

Testimony of James Arisman
Town Health Officer, Town of Marshfield
Before House Committee on General, Housing,
and Military Affairs Regarding Housing Code
Enforcement and Town Health Officers, January 30, 2019

Members of the Committee, thank you for offering us this opportunity provide testimony on this important subject. I have a background and experience in housing, health, law, and law enforcement, and I have some thoughts today on the subject of housing code enforcement in Vermont. In my home community of Marshfield, I hold several volunteer positions that are involved in the day-to-day functioning of our local government. Marshfield, like other small Vermont towns, depends on the efforts of its many volunteers to provide services that elsewhere would be the work of paid government employees. I volunteered to serve as a Town Health Officer because this is a position that has broad and challenging responsibilities for looking after local health concerns and working for the well being of our citizens.

In Vermont, local selectboards nominate to the Department of Health the names of persons to serve as Town Health Officers and Deputies. There are roughly 336 of these health officers in Vermont who are responsible for their local communities. These health officers have responsibilities for physical inspections, enforcement, rental housing codes, sewage and septic systems, lead paint, animal control, drinking water safety, insect and rodent infestation, hazardous spills, asbestos, and air quality. All effort this requires a great deal of time.

In our small Vermont towns, the local health officers are volunteers who are either unpaid or who receive only a small stipend from their towns in recognition of their work. Simply put, the Town Health Officer system is an unfunded mandate for which most small town governments lack both the

budgetary resources to support this work and the expertise to manage such work on a day-to-day basis. As a general matter, most volunteer health officers are well intentioned and conscientious, but the majority of these volunteer health officers lack the time, broad training and skills, and technical expertise to carry out all of their many responsibilities effectively.

The Town Health Officers are appointed by the Health Department but then are given only minimal support and training to carry out work that often involves complex inspections, decision-making, and enforcement efforts. Training for health officers takes place twice a year for a few hours, but provides minimal coverage on important topics, and often is repetitive. The Health Department itself assigns staff support for the Town Health Officer program at the .10 full time employee level, meaning that a busy Department employee with other competing responsibilities can devote only about 4 or 5 hours a week to providing support and guidance to some 336 town health officers. Nor is there any Department of Health funding for the work being done by the local health officers. These health officers are working against very difficult odds with minimal resources.

For town health officers, the most demanding and difficult responsibility they shoulder, in my opinion, is carrying out inspections of local rental housing under the Vermont rental housing health code. In Vermont it is estimated that more than half the rental housing stock is not subject to any kind of regular inspection to protect against health and safety dangers and to prevent deterioration of this valuable housing resource. Roughly 80 percent of the rental housing stock in Vermont was built before 1980, with much of this housing estimated to have been built before 1939. There is a direct correlation between rental housing age and the presence of housing code violations in need of correction.

In contrast to the smaller town, larger municipalities in Vermont, such as Burlington or Barre, have established their own local inspection programs to protect their housing stock and ensure that rental housing units are decent, safe, and sanitary for residents. In these larger municipalities, capable and professional inspection programs operate as an organizational unit of government and are staffed with qualified and trained inspectors. These rental housing inspection programs carry out proactive inspections, meaning all units in a locality are inspected on a routine, predictable cycle, rather than merely being complaint driven. Inspectors follow up with landlords to guide and ensure correction of violations.

In smaller communities, town health officers carry out rental housing code inspections and do so almost always in response to a complaint from a tenant (only occasionally from a landlord). These inspections are not routine and frequently involve difficult, even angry interactions between tenants and landlords that make heavy demands on the work of the health officer.

Carrying out a rental housing code inspection requires skills that many health officers feel they lack. Health officers must spot and document problems such as unsanitary conditions, non-complying materials, improper or non-complying plumbing, rodent and insect infestation, improperly vented or malfunctioning heating systems, unsafe electrical systems, structural deficiencies, lead paint, mold and moisture, and “life safety” issues. Most Town Health Officers simply lack the training, broad technical skills, and time required to effectively carry out such detailed, crosscutting inspections of the local rental housing stock.

Nor do most health officers possess the legal and procedural capabilities to obtain a Health Order from their local Selectboard. Even when a Health Order is entered by the local Selectboard to correct serious

deficiencies, few small municipalities are willing or able to spend their limited funds to enforce their own orders through additional, costly legal action. As former Health Commissioner Harry Chen observed, health officers may seemingly have the authority to enforce corrective action under the rental code, but they lack the practical power to follow through to actual positive results.

In sum, the current system utilizing volunteer town health officers to carry out inspections of local rental housing units is wholly inadequate to protect renters and ensure the safety and sound condition of this housing. The efforts of the town health officers receive little meaningful support from the Department of Health that appoints them but then assumes almost no responsibility for their work. I suggest that the Department of Health should be expressly tasked by the legislature with responsibility to act for now as the lead agency for overseeing and developing an effective program of rental housing code enforcement in our state.

A recommendation for at least two full time staff positions within the Health Department to support this effort strikes me as a modest down payment on a vitally needed program to protect our valuable housing stock and renters. The Department of Health also should be expressly tasked with a system for receiving and collecting data on the results of current rental inspections to aid decision making on budget, staffing, and housing needs. Finally, the current town health officer inspection system should be authorized to provide for ticketing and imposition of fines of up to \$200.00 per day for uncorrected violations of the rental housing code, with enforcement through the Judicial Bureau.

I hope that the legislature this year will act to move our state toward creation of an effective program of rental housing code inspection and enforcement. The studies and reports already have identified what needs to be done. We continue to risk the health and safety of the many Vermont citizens who must depend on the rental housing market when we fail to routinely and professionally inspect this housing to ensure it is being properly maintained, safe, and sanitary.