

**State of Vermont  
Office of the Attorney General  
Human Services Legal Division**

Kristin Clouser & William Ahlers, Assistant Attorneys General

**Vermont House of Representatives**

**Joint Meeting on General Assistance & Temporary Housing**

Rep. Martha Heath, Chairperson – House Committee on Appropriations

Rep. Ann Pugh, Chairperson – House Committee on Human Services

Rep. Helen Head, Chairperson – House Committee on General Housing &  
Military Affairs

January 8, 2014

**Office of the Attorney General  
Human Services Legal Division**



**William Ahlers, Assistant Attorney General – Human Services Legal Division**

William Ahlers joined the Attorney General's Office in 1998. He has represented the Human Services Legal Division in administrative fair hearings, Supreme Court appeals and related counsel work since 2003. Prior to that, he prosecuted cases of unprofessional conduct on behalf of the Attorney General's Office before the State's various licensing boards.

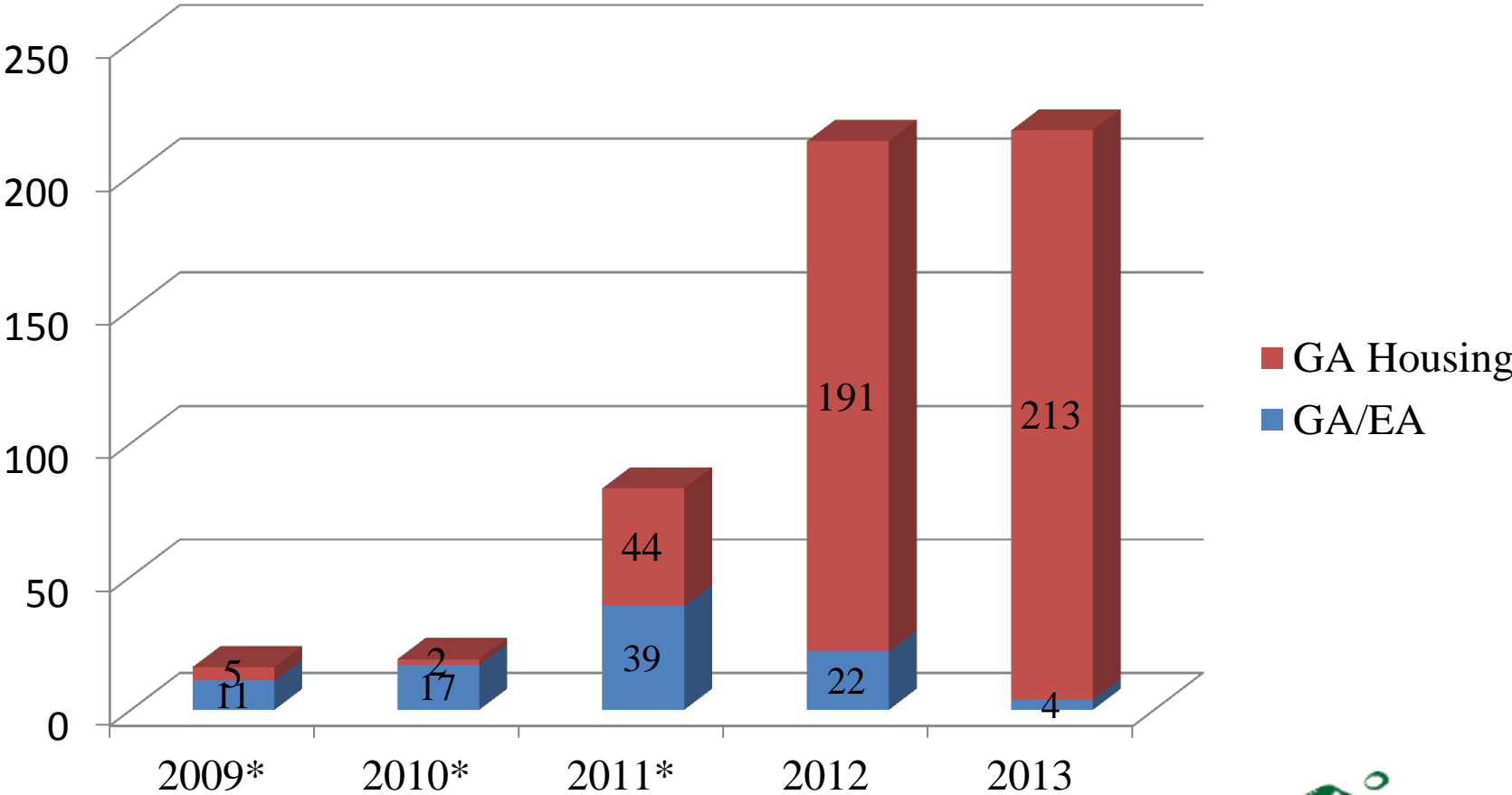
**Kristin Clouser, Assistant Attorney General – Human Services Legal Division**

Kristin Clouser joined the Attorney General's Office in 2012. She joined the Human Services Legal Division after several years in New Hampshire, practicing in the private sector. Kristin has extensive experience in litigation and in administrative law. She is licensed to practice law in Pennsylvania, New Jersey, New Hampshire, and Vermont.

