

Renters at Risk

THE COST OF SUBSTANDARD HOUSING



Vermont Legal Aid
January 2018



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Acknowledgments

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Executive Summary

The fundamental and internationally-recognized human right to housing signifies more than simply having a roof over your head. When considering the threats that adverse housing conditions pose to a person's health, a house with no heat, moldy floors, and bedbugs is hardly better than no house at all. Vermont's government has sought to forestall housing conditions such as these by establishing healthy housing standards for rental properties in state laws and codes that place the Vermont Department of Health's Rental Housing Health Code (RHHC) at their center. More recently, the General Assembly has sought to address the impact and costs of Adverse Childhood Experiences (ACEs), including housing insecurity.¹

Despite these efforts, many Vermont tenants are still living in unsafe and unhealthy homes. Why does this happen, and how can we fix it? Vermont Legal Aid looked for answers to these questions this past summer by interviewing ten Vermont tenants and sixteen housing and public health stakeholders about healthy housing. Our key findings, which provide insight into the costs imposed by a lack of healthy housing and the personal experiences of those who suffer due to housing instability, are as follows:

1. Our research pointed to plumbing and pests as the most common RHHC violations.
2. Substandard housing conditions can impact physical and mental health.
3. Tenants are often unaware of their rental rights.
4. Fear of eviction and lack of affordable housing options often prevent tenants from reporting rental housing health code violations.
5. THOs are commonly unpaid volunteers without the time or experience necessary to address health code violations.

Our findings suggest that further compliance with the Rental Housing Health Code would improve the health of Vermont renters. This report describes the lives of individuals who have been harmed rather than protected by Vermont's system of housing code enforcement. In an effort to make meaningful change that will reduce the number of Vermonters trapped in unsafe, unhealthy housing, we make the following recommendations in our report:

1. Reform the eviction process and prohibit re-renting of units where non-compliance with the RHHC is documented.
2. Certify and Register Landlords.
3. Fund and Professionalize Town Health Officers.
4. Increase sanctions for health code violations.
5. Educate tenants about their rental rights and responsibilities.
6. Create more affordable housing.

The widespread lack of healthy housing affects all Vermonters through its financial repercussions on our health care system and homeless shelters. Of equal importance, unsafe and unhealthy housing causes genuine harm to vulnerable people. Tenants often lack the resources to escape their unsafe housing situations, leading to increased physical, emotional, and mental stress. This unnecessary burden can be addressed by the policy changes proposed in this report, which could pave the way to healthier rental housing in Vermont and have the potential to produce huge savings in health care expenses and missed work costs. We ought to be both urgent and thoughtful as we consider these ideas and continue to holistically pursue the goal of offering safe, healthy homes to all Vermonters.

Introduction

Arika and her daughter moved into an apartment in St. Johnsbury nine years ago. Arika's income is less than \$800 a month, and about half of that goes toward paying her part of the rent – the rest of the rent is covered by Vermont's *Reach Up* program that helps low-income parents find work and cover their expenses. Last winter, the furnace in Arika's building broke. Instead of fixing it and continuing to provide heat to the tenants, the landlord gave them electric heaters. The heaters increased Arika's power bill and burned so hot that they set off the smoke alarms, which the landlord subsequently removed. Arika and her family have also been living with a broken refrigerator, broken oven, and moldy ceiling (**Photo 1**). Arika has severe respiratory problems that can be worsened by mold, and her daughter has recently been getting sick more often.

Now, their building is being foreclosed, and the landlord stopped paying the water bill. Arika is trying to find the money to keep her water turned on while also trying to find a new place to live – but she hasn't been successful. She's really scared that she might be homeless soon. If she can't find better housing, she also might have to send her daughter to live with a friend, which would leave her all alone. "You shouldn't have to make a disgusting decision like this," she says. "You shouldn't have to live in a place that could go up in flames at any given damn time."



Photo 1: The moldy boards inside Arika's ceiling

Though Arika feels isolated, she is far from alone in the struggles she faces. Her story began with violations of the Vermont Rental Housing Health Code (RHHC), and continued with a lack of access to affordable housing. These are problems experienced by thousands of Vermont renters. The RHHC states that its goal is "to protect the health, safety and well-being of the occupants of rental housing."² The code requires landlords to provide their tenants with a reasonably healthy and functional place to live, including access to clean hot and cold running water, a sewage system, adequate heat and air ventilation, food storage facilities, electricity and lighting, trash facilities, pest management services, and a stable building structure. So why didn't Arika get what is guaranteed by the RHHC? What role must government play in regulating the housing conditions provided by private landlords?

The basic logic behind the Rental Housing Health Code is simple: when landlords are allowed to rent out apartments and houses that don't meet minimum quality standards, the people who rent them get sick and hurt more often. And when renters get sick and hurt, they (and we, as a state and as taxpayers) bear that cost in increased health care expenses. Something that might have cost a landlord a few hundred dollars to fix, like a mold problem, can end up costing thousands of dollars in health care expenses to treat a tenant's resulting respiratory illness.

In 2009, the *Surgeon General's Call to Action to Promote Healthy Homes* explained: "To improve the nation's overall health, we must improve the health of the nation's homes and ensure that safe, healthy, affordable, accessible, and environmentally friendly homes are available to everyone in the United States."¹² The connection between the home environment and the health of its inhabitants has been demonstrated by numerous studies. Respiratory illness, for example, is highly associated with poor indoor air supply and damp housing conditions, which often result from defects in plumbing systems (i.e., leaky pipes), ventilation systems, or building structure. Dampness and mold are also associated with "recurrent headaches, fever, nausea and vomiting, and sore throats" in one study, and poorer mental health in another.^{13,14}

Pests are another frequent home health problem. They can lead to a variety of health and safety concerns. Several studies have tried to measure costs associated with poor housing conditions (see statistics from these studies at right). These studies, along with many others, serve as concrete and specific evidence for what we have long observed: housing conditions are a significant determinant of one's health. Therefore, it is essential to enforce a robust rental housing code because of the significant health impacts of unhealthy housing conditions, as demonstrated in Arika's story and the stories of many tenants experiencing situations like Arika's.

Furthermore, a code is important to affirm tenants' rights because of the inherent power imbalance in the renting relationship, which can make it difficult, if not impossible, for renters on their own to protect their right to healthy housing. Renters are also especially vulnerable to the consequences of inadequate housing because they are, on average, a lower-income population: in 2010, the median income for rental households in Vermont was

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- A study of approximately 300 tenants found that residents of moldy apartments reported having a respiratory infection in the past year twice as often as tenants in non-moldy apartments.³
- A review study estimates that 21% of current asthma cases can be attributed to damp and/or moldy conditions in the home.⁴
- A study of workspaces showed that workers with high outdoor air supply in their offices had 35% fewer absences from work due to illness than similar workers with less ventilation in their offices.⁵
- Along with potentially damaging home structures and infecting food sources, cockroaches and mice can trigger asthma and allergies.⁶
- Bedbugs can cause severe anxiety, sleep disorders, and other mental health problems.⁷
- Rodents directly transmit at least seven rare diseases in the U.S. through bites, food/water contamination, and airborne particles.⁸
- Using the average results from eight studies, a report estimates that improving ventilation, decreasing mold, and/or decreasing crowding in either home or office buildings could prevent between 16 and 37 million cases of the common cold or influenza in the U.S. each year, which could save between \$6 and \$14 billion in healthcare and work absence costs.⁹ Extrapolating out Vermont's population (.19% of the total U.S. population), this would work out to between 30,400 and 70,300 cases of cold or flu, with potential savings of 11.4 and 26.6 million dollars in health care and work absence costs.
- A North Carolina study attributes a \$108 million cost in 2007 to medical conditions of the state's children living in substandard housing.¹⁰
- A HUD report cites an estimate that unintentional injuries in the home cost \$135.1 billion each year. Extrapolating out Vermont's population (.19% of the total U.S. population), this would work out to \$256.7 million in this state.¹¹

approximately \$31,000, while the median income of homeowner households was approximately \$65,000.¹⁵ Plus, rental housing is older on average than owned housing (59.1% versus 53.7% built before 1980, respectively¹⁶), and Vermont housing in general is some of the oldest in the country,¹⁷ which adds to each renter's risk of housing problems. Therefore, in Vermont in particular, government protections are important to ensure renters have safe and healthy homes. The Vermont Department of Health notes this as the purpose of the Rental Housing Health Code: "[to] protect and promote the best health for all Vermonters."¹⁸

Despite the promise of the RHHC, though, inadequate rental housing persists throughout the state. The various reasons include landlord noncompliance, confusion, or financial limitations, as well as gaps in code enforcement by local and state officials. These gaps in code enforcement mean that regulation often comes when the cost for tenants' health has already been too high, and measures are reactive rather than preventative. Lisa Smestad, the Environmental Services Manager for the Minneapolis Health Department, underlines this reality in her statement that we "need to stop using children as lead-detectors." In this report, we highlight negative health consequences of enforcement gaps, and offer suggestions to answer the question: *how can we increase compliance with the Vermont Rental Housing Health Code?*

Vermont Law

Before addressing the question of increasing compliance, we must first understand what compliance means, what noncompliance looks like, and why it happens. The following section gives an overview of the codes and laws that regulate rental housing in the state of Vermont.

Rental Housing Health Code

The Rental Housing Health Code (RHHC) applies to all rented houses, apartments, rooming houses, and rented mobile homes.¹⁹ It establishes minimum requirements for kitchens, bathrooms, floors, counters, water supply, wastewater disposal, trash, recycling, and food scraps, pest and bedbug control, heating, ventilation, light, electricity, and structural elements (such a foundation, floors, walls, doors, windows, roofs, stairs, and chimneys).

An owner is not permitted to rent a unit that does not comply with the code. An owner is not allowed to cause shut-offs of water, sewer, equipment, or electricity, and an owner cannot transfer his or her responsibility for complying with the code to the tenant. The RHHC requires rented houses, apartments and rooming houses to abide by the following criteria, among others:

- Every kitchen must have a sink, and a sanitary place to store and prepare food.
- Every bathroom must have a flush toilet, a sink, and either a bathtub or shower in a room that provides privacy.
- Every dwelling or rooming house must be connected to a potable water supply of sufficient quantity and pressure to meet the needs of the renters.
- Every kitchen and bathroom sink, and any tub or shower, must be connected to equipment that can safely heat water.
- Owners must connect their homes to either a public sewage system or an operating subsurface water disposal system so that sewage does not back up.

- Owners must not allow pest infestations in common spaces, and are responsible for exterminations of infestations in common spaces and individual units under certain circumstances.
- Owners must provide heating facilities that keep rooms at a minimum of 65 degrees Fahrenheit whenever the temperature outside is below 55 degrees, with outdoor ventilation.
- All habitable rooms must have at least one window or door located on an outside wall that can let in fresh air.
- All habitable rooms must have at least one electric light fixture; the number of electrical outlets required depends on the type of room.
- All dwellings and rooming houses must be maintained so they are weathertight, watertight, rodent-proof, and in good repair.

