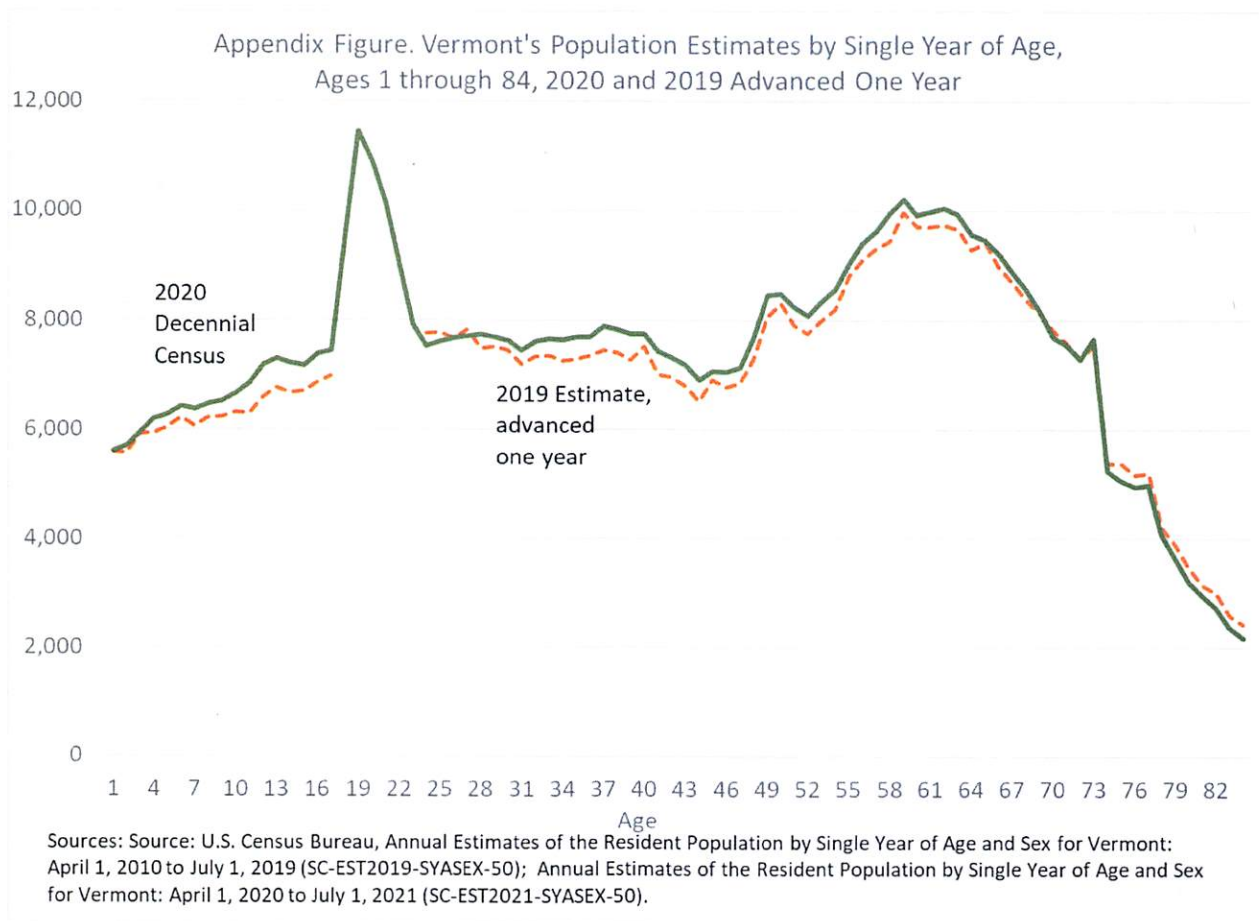
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³ The five states are California, Colorado, Massachusetts, Minnesota, and Texas. <https://www.chcs.org/resource/the-unexpected-benefits-of-a-state-masterplan-for-aging-lessons-from-california/> The 2023-2026 Vermont State Plan on Aging is available at https://asd.vermont.gov/sites/asd/files/documents/VT%20State%20Plan%20on%20Aging%202023_2026.pdf.

Appendix. The 2019 Population Estimates vs. 2020 Estimates

U.S. Census population estimates remain the gold standard for annual population counts, but those estimates become less reliable as time goes forward from the full Decennial Census year. The U.S. Census Bureau estimated Vermont's population by single year of age from 2011 to 2019 based on the 2010 Decennial Census and a much smaller sample of survey data collected in subsequent years. Revised intercensal estimates will be released in 2023, but the current estimates represent the best information available in the interim. At the aggregate level, Vermont's population estimate jumped more than 20,000 between 2019 and 2020. The estimate was 623,989 in 2019 but 642,495 in 2020. To see where the 2019 population estimate might have undercounted the "true" population by single year of age, JFO "advanced" by one year each of the 2019 population estimates by single year of age, moving the age 10 population up to age 11, the age 55 population up to age 56, and so on.

The simple exercise of advancing a single-year-of-age estimate to the next single year of age is only a rough guide to the inaccuracies of the intercensal estimates, but it reveals undercounts in certain age groups. School-age children, mid-career working-age folks, and near retirees likely were underestimated in the 2019 estimates (see Appendix Figure).⁴ Of course, the simple exercise does not account for mortality or migration, both likely explaining the overestimates in the elderly population, ages 75 to 84. But it does help identify where the 20,000 increase in overall population might lie between 2019 estimates and 2020 estimates.



⁴ JFO did not include the "advanced" 2019 estimates of the college-age population because most of the students come specifically for college or post-secondary training and then leave Vermont.

**Exhibit E – Short Term Rental Solicitation Letter
Received December, 2022**

Dear Stowe Land Owner,

My name is Josh Salvo and I am a landowner and resident of Stowe and I am looking to partner with other landowners in the Stowe area.

I wanted to reach out to you specifically to see if you'd be interested in chatting with me about partnering on a real estate development project. To be transparent, my business partner and I are looking to partner with land owners to develop 4-10 acre parcels of land, with the goal of building luxury short-term rentals that generate passive monthly cash flow. We are specifically looking to partner with landowners as the amount of land currently for sale in the Stowe area is pretty much non-existent. Between my business partner and I, we have worked on dozens of projects in the Stowe and Vermont area and if you are interested I'd love to set up a quick time to chat on the phone or in person to see if a partnership makes sense.

On past projects, my business partner and I have added millions of dollars in value to the real estate projects we've worked on, while simultaneously adding tens of thousands of dollars in recurring monthly revenue for the partners involved.

If you Google Sterling Ridge Resort A-Frame in Vermont you will find one of our recent projects!

If this is something that sounds interesting to you, I'd love to chat and share our vision for this project and to see if we would make a good fit to work together. I find it very important to get to know the people that I work with and I would love to spend some time getting to know you.

If you are interested please email me at jsalvo802@gmail.com or call me at 802-585-1390 and we can schedule some time to chat! I am reaching out to a handful of landowners in the Stowe area so if you are interested just let me know who I am chatting with and your address!

Best,
Josh Salvo

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