## Introduction

- The Human Services Legal Division of the Vermont Attorney General's Office provides legal services to the Agency of Human Services and its departments.
- Offices include the Department for Children and Families, Divisions of Economic Services, Family Services, and Child Development; Department of Corrections; Department of Health, Department of Mental Health; and the Department of Vermont Health Access.
- There are four Assistant Attorney Generals who represent the Economic Services Division of DCF in General Assistance (GA) temporary housing cases.
- These Assistant Attorneys General represents AHS in all fair hearings and proceedings before the Human Services Board.

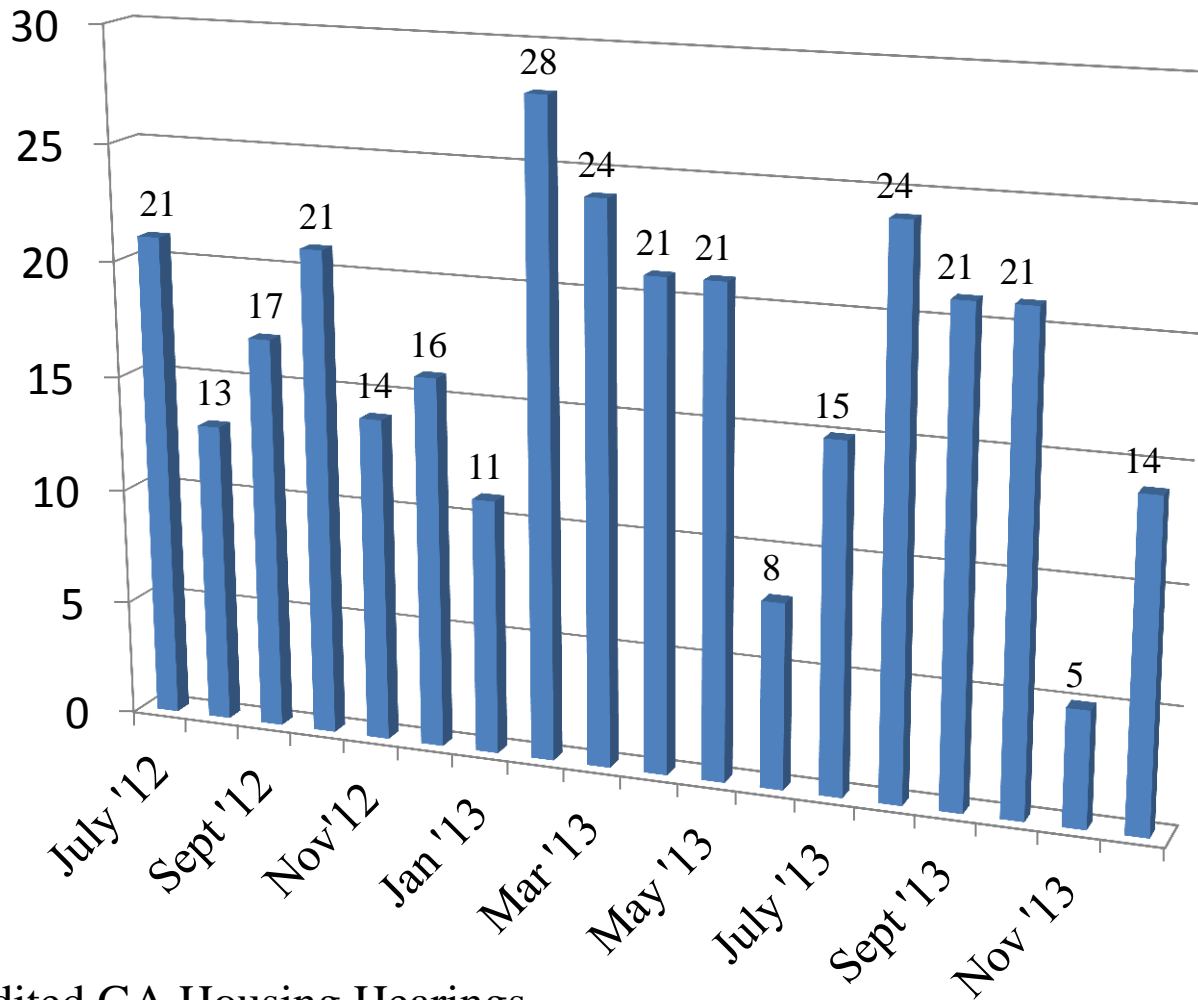
# GA Housing Appeals are Increasingly Common