The RHC can be legally enforced by both the Vermont Department of Health (VDH) and Town Health Officers (THOs).²⁰ Every town is required to appoint a THO, who is typically a volunteer in charge of investigating, reporting, and sometimes directly addressing local public health hazards during a three-year term.²¹ Although VDH materials may suggest that responsibility for enforcement falls only on the shoulders of local towns,²² the state law indicates otherwise: the State Board of Health is charged with the duty to supervise and direct the execution of all laws vested in the Department of Health in Title 18 of the Vermont Statutes Annotated, and to formulate and carry out all policies relating thereto. Vermont law specifically states that “[a]ny delegation of responsibility and authority by the board shall be made through the commissioner and shall in no wise relieve the said board of its accountability for the proper administration of the provisions of this title.”²³

The law advises that, where practicable and appropriate, the RHC should be enforced through voluntary compliance.²⁴ In essence, this means asking the landlord to make repairs. However, the law does “not restrict the health officer’s authority to use any enforcement powers authorized by this title or the common law.”²⁵ This means that the THO (or VDH) has the discretion to skip voluntary compliance where appropriate, such as in an emergency or where the landlord has already refused to comply.

The RHC also may be enforced through health orders,²⁶ civil enforcement,²⁷ and criminal penalties.²⁸ THOs are responsible for writing health orders, but the local board of health (which is the town’s select board and THO) must approve and enforce these orders, unless it has given the THO permission to act independently. If the landlord does not comply with a health order, a THO can also ask a court to order the landlord to make repairs or to issue fines. Finally, criminal charges may be issued when applicable for contributing to a public health hazard.

Tenants also have the right to take certain actions against their landlord for RHC violations. After telling the landlord in writing (“actual notice”) about the violations and waiting “a reasonable time” for the landlord to make repairs, a tenant can withhold rent or terminate a lease.²⁹ They can also repair minor violations themselves and deduct the cost of the repair from their rent (“repair and deduct”), but only if the cost of the repairs was less than half of what they pay in rent.³⁰ Finally, a tenant can take the landlord to court and ask for payment to compensate for “damages, costs, and reasonable attorney’s fees.”³¹ These might include the actual cost of fixing a violation, the health care costs associated with the violation, and the emotional costs of living with the violation.

Other Vermont Codes

Along with the RHHC, several other state codes set the standards for rental housing quality. These codes are summarized below.

- The *Fire and Building Safety Code* lays out the requirements for proper installation, inspection, and/or maintenance of sprinkler systems, fire extinguishers, smoke alarms, CO detectors, and furnaces, including the required use of licensed contractors to work on these systems. It outlines the permits needed for all building construction and major renovations or installations, and addresses other items related to fire safety. The code applies to all buildings, including rental units, and is enforced by the Division of Fire Safety in the Department of Public Safety.³²
- The *Electrical Safety Rules* describe licensing requirements for electricians and mandate that a licensed electrician must perform almost all electric work. They also outline the permits necessary for certain electrical work. The Division of Fire Safety enforces these rules.³³
- The *Plumbing Rules* describe licensing requirements for plumbers and mandate that a licensed plumber must perform all plumbing work on public systems, which includes most rental buildings. Work permits are required for certain plumbing practices. These rules are also enforced by the Division of Fire Safety, which has two state plumbing inspectors.³⁴
- The *Wastewater System and Potable Water Supply Rules* require permits for all construction and modification of public water/wastewater systems, and certain health and safety practices in the construction and maintenance of these systems. These rules apply to rental housing that is connected to these public systems. The Agency of Natural Resources is responsible for enforcing these rules.³⁵
- The *Vermont Regulations for Asbestos Control* require that all building work that could potentially disturb materials containing asbestos must first be inspected by a certified contractor. Then, any asbestos found that is at risk of disturbance must be removed by the contractor before construction work begins. These regulations are enforced by the Vermont Department of Health.³⁶
- The *Vermont Lead Poisoning Law*, which adds to the federal lead paint laws issued by the Environmental Protection Agency, requires landlords to tell tenants about the possible presence of lead paint and to ask them to report any chipping paint, if the building was constructed before 1978. Landlords of buildings built before 1978 must also attend a lead safety certification class, do essential repairs on their building at least once each year (i.e., removing paint chips, repainting flaking surfaces), and annually certify to VDH that they have completed that work. All contractors working on buildings with possible lead paint must also be certified in safe lead paint practices. The Vermont Department of Health enforces these rules.³⁷
- The *Vermont Regulations for Control of Pesticides* cover the certification requirements for pesticide applicators, the proper ways to apply pesticides, and other rules relating to pesticide use. These are enforced by the Vermont Agency of Agriculture, Food & Markets.³⁸

This report focuses primarily on the RHHC, but many of these regulations overlap with its requirements and affect its enforcement. For example, the RHHC requires rental units to have access to a clean water supply. A landlord who uses a public water supply to meet this requirement must comply with the Wastewater System and Potable Water Supply Rules if they change or repair the building's water system. The relationship among all these codes will be explored more later.

After VDH, the Division of Fire Safety (DFS) plays the biggest administrative role in regulating rental housing. To enforce its codes, the Commissioner of Public Safety can charge fines up to \$1,000 for violations.³⁹ State prosecutors can also take action against violations of the DFS codes by seeking court orders for compliance and fines of up to \$10,000.⁴⁰ Finally, the DPS Commissioner can close structures and, where public safety requires, order them to be demolished.⁴¹ In mobile home parks, when tenants have to leave their rentals due to the violations, the inspector can also order landlords to pay for the temporary housing of tenants.⁴²

In addition to the statewide Rental Housing Health Code and the other statewide codes described here, about a dozen cities in Vermont have local codes (ordinances) with additional rental housing regulations.⁴³ In Burlington, there is a Code Enforcement Office with five full-time inspectors. Together, they inspect around 3,000 of the 10,000 rental units in Burlington each year, according to Case Manager Patti Wehman. Under the city's Minimum Housing Standards Ordinance, each property owner must register their rentals with Code Enforcement, and there is an annual fee for each unit. Each property is inspected regularly, on a basis ranging from six months to five years, as specified in the Certificate of Compliance. The number of years between inspections is based on number of deficiencies found and noted during an inspection. Code Enforcement Inspectors can issue tickets and assess reinspection fees for minimum housing code violations if the landlord does not address them by a given date.

Residential Rental Agreements Act and Eviction Law

Vermont also has a law called the Residential Rental Agreements Act (RRAA),⁴⁴ which governs the general relationship between landlords and tenants, including the process for eviction. The RRAA is important because it guarantees tenants a “warranty of habitability.” This means the landlord must promise the tenant that the rental unit will be maintained so that it is safe, clean, and fit for human habitation, and so that it complies with building, housing, and health regulations. An adequate heating system and working hot and cold water service are explicitly required by this law. The “warranty of habitability” applies even if there is no written lease. Also, the tenant cannot choose to waive the warranty – all landlords must follow it.

Finally, eviction laws are relevant to this report because they protect tenants from being punished by their landlord for reporting habitability problems. Under Vermont law, landlords must give tenants written advance notice for “termination of tenancy” a certain amount of time in advance, ranging from seven days (for a weekly rental with certain lease provisions) to ninety days (for a monthly rental with tenant residing there for over two years). Termination notices can be given for a valid cause (nonpayment of rent, violation of lease agreement, etc.) or for “no cause,” which requires giving the notice further in advance. A landlord may not, however, issue a termination notice for an illegal cause under the pretense of “no cause.” Illegal reasons for termination include retaliation against a tenant for reporting code violations and discrimination.⁴⁵

If a tenant does not move out by the termination date given, a landlord may take the tenant to court and seek an eviction order, which is issued by a judge and can be enforced by a sheriff. When a landlord tries to evict for nonpayment of rent, the tenant has the chance to raise defenses against the eviction. One of the defenses tenants can, and often do, raise is that the rental unit had habitability problems, and therefore was not worth the full amount of the rent. In some cases, the rental may not be worth anything at all because it was not habitable. However, it can be very difficult for tenants, who usually

have to represent themselves in the eviction process, to raise habitability issues properly for the judge to consider.

There are other Vermont laws that apply to some rentals but not others, but they are not the focus of this report. For example, mobile homes are subject to different state regulations than rented apartments or houses,⁴⁶ and public housing is governed by additional federal laws. The Housing Choice Voucher (also known as Section 8 voucher) program also has slightly different housing quality standards that a home must meet to qualify for the program.⁴⁷

Natalie's Story

Natalie* grew up in a 2-bedroom apartment with her mom and siblings. Now, the rest of her family has moved out, and she lives in the same place with her own three kids, who are all under five years old. The apartment is in project housing, and Natalie has trouble working with the housing authority that serves as her landlord. "Everything's a fight with them," she says. For years, the worst problem has been the mold. Natalie attributes her children's continual respiratory illnesses to it: **"They have a lot of health issues, and [the mold] could be the reason why they're always sick."** Sometimes, the sickness is bad enough to require emergency medical treatment: **"Around the time the mold happened, [my daughter] got admitted to the hospital for breathing problems."** After that incident, Natalie decided to call Legal Aid. They got an inspector to look at her apartment and issue an order to get rid of the mold. **The housing authority complied by washing it off, but it came back, and this time it hasn't even been washed off, and the housing authority has not looked into fixing whatever is allowing it to return.**

Other problems with the apartment have gone unaddressed for even longer than the mold. Floorboards are pulling up, the washer leaks, and the window locks don't work. Natalie never called a THO herself because, **"I felt like [the housing authority] would do everything they could to evict me."** After months of advocating and with the help of a social worker, though, Natalie moved to another apartment in the same complex. Eventually, **she hopes to get a Section 8 voucher so she can escape the management of the housing authority altogether.** She is in the process of changing locations, and says, "I just can't wait to move."

**Name has been changed*

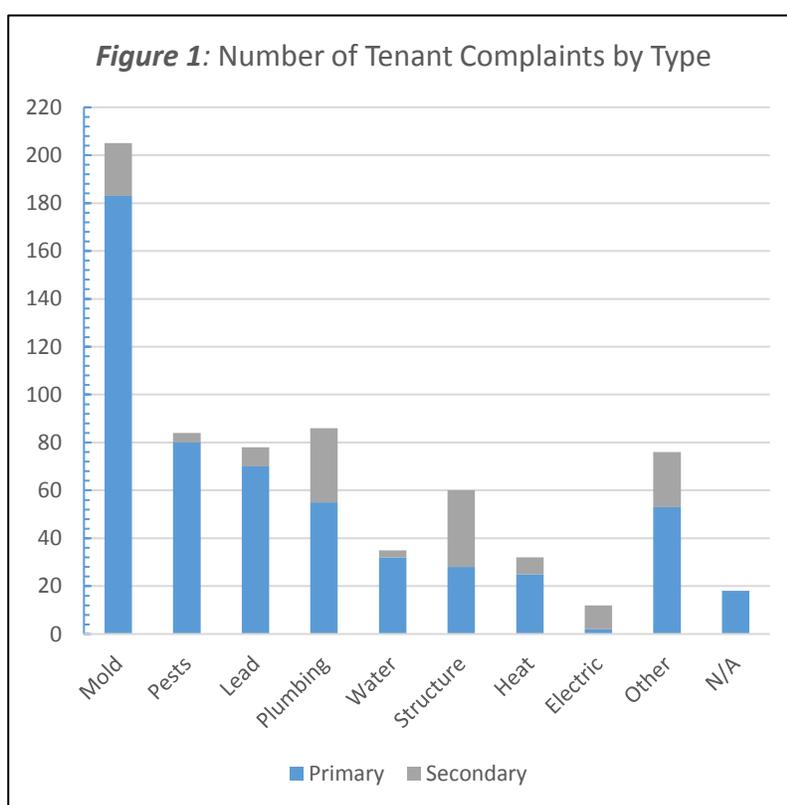
Findings

Our research and interviews revealed the following about the causes and realities of RHHC violations.

1. The most common rental housing health code violations reported to the Vermont Department of Health relate to plumbing and pests.

