Fair Taxation: How Shared Equity Homes are Assessed and Taxed

(submitted to Senate Finance Committee by Chris Donnelly, Champlain Housing Trust, 4/8/14)

Background on Shared Equity Homeownership

Vermont's innovative affordable homeownership program has been copied all across the United States and received international recognition. This innovation, called shared equity homeownership (some know it as Community Land Trust homeownership) provides assistance for income eligible buyers to become homeowners when the market is out of reach for them.

Here is how it works: the buyer signs a housing subsidy covenant in which she agrees to forego a portion of the market appreciation. The most common scenario includes a buyer getting a down payment from a housing trust on a purchase and a residential mortgage for the rest. When the homeowner sells, she recoups any principal paydown on her mortgage and any investment she made in improving the home. However, she gets only 25% of any increase in value of the home since she purchased it. The remaining 75% plus the original public investment keep the home affordable and sustain its stewardship.

There are approximately 1,000 such homes in 113 communities across Vermont. These homes and this program have benefitted over 1,500 households. In a nutshell, with one initial public investment a home is made permanently affordable for successive homeowners.

This program has always been well supported by the State of Vermont (10 VSA Chapter 15) and through annual appropriations to the Vermont Housing Conservation Board. Permanent affordability is a key goal of Vermont's Consolidated Plan which the state is required to submit to HUD annually. Vermont's Habitat for Humanity programs also use shared appreciation.

Taxation of Shared Equity Homes

In 1995, the Legislature instructed communities to consider the impact of housing subsidy covenants. In 2008, and again in 2012, the Tax Department issued memorandums instructing Board of Listers that municipalities should consider the resale restriction of these homes when assessing them. Since shared equity homeowners will never receive the full market value of their home due to the resale restrictions, it has been the position of the State and local nonprofits that steward the transfer of the homes from one owner to another that they should not be assessed at the same fair market value that unencumbered homes are appraise because full market value. This is long-standing existing state policy

Municipalities have, to date, made their appraisal decisions on a local level. This means that shared equity homeowners in adjoining towns are being treated differently and in at least one case, the hiring of a new assessor resulted in a change in that community's treatment of the resale restriction.

Recently, two cases – one in Essex and one in Rockingham – were appealed to the Vermont Supreme Court after the State's Appraisers issued conflicting rulings on appeals. In one case, the State's Appraiser ruled in favor of the homeowner's claim for assessment based on the restricted value, in the other a

different State's Appraiser denied the appeal. The two cases were joined, and the Court ruled in 2013 that while municipalities may *consider* the resale restriction when assessing shared equity homes, they were not compelled to do so.

Rationale for Clarifying the Statute

There are several reasons why a technical correction to the statute is necessary:

- Fairness. Some shared equity homeowners are paying property taxes on a value of property from which they will never fully benefit while others have taxes set consistent with their ability to sell their home at a restricted value -- the home's true fair market value.
- Uniformity. People owning shared equity homes should be treated the same, regardless of what community they call home.
- Inclusiveness. For many communities, this is a small way in which they can contribute to the added value they get from having a community in which people of different incomes can live. Shared Equity homeowners contribute to this inclusiveness by sharing appreciation with the next buyer.
- Consistency. State statute provides specific direction on assessment of multi-family housing subject to affordability covenants. Like the Legislature's instructions about how to appraise rental housing, clarity and simplicity will ease the administrative burden on listers.
- Fair market value. The fair market value of one of these homes is just is not worth as much as an identical unencumbered home because of the restrictions imposed by the covenant:

RESTRICTION	UNENCUMBERED HOME	HOME SUBJECT TO VHCB COVENANT
Sale	Owner receives full fair market value	Owner only receives her cost plus 25% of the appreciation
Occupancy	No restrictions	Owner or family must live in home 6 months out of year, can't rent
Ownership	Complete	Homeowner does not own the land and must pay ground rent plus the taxes on the land
Possible Buyers	General public	Buyer must be low or moderate income household