Fair Hearing Cases - \*Data for years 2009 – 2011 does not differentiate between GA/EA and GA Housing



# Expedited GA Housing Hearings - 18 Months



■ Expedited GA Housing Hearings

## **Act 50 Decreased Funding for GA Housing But Left Mandate Intact**

Act 50 significantly reduced the amount of money available to the Department for GA temporary housing

- Despite decreased funding DCF was directed to:
  - Continue its present program of “temporary housing assistance” for households in catastrophic situations.
  - Provide “emergency” assistance to homeless members of “vulnerable populations” for whom no shelter space was available and whose homelessness was not “due to circumstances over which the individual had control.”
  - Adopt an emergency rule implementing emergency assistance for “vulnerable populations that do not have a catastrophic need.”

## Two Ways to Qualify for GA Temporary Housing

### Catastrophic Eligibility

#### 84 day limit

- Emergency attributable to death of spouse or dependent child, natural disaster, emergency medical need, constructive or court-ordered eviction, domestic violence
- Must have exhausted all income and resources
- Must have explored all alternatives for addressing need

### Vulnerable Populations

#### 24 day limit

- Housing for vulnerable populations who do not qualify under catastrophic eligibility
- Applicants are considered automatically within the vulnerable population if they are
  - 65 years of age or older
  - Receiving SSI or SSDI
  - A child six years of age or under; or
  - In the third trimester of pregnancy

# The Fair Hearing Process

Applicants may request a fair hearing when they feel “aggrieved” by an agency action or policy, including denials, terminations or reductions of benefits, and failures to act on an application within a reasonable amount of time.

Hearings are:

- Conducted by Hearing Officers
- Typically scheduled in 15 - 30 minute blocks
- Typically scheduled as many as 30 days for the request
- One or several hearings may be necessary
- Attendees include:
  - AAG (representing the Department)
  - Petitioner
  - DCF social worker
  - Petitioner’s representative
  - Hearing Officer
  - Any witnesses who may testify



## Expedited Hearings

- An expedited Fair Hearing is available to applicants who are denied housing under the General Assistance program.
- There is no special showing necessary to expedite the hearing.
- Expedited Hearings are intended to allow an appeal to be heard quickly in emergency situations.
- Expedited hearings now represent the vast majority of GA housing appeals.

## **Expedited Fair Hearings Procedure**

- The procedures governing expedited appeals consist of several sentences in an Interpretive Memo included within the rules of the GA program
- Intended to be conducted under the regular Fair Hearing rules
- The hearings must be scheduled within 10 days of the expedited request
- The Hearing Officer may, either orally or in writing, issue a recommendation after the hearing
- The recommendation has the same effect as a Human Services Board Order until heard by the Board at their monthly meeting

## **Expedited Appeals in Practice**

- Often held on the same day as the request was made
- Typically over the phone
- Applicants housed pending further hearings
- Hearings may be held with no time for AAGs or petitioners to prepare
- Hearings often occur late in the day, when key staff may be unavailable
- Applicants may or may not participate
- Department worker making the decision may or may not participate

# **Increased Reliance on Expedited GA Housing Appeals Exacerbates Procedural Shortfalls**

## Sample Expedited Hearing Outcomes

- Housing ordered pending further hearing where the petitioner never attends further hearing
- Housing ordered on the basis of the applicant's statements
- Housing ordered on the basis of disputed legal theories (i.e., constructive eviction and causing one's own homelessness)
- Housing ordered pending further hearings several days in the future
- Interim housing order results in applicant receiving the maximum number of allowable nights in a hotel, before the HSB can meet and hear the appeal
- Housing ordered but the individual does not make use of the room

## Emergency Procedure, Persistent Problem

- The GA Housing program is not the most effective means of dealing with persistent homelessness
- The Expedited Hearing process is not the most effective means of addressing eligibility appeals from the homeless
- The program, and therefore the appeals process, is being over-burdened by what is a persistent problem
- An overwhelmed appeals process results in reduced oversight and rigor
- Procedural inadequacies contribute to strain on the Fair Hearing processes
- Expedited Appeals have procedural shortfalls that may increase costs