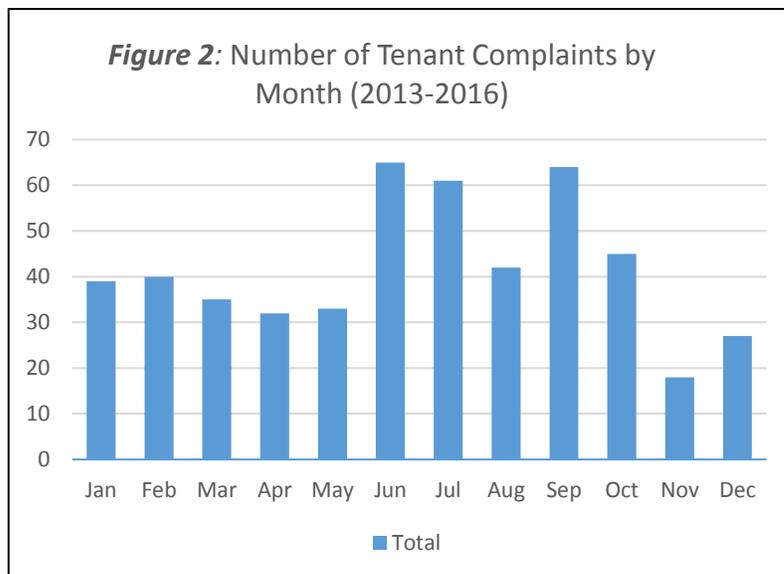
Out of 546 calls made to the VDH hotline by tenants or representatives of tenants from January 2013 to May 2017, 183 callers (34%) reported mold as a primary issue in the tenant’s housing.⁴⁸ This makes mold the most common primary complaint by a significant margin. An additional 24 callers reported mold as a secondary issue (**Figure 1**). The primary mold complaints were most common in June, July, September, and October (2013-2016); because they make up such a big portion of the total complaints, the overall distribution of tenant calls throughout the year also shows the same months for highest complaint rates (**Figure 2**).

Maddie Roberts answers calls made to the Vermont Tenants program at the Champlain Valley Office of Economic Opportunity (CVOEO), which gives free information and referrals to tenants on various subjects, including health code violations. She, too, reports that mold is one of the complaints she hears most frequently. Mold often results from the dampness produced by poor ventilation or plumbing leaks, which are both potential health code violations.⁴⁹ Indeed, this connection is so strong that Judge Michael Kupersmith of the Vermont Superior Court found in *Burleson v. Turner* that the “presence of mold in a rental property is in violation of the Vermont Rental Housing Health Code.”⁵⁰



Notes: “Lead” refers to chipping lead paint; “plumbing” refers to septic problems/pipe leaks; “water” refers to water contaminants; “other” includes complaints related to smoke/CO alarms, asbestos, ventilation, garbage, yards, etc.; “N/A” refers to unknown subject of complaint.

The second most common primary tenant complaint to VDH was pests, reported as a primary issue for 80 callers (15%). About half of these complaints were specifically about bedbugs, and another quarter involved rodents. Emma Stewart, who works in Family Services at Southeastern Vermont Community Action (SEVCA), says of the Westminster area: “Bedbugs right now are everywhere... It’s almost become a community crisis.” John Hyslop, an auditor for SEVCA’s Weatherization Program, agrees that he sees bedbugs frequently.



This can be a tricky complaint to classify as a health code violation because the RHC states that a tenant is responsible for exterminating pests “when the infestation is caused by his or her failure to maintain the dwelling unit,” but a landlord is responsible if the infestation is caused by the landlord’s lack of maintenance or if it occurs in more than one rental unit. With bedbugs, it is often difficult, if not impossible, to tell who is at fault for the infestation, and these cases are sometimes disputed in court.

Although lead was the third most common primary complaint to the VDH hotline, it does not fall within the scope of the RHC; as described earlier, separate federal and state laws govern the regulations for lead paint.

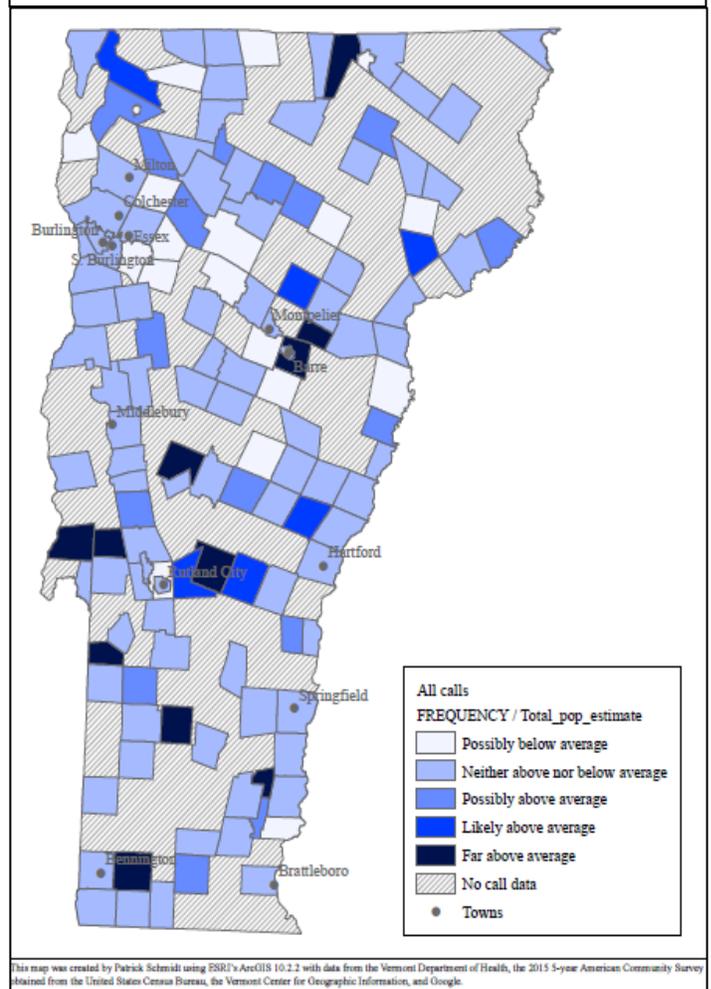
Another point of interest is the distribution of complaints by location. According to the VDH data, eleven townships had complaint rates (number of township complaints divided by township population) significantly higher than the state average (at least three standard deviations above the mean), and many others had complaint rates moderately higher than average (one or two standard deviations above the mean) (Figure 3). Additional research is necessary to understand the cause of elevated complaint levels relative to population. Possible explanations include higher renting populations, older housing stock, fewer community action/health department resources, less responsive Town Health Officers, or a number of other factors.

Dawn's Story

Dawn has lived in Vermont for six years and spent the last three in an apartment she rents by herself in Chester. The place looked great when she moved in – but **she soon noticed that the carpets seemed damp and moldy.** “Nothing ever dries in here,” she says. Then, that first winter, **mice infested her building.** They seemed to be getting in both from the crawl space under the building, where a large panel was loose (*Photo 2*), and from **a hole in the ceiling above her stove that opened to the roof.** When she complained, the landlord came and put poison under the house himself. It seemed to help, but the underlying structural issues had not been fixed – the mice came back the next winter, and the next. On top of that, Dawn lost her front door when a snow plow ran into the building. **For a while that winter, she had only a tarp covering the big hole in the wall, until the driver himself came back to repair it.** In the process, they closed up the whole opening with a wall instead of putting a new door in place, so that **Dawn can only use her back door now.**

Dawn's health has been deteriorating under the stress and hazards of her living situation. **She gets headaches all the time, and “in the winter here, I was so sick... I had a really bad cough, [the doctors] thought I had emphysema.”** She has just recently started seeing a psychiatrist as well, because she has had **“severe anxiety since I moved in here,”** and her **“severe depression’s gotten worse.”** Dawn told her landlord about the housing problems, but he ignored many of her complaints. He even **“asked me not to call anyone when the guy ran into the wall.”** So she didn't. In fact, she never talked to a THO at all, because her landlord is a volunteer with the fire department and she suspected that he had connections with the THO. **“I feel there's a conflict of interest,”** she says. If they inspected, **“I don't think they would do anything.”**

Figure 3: Rates of Tenant Housing Complaints to VDH by Township (January 2013 to May 2017)



The landlord sent Dawn a no-cause termination notice recently, which prompted her to call Legal Aid at the recommendation of a friend. Though she has no problem with moving far away from her current situation, she does want her landlord to be held accountable for not taking care of the property and the tenants. She says, **“It would appear that the house is unimportant to him and whoever's in the house.”** A friend of Dawn's, who knows about her housing situation, adds, **“These people need to be stopped from doing this to people.”**

2. Respiratory illness and mental health problems frequently result from substandard housing conditions.

Considering that mold and pests are two of the top primary habitability complaints in Vermont, it should come as no surprise that breathing problems and mental health issues are two of the top housing-related health complaints. As studies outlined below have shown, moldy housing conditions can directly cause a great deal of respiratory illness, while bug infestations are reported to cause high levels of stress and sleeping difficulty.



Photo 2: Behind the loose panel under Dawn's building

Community Health Team (CHT) social workers Audrey Monroe and Jessica Denton both report that breathing problems are one of the most common health conditions they see in patients who have habitability complaints, and these problems are usually associated with moldy housing conditions. Emma Stewart (SEVCA) has a similar experience: chronic obstructive pulmonary disease (COPD) and asthma are frequent occurrences with the clients she helps, and mold is one of the top three habitability problems she hears about. John Hyslop, an auditor with SEVCA's Weatherization Program, also sees "tons and tons of asthma issues" and "a lot of poor health due to air quality" on his inspections. Several others have found the same connection: Ita Meno, a Burlington Code Enforcement Inspector, has heard breathing problems reported in apartments where she finds mold or mildew; Tim Angell, the former St. Johnsbury THO and the current Assistant State Fire Marshal with the Division of Fire Safety (DFS), also finds that tenants often have health problems, especially respiratory illness, when they complain of mold; Maddie Roberts (CVOEO) commonly hears tenants attribute their respiratory problems to mold as well.

Additionally, almost every tenant interviewed had respiratory health issues related to a housing condition at some time. Not all of them had mold, either – just having excessive moisture or poor ventilation in a home can harm mental and physical health, as stories and studies alike have shown.⁵¹ Yet, the VDH complaint log suggests that tenants often may not report damp conditions until they cause a visible hazard such as mold, at which point their health issues may be more advanced.

Unlike respiratory illness, mental health problems may be caused by a wide variety of situations and environmental factors. Perhaps one of the most common and concrete housing triggers, though, is bedbugs. Though they do not spread disease, bedbugs can have a severe impact on a tenant's mental health. Researchers have also found that people who had current bedbug infestations were significantly more likely to show anxiety symptoms and sleep disturbances than people living in the same two apartment complexes but without bedbugs.⁵²

In a 2014 St. Johnsbury eviction case, Judge Robert Bent of the Vermont Superior Court acknowledged the extent of harm caused by bedbugs by granting the tenants several thousand dollars in compensation for a year-long periodic infestation. He also wrote, “Bed bugs are not a mere nuisance to be tolerated, like a common house fly; rather, when they are present, [tenants] suffer continuous biting, resulting in welts, discomfort, itchiness, and sleep disruption.”⁵³ Additionally, the process of eliminating an infestation is often expensive, time-consuming, and highly stressful.⁵⁴ Emma Stewart (SEVCA), who deals with many cases involving bedbugs, points out, “Your home would become not much of a home, of a safe haven anymore, when you have a bug infestation that you can’t do anything about because you can’t afford to get rid of them.”

Along with bedbugs, many other health code violations and living situations can induce stress, anxiety, and depression. Susan Howe, a Housing Case Manager with SEVCA, has seen the stress of living in substandard housing or trying to find affordable housing taking a serious mental toll on her clients: “We see a lot of people whose situations are so stressful that if they didn’t have mental illness before, they’re really developing it... that level of stress has a very definite level of impact on how they’re functioning.” Emma Stewart (SEVCA) has a similar perspective on her clients: “Stress really kills people... [and] a lot of people that are constantly in toxic stress seem to also have repeated or chronic [physical] health issues.”

All these testimonies are consistent with the weight of research showing that poor housing conditions produce poorer health. Harry Chen, the former Commissioner of VDH, summarizes: “People who don’t have housing or don’t have reasonable housing are going to be much more likely to be less healthy. Period.”

3. Many tenants do not know or understand their rental rights.

In our survey of tenants and other housing stakeholders, lack of information or misunderstanding was one of the primary reasons found to explain why tenants do not initially report problems with their landlords to THOs or other authorities. Though they may feel they are being wronged, tenants often do not know what legal remedies exist for their housing problems. This was the case for several of the tenants interviewed, including Andrea, Dawn, Tracey, and Dan.

All four housing advocates interviewed expressed concerns about tenants’ awareness of their rental rights. Responding to a question about how many of her clients know about the RHHC or their rights, Emma Stewart (SEVCA) says, “It’s kinda fifty-fifty.” Maddie Roberts (CVOEO) responds to a similar question in this way: “I feel like a lot of the tenants that call me are aware that there’s something there [in terms of their rights]; I worry more about the folks who don’t call.” In other words, the tenants that reach out to resources like CVOEO for help are likely a more-informed population than the tenants who experience health code violations and do not even know that there are resources available to help them. Yet, even this potentially more-informed group has many misconceptions. Jonathan Bond, the director of Vermont Tenants at CVOEO, says, “Most tenants are aware that they have some rights, [but] most tenants that I work with are not well-versed in both where the expansiveness of those rights are and where the limits of those rights are.” For example, Jonathan sometimes hears tenants believing the myth that they cannot be legally evicted in the winter. “They usually have a lot of misinformation,” says Susan Howe (SEVCA).

Inspectors have made similar observations. John Hyslop (SEVCA) finds that most residents he serves in the Weatherization Program do not know the code violations that exist in their homes: “They’re so used to that, it just doesn’t register.” Ita Meno (Burlington Code Enforcement) also observes that many tenants in the apartments she inspects do not know what counts as a violation. This knowledge gap can have serious consequences by hindering tenants from reporting problems and possibly weakening their legal case if they end up going to court. Helen Toor, a judge in the Rutland Superior Court, says, “Tenants often don’t know how to present their case or explain the issues or call the right witnesses, and so (if they don’t have a lawyer) there might be a violation that I don’t get enough evidence to figure out.”

Andrea’s Story

Andrea moved into her Chester apartment in April of 2015, with her two sons and two grandchildren. She had rented twice before and never had a major problem with the living situation or the landlord – she was expecting no less this time. Andrea bonded quickly with her new landlord, to the point where **“we were like family,”** she says. The landlord lived right next door, though she spent the colder half of the year in Florida; Andrea would visit her often and even help take care of her house while she was away.

When Andrea’s family started experiencing problems with their property, **“we never really complained at the beginning.”** The toilet leaked water into the basement below, the furnace would sporadically shut off in the winter, and the back door had a gap under it (*Photo 3*), but they figured they could take care of those problems themselves and save the landlord some trouble. Things kept getting worse, though: their screen door broke during a storm, the pipe leaks increased, and no one came to plow their driveway or sidewalks, which was listed as the landlord’s responsibility in the rental agreement. The ongoing plumbing problems turned their water brown for a few weeks, and the family was forced to buy bottled water until it was fixed. During the last few months the family lived there, one of the grandchildren **experienced frequent unexplained headaches.**

Eventually, Andrea started asking her landlord for help, but it came slowly or not at all. They waited two months for the screen door to get repaired, and some other problems were entirely ignored. Though she felt wronged, Andrea was inexperienced and not knowledgeable about how to deal with housing code issues: **“I didn’t even know that we even had renter’s rights.”**

One night, Andrea’s son fell on the uneven stone steps of the back porch (*Photo 4*), because of the lack of adequate outdoor lighting on the porch (the porch lights were first broken, then reinstalled at an incorrect angle; despite repeated requests from Andrea, the landlord said it wasn’t her responsibility to fix the incorrect installation). **Andrea’s son went to the hospital for his injuries and required physical therapy afterwards.** Not much later, the other son had a similar fall on the porch that also required a hospital visit. The landlord never fixed the problem. Andrea knew at that point that she probably could have sued for the cost of the injuries – but she felt too kindly toward her to do so: **“We would never turn her in... She’s a real old lady, she has lots of problems.”**

It wasn’t until early 2017 that Andrea finally contacted a lawyer, and only after a referral: **“Someone said, ‘Why don’t you call a landlord-tenant attorney?’ I never thought of that.”** [cont’d]

[cont'd] A THO came to inspect and found violations of the heating and electrical requirements of the housing health code – an outlet had begun sparking, wires were sticking up from the floor, and the furnace still wasn't working properly. The officer said she wanted to come back to test the water, but never did. A fire marshal followed up with the furnace and issued a report with four violations listed: the oil-fired boiler was in "**extremely poor condition**"; there were **no smoke alarms** in some of the bedrooms; certain light fixtures were improperly installed; and the stairway guardrail was unstable. Soon after, the energy company inspected and **shut down the furnace because it was unsafe to use.**



Around the same time these inspections occurred, Andrea received notice of an impending increase in the \$950/month rent. But she wouldn't take it anymore. "We're just tired of doing it... The way that she's been treating us, **I just don't want to deal with it anymore.**" Andrea is moving, but she's still fighting the lawsuit against her landlord, for one reason: "**I just don't want someone who comes in after us to have to go through what we did.**"



Photo 3 (top): The gap under Andrea's back door
Photo 4 (bottom): The porch steps where Andrea's sons fell

4. Fear of eviction and lack of affordable housing options often prevent tenants from reporting rental housing health code violations.

The standard “rule of thumb” for housing affordability (which dates back to the 1930s) is that people should not have to pay more than 30% of their total income on housing; otherwise, they are considered “burdened” by unaffordable housing. Public housing authorities use this benchmark as the amount people have to contribute to their housing costs while receiving housing assistance. In 2014, though, over *half* of Vermont renters were burdened by housing costs – that is, spending over 30% of their income on rent.⁵⁵

Audrey Monroe (CHT) reports housing is the biggest challenge she faces in helping patients – waiting lists for affordable apartments are so long that it takes years for people to find a new place to live. Eileen DeLuca (CHT) says it’s “not uncommon for people to be in need of housing, and it takes so long, people are living in their cars [or] couch surfing.” Harry Chen (the former Commissioner of VDH) also says, “Affordability’s a huge problem in Vermont.”

Additionally, even *unaffordable* housing is hard to find for many people. According to Jonathan Bond (CVOEO), Burlington has less than one percent vacancy in its housing market, which is “a perpetual problem that’s not really getting any better.” The rest of Vermont is not much different. In terms of housing policies in the state, Lillian Colasurdo, a Public Health Policy Advisor with VDH, thinks, “The biggest issue is housing availability.”

These two problems – affordability and availability – affect the quality of housing as well. Because apartments are in such short supply, “the market isn’t representing the true cost... of those really sub-par apartments that people have to rent because there’s no options,” Bond says. “And they’re paying a premium price for not a very good product.” Many people are essentially forced into renting poorly-maintained apartments that otherwise would not be rented, because they are the only places available that they can afford.

Even if the tenants know their rights, they might not make a fuss about health code violations they find, because they have nowhere else to go and cannot risk being evicted. Though retaliatory eviction is illegal, it cannot always be proven because landlords can use “no cause” evictions as a cover for their unlawful motives. Emma Stewart (SEVCA) encounters cases like this often: “There’s a lot of fear of being evicted,” she says. “It’s usually a long wait list for anything that’s affordable... [so] it’s a valid fear, that they won’t be able to find housing if they lose housing.” Arika (whose story appears on the following page) cited fear of eviction as a reason she did not call a THO, and tenants Dale, Ericca, and Natalie all said they had neighbors who would not report violations for the same reason. Some tenants interviewed actually did get termination notices for no cause, including Dawn and Dale.

In addition to eviction, tenants may even fear having their property condemned by the Board of Health for being uninhabitable – which means they would have to move. Emma says, “Some people don’t want to even get the town health officer involved because they think that their place will be condemned and they’ll be out on the street.” Tim Angell (DFS) also recognizes that some tenants have “no housing to pick from,” and, he adds, “I think the landlords know that, and they just take advantage of that situation.”

Arika's Story

For the first several years that Arika and her daughter lived in their St. Johnsbury apartment, things were pretty good. At least, they never had housing problems that they felt really affected their health or safety. A couple of years ago, though, things started falling apart one by one. **The furnace broke. The bedroom window broke. The fridge and oven broke. The trash pickup stopped coming. The electricity for the whole apartment blew out. They found mold in the ceiling.** The list goes on.

These problems had dangerous consequences for the two of them. Arika has severe asthma and needs to use a continuous positive airway pressure (CPAP) machine to regulate her breathing while she sleeps, but it **wouldn't turn on for six days while the electricity was out.** Her 13-year-old daughter also got strep throat eight times over the course of four months. **"Living here with all the black mold, it's not healthy for us,"** Arika explains. Ever since the kitchen appliances stopped working, their cooking options have been very limited, too. She says, **"It's terrible that you can live in an apartment and not be able to do the normal things that you need to do to keep up your everyday health."**

Arika asked for help from the landlord with each of the housing issues, but it didn't do much good – the most he did was cover the broken window with a large piece of Styrofoam, scrub the moldy ceiling with bleach, and give them electric heaters that burned too hot and set off the smoke alarms. When Arika complained about the heaters, **he took their smoke alarms down and said he would "fix" them to make them less sensitive. He didn't give them back for months.** Arika also tried to address some of the problems herself, but with little luck. For example, she hired a private company to inspect the degree of mold in the ceiling (*Photo 1*), but found out that it would cost thousands of dollars to clean it all out. She didn't have the money, and neither did her landlord. **Arika wanted to call a THO about some of the housing problems, too, but the landlord's workers advised her not to do that, or else the landlord would "make things worse" for her.**

Finally, though, when the electricity went out, Arika called the fire department. They sent an inspector, who issued orders to fix the electric wiring, replace the bedroom window, and replace the smoke alarms. The landlord complied with the first of these orders, but has not yet done so with the others. Now, the building is in foreclosure, and the landlord has stopped paying the water bill. **Arika is scrambling to come up with the money to keep her water on, while searching frantically for a new place to live. So far, she has been unsuccessful. "Nobody will take me. Nobody,"** she says. One landlord refused her because he didn't want her to somehow bring the mold to the new apartment with her. Another turned her away because they heard about how she had reported her current landlord for the habitability problems.

The possibility of becoming homeless and having to send her daughter away terrifies Arika. **"I've done everything I can think of... besides going to the town and signing over custody of my best friend, who is my daughter. I'm doing everything I can to stop that from happening."** Until she can find someplace new to rent, though, homelessness is a real possibility.

5. Town Health Officers are commonly unpaid volunteers without the time or experience necessary to address health code violations.

The qualification and training of THOs varies wildly across the state, because VDH has very few requirements in place for the role. There is no state funding set aside specifically for the THO program, nor are there any standards that a THO must meet.

The Vermont League of Cities and Towns provides several annual THO trainings – over half of THOs

Dale's Story

Dale lived alone in a Brattleboro apartment. Throughout almost the whole year that she was there, she had problems with the building, starting with frozen pipes just a few weeks after she moved in. She found windows that were cracked or broken, and a drawer in her kitchen periodically blew open because there was no insulation in the wall behind it. The rugs in the hallway outside her apartment spread a foul odor through the place in the spring, and the walls shed lead paint throughout the building. Worst of all, the porch became covered in mold during the warmer months, and Dale was allergic to it. **She suffered frequently from headaches, congestion, and hoarseness, all of which disappeared shortly after she moved.** The stress of her living situation also **aggravated her serious mental health problems** that include post-traumatic stress disorder.

After her landlord refused to address the mold, Dale called the state health department, and a THO came to inspect. However, the inspection report simply said, "There are a few areas on the exterior of the building near the front entryway that are discolored and should be checked for mold issues." **No order was filed.** Dale eventually cleaned the mold off the porch herself. Another inspector came to look at the frozen pipes in December, but Dale says his report significantly downplayed the issue. He **didn't file an order, either**, despite the fact that Dale had put thermometers around her apartment to show that the temperature was in the 50s.

Many other tenants in the building were often sick as well and experienced similar health code violations, according to Dale, but no one else reported any problems because **"these people are afraid that they'd be put out."** Indeed, Dale received a termination notice for no cause after the inspections. Fortunately, she was able to find another apartment before the termination date. The landlord also sold the building to a different owner around the same time, escaping responsibility for the building's poor condition.

Though Dale consulted with Legal Aid, she did not pursue a lawsuit against the landlord. She did, however, write a letter to state legislators advocating for greater enforcement of landlords' responsibilities and ending no-cause evictions, because, **"I don't want this ever to happen to anyone else."** In the letter, she says, **"There needs to be accountability for not following proper protocols to insure tenant health and safety."** Dale believes that many of her and other tenants' problems are caused by the collusion and willful ignorance of housing authorities, from landlords to THOs to city governments. **"They spend way too much time here protecting landlords,"** she says. **"Good people go bad when they turn their head the other way... America is all about participation. In order to keep our country working, we all have to participate, not turn the blind eye."**

attended at least one of these in the past year (according to Lillian Colasurdo), but no one is mandated to go. THOs also receive an official manual and access to online resources (such as the inspection checklist) when appointed, but some health officers find this is not enough. Untrained THOs may struggle to even identify code violations, let alone properly issue reports and orders – more than one THO has sent a message to their email group with a very basic question such as “what do I do with the Inspection Checklist after the inspection?” Tim Angell (DFS) believes, “[The] health department ought to give their town health officers a little bit more support in some way.” When he volunteered to be the health officer several years ago (when some rules were different), he was only given the “Renting in Vermont” handbook by CVOEO,⁵⁶ and then left to his own devices. He did not even receive any contact or past files from the previous THO. “I pretty much started from scratch,” he says.

The appointment of THOs is an “unfunded mandate” – towns must do it, but they are not given any money to do it. Therefore, some THOs receive no payment whatsoever; others receive reimbursement from the city for their work-related expenses and/or gas mileage; and some receive a monthly, quarterly, or yearly stipend from the town, usually on the order of a few hundred dollars per year. Larger cities, like Burlington, have a city-funded and professionalized Office of Code Enforcement. In a message to the THO email chain, one THO lamented (perhaps with a bit of humor), “The \$500 [stipend] is not enough for the grief involved.”

Dale thought the THO who inspected her apartment would not issue orders because he was on the landlord’s side, but the town would not do anything about it when she complained. Likewise, the THO who looked at Tracey’s place seemed unconcerned about her problems and did not help at all, Tracey says. The lack of funding also means that most THOs probably work a full-time job, which restricts their availability to perform the duties required of a THO. The health officer who visited Andrea’s apartment seemed concerned about the housing situation, but he never came back for her promised follow-up.

Additionally, many THOs have limited authority to actually enforce the health orders they write, because their town select board has not given them the ability to act without the select board’s approval. While some cities have ordinances that allow THOs to issue fines for violations, many towns have not given their THOs this power. When Tim Angell was a THO in St. Johnsbury, he explains, “There [was] no enforceability... I just ask [the landlord] nicely, ‘Can you fix this?’ and if they say no... I have no finance mechanism, really nothing behind it to say, ‘You’re mandated to fix it.’” Besides appealing to the select board for an Emergency Health Order (which can only be done in severely unsafe situations), Angell felt he did not have any way to give “teeth” to his orders.

John Hyslop (SEVCA) also says the tenants he serves do not really get any help from the THO – the Weatherization Program does much more to address people’s habitability problems. “I’m not sure having every town [have] a THO is doing a bit of good,” he says, “because what leverage do they have?” Ericca wondered the same thing – she found that even though a THO inspected her apartment and issued a health order like she wanted, nothing changed.

Lillian Colasurdo (VDH) says the biggest gap she sees in the THO program is the lack of legal advice accessible to THOs; otherwise, she thinks the program does pretty well. Some THOs, though, think differently. In another message on their email chain, a THO wrote, “I believe that something needs to be done to help us poor folks. Hopefully we can convince someone of the need for changes to the Health law/rules.”

Tracey’s Story

Tracey and her husband Jeff moved to South Burlington six years ago, and they took the first apartment they could find. It was dark and damp, and everything seemed old and dingy. **They were particularly bothered by finding mold periodically** – they suspected the flooring was moldy, too, but only confirmed this when they decided to pull up a corner of the carpet to check just before moving out. Throughout the years, **their health was often poor**: Jeff has restrictive lung disease due to a partially-paralyzed diaphragm, and **his breathing got worse** over the time they lived there. Tracey has fibromyalgia, and **her pain got much worse, too**. “I was in bed constantly [because] I had so much pain,” she says. In addition, she says, **“We were both saddled with a lot of headaches.”**

The landlords **never addressed Tracey and Jeff’s mold complaints, and didn’t fully take care of other maintenance problems, either**. When the fridge door stopped closing properly and food started spoiling, the landlords replaced it with a fridge from another apartment – which had the same problem and was never replaced. A toilet leaked sewage onto their bathroom floor for two weeks before someone came to inspect, and two more weeks passed before the toilet was repaired. When Tracey suspected overcharges on their electric bill and asked for an independent electrician to come inspect, the landlords refused and sent their own electrician instead, who found no problems.

Finally, Tracey started looking elsewhere for help. She called the fire department first, then kept calling around wherever she was referred – Vermont Tenants, the Attorney General, and the Department of Public Works, among others. She didn’t know much of anything about health codes, but “I just sort of muddled my way through.” **Eventually, a THO came to inspect, but he didn’t file a report to their knowledge. “He didn’t look at anything... I was really disappointed in that,”** Tracey says. She would like to file a claim about the mold, but they simply don’t have enough evidence: **“When the town doesn’t do their job, and the landlord doesn’t do their job, the tenants are sort of left out there to flounder.”** However, they are in the process of seeking reimbursement for the suspected illegal electric wiring that caused their incredibly high electricity bills.

The couple has now moved to an apartment where they pay \$500 more in rent each month. As a result, **“We have to compromise our living, we can’t go out as much,”** Tracey says, **“but it’s worth it to have a place where you’re healthy.”** Indeed, ever since the move, **“We feel one hundred percent better – [we] have more energy.”** Tracey and Jeff were fortunate they could afford to get away from their unhealthy living situation, but they recognize that not everyone can: **“The barriers to getting out of a place and finding a place that’s affordable in this town [are] ridiculous, because everything is so expensive,”** Tracey says. **“They need to have more apartments built [and] more reputable people providing housing, so people like this don’t make a fast buck off people who don’t have a choice... there needs to be a choice in this town.”**

Recommendations

The situations described in this report simply should not occur. The examples that we cite are not merely anecdotal, but rather emblematic of a system that must be changed. Based on our findings, we believe the following policy actions would best increase compliance with the RHHC and thereby improve the housing health of Vermont renters.

1. Prioritize healthy housing by reforming the eviction process and prohibiting re-renting of units where non-compliance with the rental housing health code is documented.

First, we should change the eviction process so that before landlords can start an eviction case, they must provide a certification that the rental unit in question has passed an RHHC inspection, and that there are no outstanding health orders that require the landlord to make repairs on the property. Currently, the burden for proving a habitability violation rests with the tenant. As many of our tenant and stakeholder interviews revealed, even tenants who are educated about their housing rights may not assert them because they do not feel adequately protected from illegal retaliation by the landlord. And while landlords are represented by lawyers in eviction cases most of the time, tenants are often on their own. Landlords also have two other advantages. Vermont Legal Aid staff attorney Maryellen Griffin states:

One of the things I see is that it is disproportionately the most desperate people who end up in the worst housing. And a lot of folks are desperate because they don't have the money to pay rent in full and on time every month. These tenants tend to put up with poor conditions in order to have lenience on the rent. But then if the landlord decides he wants them out, he has a winning case on the rent issue, so the power imbalance becomes extreme. We hear all the time from landlords, Town Health Officers, and judges, who think a complaint isn't real just because a tenant waited until there was an eviction to bring it up. The tenant loses the case, and nothing is ever done about the repair problem, because everyone assumes it was an illegitimate defense to nonpayment. So the problem with a complaint-driven enforcement system is that people don't complain until it is too late, because they don't want to rock the boat.

Data from the 2014 Vermont Housing Profile by the Vermont Housing Finance Agency bears this out: over 80% of people with income under \$20,000 per year are in unaffordable housing, whereas a comparative 50% of people with income from \$20,000 to \$50,000 are in that situation, and fewer than 20% of people with income over \$50,000 are in unaffordable housing.⁵⁷ The pressures of trying to rent unaffordable housing on a low income mean that tenants often experience the brunt of the landlord-tenant power imbalance that Griffin describes.

Tenants also may find themselves trying to defend against an eviction for rent nonpayment after they withhold rent or “repair and deduct” due to a health code violation. Probably more often, though, tenants may be *legally* evicted for rent nonpayment if they withhold rent but do not follow the correct procedure. Dan, whose story appears later in this report, experienced this after he did years of agreed-upon repairs. Indeed, Judge Toor says health code violations are the most common counterclaim or defense she hears from tenants in eviction cases, which may be “for cause” or “no cause.” Rent

withholding and rent deducting are only allowed under specific circumstances, but many tenants do not understand what those are. Jonathan Bond (CVOEO) says his organization never advises clients to withhold rent without consulting a lawyer, because improperly withholding can easily result in eviction. Better tenant education would help remedy this issue, but a simpler rent withholding law and broader “repair and deduct” provisions could also prevent tenants from misapplying the law and getting evicted as a result.

Second, the Vermont courts need to be more proactive in assessing whether there are habitability problems that devalue a rental unit before ordering tenants pay the full rent into court as part of a “rent escrow” order. In non-payment evictions, landlords often ask the court to put a “rent escrow” order in place. During the eviction case, the tenant pays rent into court at an amount ordered by the court; landlords typically ask for the full rent amount to be paid. It is currently the tenant’s burden to prove that existing habitability problems make the home worth less than the full rent. Tenants may never get to plead their case because, if the full rent payment ordered by the court is not paid in full and on time, the court may issue an eviction order before the hearing even begins.⁵⁸ Judge Toor says she finds this law “concerning.” As she explains, “If [the tenant] can’t come up with the money to pay the rent escrow, they can be evicted, and now they’re out of the apartment, and then in theory the trial could be two months later and they could prove they’re right and they should’ve never been evicted... It’s a bit odd that you can be kicked out even before you’ve been able to present your defenses.” Reforming rent escrow laws would enable the tenant’s voice to be heard and offer another protection from illegal evictions. A court form that could identify for judges the tenant’s RHC complaints would increase the likelihood of judges making rent escrow orders for only the current fair market value of a rental unit that is in noncompliance with the RHC when an eviction case is filed.

Third, no-cause evictions should be eliminated. The provision for “no cause” evictions can serve as a sort of loophole for landlords to avoid charges of discriminatory or retaliatory eviction. Though the true reason for eviction can sometimes be exposed in court, this is not always easy, and even if the eviction is found to be illegal, this finding may not happen before the tenant has lost their housing for some period of time. Ending no-cause evictions could help prevent the loss of housing during the court process, and encourage more tenants to report unsafe conditions in their homes. The reasons allowed under “for cause” evictions ought to cover the situations where a landlord would reasonably and fairly seek to evict a tenant.

Finally, where evidence of RHC violations exists, even when the tenant loses the eviction case, landlords should be required to make all necessary repairs before the unit can be rented again. Dawn’s story highlights why this requirement is so important. When the problems of moisture leading to mold, holes in the ceiling, and rodent infestations were never properly addressed, Dawn complained and then received a no-cause eviction notice. While she wants to move out, no system in place ensures that the housing code issues are fixed before the next tenant rents the unit. Currently, neither the courts, nor Town Health Officers, nor the Department of Health step in to protect the next tenant against uninhabitable living conditions once the tenant who made the initial complaint is gone.

Dan's Story

Dan, a disabled Vietnam veteran, moved from New York back to his home state of Vermont in 2013 with his teenage daughter. They found a small home in the mountains outside of Bristol and made an oral rental agreement over the phone with the out-of-state landlord. For about two years, Dan had few problems with the house. He took care of the property, which required minimal maintenance, and always paid his rent on time. Then, one day, Dan **fell down the steps of the back deck and broke his hip**. He says the material on the deck boards meant to improve traction was “all torn up.” After returning from the hospital, Dan rebuilt the deck with his own money, but he asked the landlord if there was insurance or anything that could help him pay for the injury and maintenance. The landlord said no. “He said, ‘If you want to live there, you’ve got to fix it.’” So Dan did. When the skylight leaked, Dan boarded it up. When the unpaved driveway kept washing out in the rain, Dan hired someone to haul in dirt and rebuild it. But he also told the landlord he would take some of those maintenance expenses out of the rent payments, and there was no argument.

After the hip injury, **Dan's physical, emotional, and financial stress caused him to seek out a mental health provider** through Veteran's Affairs. He was diagnosed with post-traumatic stress disorder, which he had previously thought wasn't even a legitimate disorder. It hadn't caused him much trouble until the stress of his living situation triggered it: **“It's what got [the PTSD] started – I see a mental doctor twice a week, and it's because of this [housing situation].”** Dan continued to put up with it, though, periodically deducting expenses from his rent, until he had another fall. It was the front porch this time – a board broke (*Photo 5* and *Photo 6*), and Dan fell down the steps, **severely injuring his shoulder**. He went to the hospital, but the surgeon refused to do the necessary surgery on Dan's shoulder until he had a safe place to recover at home. So he told his landlord that he wasn't paying any more rent until he received help repairing the broken porch. A few weeks later, he got a **termination notice that cited a supposed \$6700 of unpaid rent**. Dan says the “unpaid” rent amounts to all the money he has deducted over the years for maintenance costs, with the landlord's knowledge. **“The thing is, this landlord, he doesn't think anything is his fault,”** he says.

Dan finally sought legal help after he got the termination notice, at the recommendation of a friend. Before that, **“I didn't know anything about [the housing health code],”** he says. A THO inspected recently and is filing a report; meanwhile, Dan has found another place to move to, and has a court hearing scheduled with his landlord. He says he just wants to put it all behind him, and not have to pay the \$6700. **“That place is killing me. Literally,”** Dan says. **“You can't put a price on what I've had to endure.”** He also hopes that he can help others avoid mistreatment by sharing his story: **“I've realized that this isn't the only landlord that takes advantage of people like me.”**

2. Certify and register landlords.

Increased code compliance requires a transparent system of registration and certification for rental units. The city of Burlington requires every landlord to report information about their property to the city, pay a registration fee, and schedule regular inspections to receive their certificate of compliance (COC). Depending on how many code violations are found and how quickly the landlord addresses them, the COC may expire in as little as six months or as long as five years.⁵⁹ This system allows the Code

Enforcement office to keep a database of all the rental units in the city and all the landlords' code violation histories, which can be useful information for potential future tenants, and possibly lawyers and judges as well. The city is in the process of publishing the data on landlords' COCs so that the public can view the "ratings" of rental properties – the Code Enforcement office thinks this will encourage landlords to increase their compliance.⁶⁰

Patti Wehman, the Case Manager with Burlington Code Enforcement and a Deputy THO, thinks, "The state could benefit from some kind of easily accessible general registry [of landlords]." In a way, this registry already exists. The Vermont Department of Taxes requires landlords to submit a Landlord Certificate every year, which is a single page document asking for basic information about the rental property.⁶¹

Tenants use the certificate when they claim a Renter's Rebate on their income tax returns. However, these certificates are not publicly accessible, making them useless to tenants, THOs, and others who may benefit from seeing them. Wehman also hopes that other aspects of the Burlington housing codes will be adopted state-wide, though she points out that the registration fees in Burlington may not be reasonable for all parts of the state. It might be more feasible for municipalities to each develop their own registries and housing codes, in her opinion. Still, she supports landlord registration and minimum housing codes becoming more widespread, in one way or another.

"I have to license my dogs, yet a landlord doesn't have to be licensed."

– Maddie Roberts, CVOEO

Maddie Roberts (CVOEO) also supports registering landlords. She points out, "I have to license my dogs, yet a landlord doesn't have to be licensed." Owners of vacation rentals, and other short term rentals, also have to be licensed and pay a 9% meals and rooms tax. On the other hand, allowing owners of year-round rentals to remain essentially invisible is poor policy.

In addition to simply reporting information about their property, landlords ought to receive some basic training on their responsibilities, according to some housing advocates. Susan Howe (SEVCA) thinks, "Anybody who becomes a landlord should be aware of all the laws [for rental housing]." Maintaining a property in accordance with state laws is not all common sense, after all. Landlords or their agents do already have to attend a lead-safe training class with VDH (if they own a pre-1978 building) under Vermont lead law,⁶² so why do they not also have to learn about other aspects of housing health? In the current system, comprehensive training of landlords certainly does not always happen – Emma Stewart (SEVCA) reports, "I think sometimes landlords don't know tenant rights." Jonathan Bond (CVOEO) summarizes: "We need to have a serious discussion on how we can help landlords maintain safety in their units, matching them with the technical resources [they need]... [and] something to educate them on what they need to do, the real basic best practices of being a landlord, as well as the ability for them to seek out some of the more advanced stuff that probably will help them become more responsible and successful business owners."

Christina's Story

Christina moved into her St. Johnsbury apartment with her partner in the spring of 2016. The rent payments were low, but the money they saved was hardly worth the struggles they faced with the quality of housing. Since moving in, the heat hasn't worked properly in the downstairs – when they turned up the thermostat in the winter, the upstairs would get very warm, but the living room, Christina says, felt like a freezer. Their landlord was aware of this problem, but it was never addressed. Christina also complained when the pipes under the sink started leaking, leading to mold growth. It took close to a year for the landlord to do anything about it, and when he did, he sent in his own “maintenance man.” Christina doesn't know if he was a licensed plumber.

They have been getting sick often with flu-like symptoms, and **they believe that the mold is responsible: “[We] were always getting sick... when we're not here, we're fine. It's when we come here.”** They visit the doctor whenever this happens, but the doctor can't confirm the cause of the illnesses. Christina might have sought help from her THO if she had more confidence in the system, but she feels that the landlord “has got power somehow over the town.” **From her experience working with a THO at her previous apartment, she thinks they “really don't do much... I don't see much getting done.”**

For months, Christina and her partner have been looking for a new place to live, but the shortage of affordable housing and her criminal record have made this very difficult. She is currently in a work furlough program, which means she can't move out of the area. She wishes there were more support for people in her situation, because, **“being an offender, I find it hard to get housing because nobody wants to rent to someone on furlough.”** Though it's taking a lot of work, Christina is eager to get away from this landlord. His refusal to address their habitability concerns, along with his attitude toward those concerns in conversations, has left Christina feeling disrespected. **“What he's doing is wrong... People shouldn't have to live like dogs. Basically he's saying that he's got money and we don't, [so] he's gonna get his way... it doesn't work like that. I'm just as much human as you. Just because I don't have money doesn't mean anything.”**

Christina wishes that no one would have to be in a situation like hers, and she wants people to make sure that landlords can't mistreat their tenants like hers did. Simply put, she says, **“I just think a lot needs to change. Hopefully, someday it will.”**

3. Fund and professionalize Town Health Officers to address violations.

It is time to move away from a primarily unpaid, volunteer-driven system for ensuring healthy housing. The state already has invested in safe housing with state-employed fire safety inspectors. Given the high costs of poor housing conditions for the state, we need to move to a funded system that hires experienced professionals to ensure Vermonters live in homes that will not make them sick and unable to work or go to school.

Until such a system is put into place, THOs need to have at least some basic guaranteed qualifications given the importance of a THO's responsibilities under the current system. If a THO does not attend the voluntary trainings, they may be less efficient and may perpetuate injustice by overlooking a violation or not knowing how to enforce an order. Providing training to *all* THOs would not require a significant amount of additional resources, and training could easily become a requirement through the simple addition of a VDH rule. Currently, the efforts VDH has put into improving training opportunities for THOs have all been in the form of full-day, in-person trainings. However, because so many THOs are volunteers with other full-time jobs, training continues to be inaccessible to many THOs. Web-based interactive training, in addition to the recording of in-person training materials, will increase capacity for THOs to participate in the training that is integral to being effective in that position. THO conflicts of interest should also be restricted – for example, at least a few THOs are current or past landlords, which presents an obvious problem (what if they are asked to inspect one of their own properties?). VDH needs to have staff who can use the Department's statutory authority to step in where the THO has a conflict of interest due to a relationship with the landlord, and an inspection is needed.

Additionally, offering payment to THOs would give them more incentive to fulfill their duties and better reward their hard work. If property owners paid registration fees for rental units, and THOs could collect fines for violations, that could fund the program for those towns and cities that have not passed ordinances for an active code enforcement program on their own. Not only are THOs unpaid, but no person in the entire Department of Health is hired specifically to run the program – rather, the responsibility for overseeing THOs falls to a couple of employees as a small part of their primary jobs. In fact, one THO thinks, "Some state officials seem to lack an understanding of what THOs do," according to a review of the training they attended. Tim Angell (DFS), among many others, wants more funding for the program: "You have this mandate and all these rules, but you need money to put behind it, and I don't think there was any of that, or very little." Jonathan Bond (CVOEO) agrees, and thinks funding a position to oversee THOs would help VDH uphold the code: "If we're going to have really basic health code, I would like to see basic health code basically enforced, and right now it's just not being enforced. Connecting it with having a paid job at [VDH]... would be something I would like to see."

More money (and a landlord registry) could also allow THOs to do more routine inspections, instead of only responding to complaints. Regular inspections play a critical role in preventing violations from occurring and finding violations that may not otherwise be reported. Ita Meno and Patti Wehman (Code Enforcement) both say that some of the most common violations they find on routine inspections involve smoke alarms and carbon monoxide detectors, which may be missing, broken, turned off, or outdated. However, very few people complain about smoke/CO detectors to the VDH hotline, THOs, or Vermont Tenants. These potentially dangerous violations seem often to go unreported and may only get noticed if an inspector visits the property. Meno thinks Burlington's routine inspections go a long way

toward making the housing habitable – when the inspectors see every unit at least once every few years, significant violations are less likely to slip through the cracks.

St. Johnsbury recently passed an ordinance to establish a housing registry and inspections of all rental properties to be completed every five years. The Town Manager, Chad Whitehead, reported to the Caledonian Record: "A lot of these buildings are going to fall to the wayside and become more and more dilapidated to the point where they can't be used anymore. We need to do something."⁶³ Even if the resources aren't there to start routine inspections of every property, towns can maximize the resources available by prioritizing which properties get inspected the earliest and most often. A ChangeLab guide to proactive rental inspections recommends "inspecting the oldest properties first, conducting initial drive-by exterior reviews, focusing on properties with histories of complaints and/or non-compliant owners/tenants, and establishing staggered review schedules from three to five or more years based on selected criteria (e.g., rent, location, history)."⁶⁴

"When the town doesn't do their job, and the landlord doesn't do their job, the tenants are sort of left out there to flounder."

- Tracy, Tenant

Finally, THOs need the authority to enforce their orders. Voluntary compliance is generally the first solution THOs seek, as they should – VDH supports a model of cooperation and respect that its employees are expected to follow. In his role as a THO, Tim Angell says, "I always just try to keep the middle ground, I don't try to take sides... [and] just try to come to a common ground between the owner and the tenant." However, some situations simply cannot be solved this way. As a Fire Marshal, Angell says he has a lot more "teeth," including the ability to issue fines – the

THO program could learn from that example. Harry Chen (former Commissioner of Health) acknowledges that while THOs may have technical authority to enforce certain responses, they don't have the practical power to follow through: "If you're trying to regulate something, then you have to have both the statutory authority to do so... and then you have to have the capacity in terms of people to actually do it. As much as I have respect for [THOs], I don't know if they overall have that."

The Weatherization Program⁶⁵ is another model that the THO program might learn from. Supported by both federal (Department of Energy) and state (heating fuel tax) funds, and administered through Community Actions agencies like CVOEO and SEVCA, the program employs professional workers, uses a detailed priority system to determine which homes get weatherized first, and effectively solves a variety of habitability problems. John Hyslop (SEVCA) speaks highly of this work, but also recognizes that doing some repairs on old homes won't solve widespread problems like the shortage of good, affordable housing. "We're a Band-Aid," he says. "I think we're a really good Band-Aid... [but] we're a micro application of a macro issue."

With more funding, training, and authority, THOs have the potential to change the story on housing code enforcement. Their responsibility as the ‘eyes and ears’ of VDH is a place to start, but the Department must actually listen and look at what THOs find for them to be effective. Patti Wehman (Code Enforcement) describes her duty to respond to town complaints by saying, “Once the city has been made aware of something... we can’t pretend like we’re not seeing this. It’s on us... to look after the people who live here.”

4. Increase sanctions for health code violations.

Though many, perhaps most, landlords only need to be given the proper education and tools in order to maintain their properties well, others require more incentive. To effectively deter many landlords from violating health codes, more than just their property



“rating” must be at stake – they must expect that their units will be inspected and that any violations found will result in consequences they wish to avoid. A predictable, consistent response to violations is key to preventing them from happening in the first place.

In Burlington, municipal tickets may be written and reinspection fees may be issued when an inspector finds that a landlord violated the city housing ordinance, and criminal charges can be filed for continued noncompliance with an inspector’s orders.⁶⁶ The money from these fines and the property registration fees is enough to fund the continuance of the Code

Enforcement office, covering the cost of Burlington’s frequent inspections. The threat of fines can motivate landlords, too – Ita Meno says that most properties comply with inspector orders without much trouble, and voluntary compliance is always preferred. Maddie Roberts (CVOEO) thinks even higher fines would be beneficial, though: “What I do wish is that landlords could be held more accountable. And I think that the best way to do that would be hitting them where it hurts, and that’s in the wallet... I feel like [the current fines] are not enough.” In many towns, no capacity to fine landlords

Photo 5 (above-left): The broken board in Dan’s front porch
Photo 6 (above): The steps where Dan fell, breaking off the bottom stair

for code violations even exists. And, even in towns that have taken the step of creating such authority, it is rarely used.

One potential alternative to issuing fines would be ordering a reduction in rent by the amount of a fine.⁶⁷ That way, the tenants would get direct compensation for dealing with the code violations in their unit, and the landlord would still have the same expense. Of course, this would mean less money going to the municipality, which could weaken broader code enforcement efforts. A compromise measure could be dividing the fine: half paid to the tenants, and the other half to the city.

For a small portion of landlords, even charging high fines (or high rent reductions) for code violations is not enough to resolve the housing issues at stake. If a violation is going to be very expensive to fix (such as replacing part of a plumbing system) and the fines are less expensive than the cost to address the violation, the landlord may decide that it is easier to simply give money to the city rather than invest in the property. As Ita Meno puts it, Burlington’s Code Enforcement office has lots of “little sticks,” but they could use a way to tie them together into “one big stick” when the situation calls for it. For example, Meno thinks more provisions for negligence charges against landlords could help increase compliance –or, a landlord could forfeit the ability to evict tenants if they have outstanding violations or fines on record, much the way a corporation cannot proceed in Court if its registration fees are overdue.⁶⁸ Our recommendation to increase fines for violations needs to be paired with our earlier recommendations: to require documentation that a rental unit is habitable before an eviction can be filed, and to create a mechanism to prohibit re-renting a unit that is not compliant with the code.

Ericca’s Story

Ericca moved into a “three-bedroom” apartment in North Bennington last year with her two teenage daughters. At least, she was told it was three bedrooms, but she knew before moving in that **the two larger bedrooms had no windows, which makes them legally “uninhabitable” rooms** (because of the lack of emergency exit routes). However, the landlord assured her that the bedrooms were adequately ventilated, so she decided to take the apartment anyway. The landlord, it turns out, was very wrong. The daughters’ bedrooms, located down a twisting hallway at the back of the apartment, **became uncomfortably hot even in the middle of winter with the heat shut off.** “You just can’t get any cool air back there,” Ericca says. As a result, **“At least fifty percent of the time, my kids are sleeping in the living room.”** The family would even refrain from turning on lights and using the oven at times in an effort to keep the heat down. **Some nights, Ericca had to choose between cooking dinner and having her girls sleep in their own beds.**

Ericca’s youngest daughter says the lack of sunlight in her room causes her to oversleep sometimes, and being hindered from spending time in her own space “gets pretty annoying.” Her asthma symptoms also worsened while living in a home with such poor ventilation. “[The asthma] never really bugged me, especially when I had a lot of fresh air in my bedroom,” she says. But now, **“I’ll... just have a really hard time breathing.” She even had to visit the doctor a few times last winter for these breathing issues.** [cont’d]

[cont'd] When Ericca explained the situation to the landlord, she got nowhere. "He responds with gibberish," she says. Apparently the man has quite a reputation, too – Ericca called some heating companies herself to see if they could help, and "none of the local contractors want to work with him because he screws everybody over." She even tried to bargain with the landlord, offering to take a rent increase to help offset the cost of a \$3500 heat pump that would help with air circulation. He refused. Finally, Ericca got a THO to inspect, which resulted in an **order to the landlord to address the heating problem within 30 days. That was several months ago, and to Ericca's knowledge, no action is underway to fix the apartment, and no fine was issued (as allowed by city ordinance).**

Ericca recently received threats of eviction, so she is moving out – but she plans to file a claim against her landlord for consumer fraud. Many of the other apartments in the building have health and fire code violations, too, she says, but no one reports them. **"I'm really frustrated with the fact that no one else wants to stand up to [the landlord]."** Ericca thinks the housing shortage plays a major role in this: **"The biggest problem in Bennington is there's a real lack of rentals."** If it weren't for a connection through a friend, she may not have been able to find a new place herself. She also wonders if the town is reluctant to take action against her landlord for fear of displacing tenants who have nowhere else to go. It's a valid concern, but she still thinks something should be done. **"The conditions suck, and you go to the town and complain, and no one wants to do anything about it, and it's not right."** Given her experiences, it comes as no surprise to her that many people are leaving the state. Her suggestion: **"Give us a reason to stay."**

In addition to fines, other changes in the sanctioning system could help reduce the burden on the tenant to address code violations. For instance, the problem of bedbugs and pests in Vermont rentals could be reduced if landlords were required to manage bedbugs and other pests when they only occur in one unit and it's unclear who is at fault.

Unlike a landlord registration and certification system, which affects all landlords equally, a sanctioning system only affects landlords who don't comply with housing codes. By educating landlords better, though, we can guarantee that those who do violate the codes are likely acting out of negligence rather than ignorance. Therefore, more severe sanctions will be warranted to justly punish careless property management.

5. Educate tenants about their rental rights and responsibilities.

When code violations inevitably occur, tenants need to know how to respond. The provisions of the RHHC and other housing laws are not common knowledge, and tenants may not even know they exist. Jonathan Bond (CVOEO) states, "More money focused on education for tenants and landlords would be helpful... there needs to be a really concerted effort, focused effort, to train folks so they're on a level playing field with the rights they know." Many others agree, including Patti Wehman (Code Enforcement), who says, with regard to how we can improve housing code compliance, "A lot of it has to do with educating people... [on] what constitutes 'safe.'" Ita Meno (Code Enforcement) also thinks that education is important for raising awareness about what standards housing should meet.

The Office of the Surgeon General also supported tenant education in its 2009 Call to Action: “Rental property owners, tenants, and single-family homeowners should receive information and tools that could help them make homes safer, healthier, and more environmentally friendly.”⁶⁹ The information and tools offered could take many forms, but they would ideally be very low-effort to prevent putting extra mental strain on people who are likely in stressful living situations (remember, over half of Vermont renters are burdened with unaffordable housing). Tenant advocates can do more to make sure tenants know that they have the right to live in habitable homes, and know what to do if a problem arises and the landlord does not fix it – including getting a Town Health Officer involved. CVOEO, SEVCA, and other Community Action Partnership (CAP) groups already provide resources for tenants through booklets, online documents, hotlines, and free classes, which have some great results – approximately 500 tenants take CVOEO’s single-session renting class each year.

Programs like these should be supported and expanded as much as possible. John Hyslop (SEVCA) says, “CAP agencies do a really good job – we try to hit the worst, the most needy, as much as we can. If there were more CAP agencies, it would be better – but there’s only so much money.” Some other ideas for increasing tenant awareness of their rights include running short public service announcements explaining rights and responsibilities and advertising helpful resources, and requiring that landlords distribute copies of a simple information piece covering the RHHHC and other codes to their tenants when they move in.

6. Create more affordable housing.

Along with preventing unjust eviction, providing tenants more options of affordable places to live would enable more code violation reports and improve rental quality. Besides building more housing, increasing public housing assistance would make more rental options accessible to low-income people. Mike Ohler (BHA) explains, “There always seems to be a problem getting people housed, but the problem shifts. Sometimes we don’t have any subsidies to offer people, because they’re all federally controlled... right now, we actually have a few subsidies... but we don’t have enough places to put the people... it always seems to be one or the other.” Ideally, increased housing aid would happen alongside the construction of new apartments, but Emma of SEVCA just hopes that at least one of these improvements happens: “If we’re not going to be able to create more affordable housing, we need to create more vouchers, because it is beyond abundantly clear that we’re just going to end up seeing homelessness on the rise if we don’t have any.” Ultimately, creating more

“There’s not enough housing, and there’s not enough new housing, and I also don’t see a lot of investment in the old housing... I actually see the problem getting worse.”

- Jonathan Bond, CVOEO

affordable housing comes down to funding. Susan Howe (SEVCA) says that what she needs the most to do her job well is “more money and more housing.” With regard to addressing the housing crisis, Audrey Monroe (CHT) says, “It’s nothing to do with policy – it’s to do with money.” Housing is a big investment, but it has a big return. Jonathan Bond (CVOEO) points out that the situation continues to become more expensive the longer we fail to renovate or build more housing, because the buildings continue to age. “There’s not enough housing, and there’s not enough new housing, and I also don’t see a lot of investment in the old housing... I actually see the problem getting worse,” he says. Mike Ohler thinks Vermont ought to direct more money toward building permanent housing and away from emergency housing. However, until permanent housing exists, the need to provide emergency housing will not decrease – both types of housing continue to need funding, until an adequate stock of affordable housing brings down the need for emergency housing.

In addition to lowering expenses for short-term shelter, healthy housing would save significant amounts of money in healthcare costs.⁷⁰ The Weatherization Program at CVOEO has found that their work generally creates even more cost savings from health care expense reductions than from energy bill reductions for their clients with asthma, according to Dwight DeCoster. If this program, which spends an average of merely \$8,600 in labor and materials on each home they weatherize, can create such savings, imagine what an abundance of new housing stock could do to diminish health care expenses.⁷¹

Conclusion

Though healthy housing is a basic need, far too many people in Vermont go without it every day. This deprivation has serious consequences, including frequent respiratory illness, mental health problems, stressful lawsuits, and the risk of homelessness. These consequences do not just impact renters, either. The enormous collective cost of substandard housing includes increased health care expenses, decreased worker productivity, and strained societal bonds. Ultimately, though, the price is paid by individuals, whose suffering defies measurement.⁷²

We cannot truly understand the importance of healthy housing through numbers only; we can best understand the full scope of its impact through people and their stories. For those of us with the privilege of living in comfortable, safe homes, imagining the situations that some low-income renters face can be difficult. Dwight DeCoster (CVOEO) thinks, “The vast majority of Vermonters have no idea how our low-income segment gets by each day.” We *need* to know this, though, if we want to advocate for and create a just, efficient system that gives everyone the opportunity to live safely and healthfully.

Susan Howe (SEVCA) emphasizes the importance of approaching problems holistically in her job, keeping in mind the many factors that may affect someone’s housing situation. “We have to remember what people are experiencing to help them succeed,” she says. “We can’t just move them around and figure we’ve satisfied HUD’s requirements.” Emma Stewart (SEVCA) says, “Politically, I hope that... maybe people will come down more to the ground level and look around, instead of arguing from a distance.” After listening and looking, we have come up with several policy changes that could have great potential to improve Vermont’s rental housing health:

- 1) Prioritize healthy housing by reforming the eviction process, and prohibiting re-renting of units where non-compliance with the rental housing health code is documented;**
- 2) Certifying and registering landlords;**
- 3) Funding and professionalizing Town Health Officers;**
- 4) Increasing violation sanctions;**
- 5) Educating tenants, and**
- 6) Providing more affordable housing.**

These are ambitious goals that require planning and investment, but this should not deter us from pursuing them. The common goal of healthy housing must stay central to the conversation.

The search for a perfect solution can sometimes keep us from finding a good solution in the interim, but Vermonters do not have time to wait for perfection. These policies could be the key to preventing someone like Andrea from suffering in silence while her sons are hospitalized for accidents in an unsafe home, or preventing someone like Christina from feeling disrespected and helpless as a result of mistreatment by a landlord, or helping someone like Arika find a place to live with working smoke alarms and electricity. In speaking about Maslow’s hierarchy of needs,⁷³ Jessica Denton (CHT) says, “If we can provide that bottom layer [of needs] – wow, we can really improve lives.” The chance to ensure basic physical security needs to be the focus as we seek to understand the living conditions of Vermonters, better enforce housing laws, and ultimately ensure healthy housing for all.

Appendix

Methodology

The primary source of information used in this report is original interviews with various stakeholders who shared their stories and perspectives on housing habitability issues. We spoke with the following people (some tenants' names were changed to protect privacy):

- 10 tenants from around the state (the 9 listed below agreed to appear in the report):
 - Natalie
 - Dawn (Chester)
 - Andrea (Chester)
 - Arika (St. Johnsbury)
 - Tracey (South Burlington)
 - Christina (St. Johnsbury)
 - Dan (Bristol)
 - Dale (Brattleboro)
 - Ericca (North Bennington)
- 4 Housing Advocate workers:
 - Jonathan Bond, Director, Vermont Tenants, Champlain Valley Office of Economic Opportunity
 - Madeline Roberts, Vermont Tenants, Champlain Valley Office of Economic Opportunity
 - Susan Howe, Housing Case Manager, Southeastern Vermont Community Action
 - Emma Stewart, Family Services, Southeastern Vermont Community Action
- 3 Licensed Clinical Social Workers from the University of Vermont Medical Center Community Health Team:
 - Audrey Monroe
 - Jessica Denton
 - Eileen DeLuca
- 3 Town Health Officers/Code Enforcement employees:
 - Tim Angell, former St. Johnsbury THO, State Fire Marshal, Division of Fire Safety
 - Patricia Wehman, Deputy THO and Case Manager, Burlington Office of Code Enforcement
 - Ita Meno, Code Enforcement Inspector, Burlington Office of Code Enforcement
- 2 Vermont Department of Health employees:
 - Harry Chen, former Commissioner
 - Lillian Colasurdo, Public Health Policy Advisor
- 2 Weatherization Program employees:
 - John Hyslop, Auditor, Southeastern Vermont Community Action
 - Dwight DeCoster, Director of Weatherization Program, Champlain Valley Office of Economic Opportunity
- 2 Others:
 - Michael Ohler, Housing Retention Specialist with Burlington Housing Authority
 - Helen Toor, Judge in Rutland Superior Court

Another primary data source used is the VDH complete complaint log from January 2013-May 2017. Although VDH does not currently take an active role in investigating or remediating rental housing health code complaints, they do track all calls made to the Department by tenants, landlords, THOs, and others. They also record the Department's response to these complaints and inquiries, which is often to tell the caller to contact their THO. We analyzed this log for information about common tenant complaints and trends in tenant complaints over time and across the state, some of which are included below.

Finally, we reviewed the VDH records of THO materials from 2013 to 2017, including emails sent within the THO group and evaluation responses from THO trainings.

Endnotes

¹ See Act 43 (H.508) of 2017, an act relating to building resilience for individuals experiencing adverse childhood experiences.

² “Rental Housing Health Code.” *Vermont Department of Health*. Ch. 6, § 2, 2015, http://www.healthvermont.gov/sites/default/files/REG_Rental_Housing_Code.pdf

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³⁹ 20 V.S.A. §§ 2734(c), 2885.

⁴⁰ 20 V.S.A. §§ 2734(a), 2906(e).

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⁴² “Burlington Code of Ordinances.” Chapter 18. *City of Burlington, Vermont*, 2017, <https://www.codepublishing.com/VT/Burlington/>; 10 V.S.A. § 6265 (for mobile homes).

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⁴⁹ “About Mold and Moisture.” *U.S. Department of Housing and Urban Development*. https://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/healthyhomes/mold

⁵⁰ *Burleson v. Turner*, No. 174-11-16. (Vt. Sup. Ct., April 3, 2017).

⁵¹ See *supra* notes 6 and 14.

⁵² Susser, Stephanie, Stephane Perron, Michel Fournier, et al. “Mental health effects from urban bed bug infestation (*Cimex lectularius* L.): a cross-sectional study.” *BMJ Open*, vol. 2, no. 5, 2012. <http://bmjopen.bmj.com/content/2/5/e000838.full>; Christopher Eddy & Susan Jones, “Bed Bugs, Public Health, and Social Justice: Part 1, A Call to Action.” *J. of Envir. Health*, vol. 73, no. 8, 2011. <http://web.a.ebscohost.com/ehost/pdfviewer/pdfviewer?vid=0&sid=9368c98a-c1cc-4911-ba3b-1d63eabda184%40sessionmgr4007>.

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⁵⁵ Vermont Housing Finance Agency, *Vermont’s Housing Profile*, 2014, available at http://www.vhfa.org/sites/default/files/documents/Vermont_Housing_Profile_0.pdf; Schwartz, Mary, and Ellen Wilson. “Who Can Afford to Live in a Home?: A look at data from the 2006 American Community Survey.” *U.S. Census Bureau*. <https://www.census.gov/housing/census/publications/who-can-afford.pdf>

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⁶⁶ See supra note 44 at Article II, 18-31. .

⁶⁷ Another mechanism could be receivership. Patti Wehman (Burlington Code Enforcement) explains that receivership is not really used in Burlington, though they have legal authority to do so. Receivership involves the city revoking a landlord’s ability to manage their property and appointing a “receiver” (anyone from a relative of the owner to a city employee) to temporarily operate and restore the units. The owner must pay a fee and demonstrate they can maintain the property in order to regain control. Receivership may be an appropriate action when a landlord has repeatedly failed to meet code requirements, and it provides a way to guarantee that the property will be brought up to code.

⁶⁸ 11 V.S.A. § 1634.

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⁷¹ Wilcox, Geoff. “Performance Indicators for the Vermont Weatherization Assistance Program.” *Department for Children and Families (Agency of Human Services)*, Report to the Vermont Legislature, Jan. 2017. <http://legislature.vermont.gov/assets/Legislative-Reports/2017-Wx-Legislative-Report-2017.01.12.pdf>

⁷² See supra notes 3, 10, and 11.

⁷³ This is a psychology concept proposed by Abraham Maslow in his 1943 paper “A Theory of Human Motivation” that places physiological necessities like food and shelter at the bottom of a pyramid as a basic human need that motivates psychological and self-fulfillment needs.

About the Authors

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Vermont Legal Aid is a non-profit 501(c)(3) law firm established in 1968. Through our work that spans seven broad projects, we strive to advance fairness and justice in the civil legal system, address the social and economic interests of our clients, and confront the underlying causes of poverty, discrimination and inequality. We work closely with our partner agency, Legal Services Law Line, which provides a legal advice hotline and manages the Vermont Volunteer Lawyers Project in cooperation with the Vermont Bar Association. Vermont Legal Aid and Law Line work together to identify innovative and efficient ways to provide legal advice and assistance to as many people as possible, even as funding for free legal services decreases. To learn more about the work of Vermont Legal Aid and the myriad of subjects we address, visit our websites at www.vtlegalaid.org and www.vtlawhelp.org. To contact Vermont Legal Aid about this report, call our Burlington office at 802.863.5620.

“Around the time the mold happened, [my daughter] got admitted to the hospital for breathing problems.”

“[We] were always getting sick... when we’re not here, we’re fine. It’s when we come here.”

“You shouldn’t have to make a disgusting decision like this... You shouldn’t have to live in a place that could go up in flames at any given damn time.”

“It’s terrible that you can live in an apartment and not be able to do the normal things that you need to keep up your everyday health.”

“I felt like [the landlord] would do everything they could to evict me.”

“At least fifty percent of the time, my kids were sleeping in the living room.”

“Nothing ever dries in here.”