

I would like to thank the committee for taking the time to hear about the important issue of Act 250's connection to issues of racial equity and diversity in Vermont.

I want to begin by commending the committee for taking this issue up. I know that it can be difficult to draw connections between issues of race and those of natural resources and that issues of racial injustice can feel uncomfortable and insurmountable. It takes courage to look at this issue head-on, and I want to thank you for having that courage.

However, I hope that this will not be the last testimony that you hear on the subject. I am giving this testimony to provide historical context based on original research that I've done; however, I want to emphasize the fact that I'm telling this story as a white person, and that there can really be no replacement for testimony and guidance from people in the impacted communities.

So, for some background: Last spring, I completed a senior honors thesis in Comparative Studies in Race and Ethnicity at Stanford University. Under guidance of a faculty member in the law school who specializes in local and land-use law, I researched the history of Act 250 and how it relates to race. My research took me way further back into the history of the state than 1970, because a central question I kept arriving at was what it meant when Vermonters advocated to "keep Vermont the way it was," as they often did in relation to Act 250.

I can't share this entire history in this time slot, though I'm happy to share my thesis if you would like. The main takeaway from my research is that Vermont didn't become the second whitest state in the nation by accident. It's not just that the people of color didn't show up. Conscious, and sometimes unconscious, actions by white Vermonters kept people of color from coming to the state, and cemented the marginalized position of people of color within the state. Even though we claim to be the first state to abolish slavery--which itself is a falsehood--Vermont has just as ugly of a history when it comes to race as the rest of the country.

In the past few years, the legislature has shown that it is willing to address the issue of institutionalized racism in Vermont. Act 54, passed in 2017, recognizes that there are racial disparities across all systems of government; Act 9, passed in 2018, commits to "dismantling systemic racism" in the state. Act 250 represents another opportunity to do this sort of work. If we, as a state, are going to reckon meaningfully with the issue of racial injustice here, we have to look closely at how our policies have created and maintain institutionalized racism, and what policy changes we can make to address this history.

It was beyond the scope of my research to prove or disprove the racial impact of Act 250; however, in this testimony I am going to share why it is my belief that Act 250 merits a closer look and why I believe that Act 250 could be a really excellent tool in preventing or mitigating further racial injustice.

- First, I will discuss why policies relating to land use, land ownership, and development have historically contributed to segregation, and why segregation is at the root of a lot of other indicators of racial inequity that we see today.
- Next, I will talk about how, in the same time period as Act 250's passage, there was a shift nationally from using policy that talked openly about race to a using policy that did not talk about race but was nevertheless effective at maintaining segregation and otherwise causing racial injustice.
- After that, I will touch on how the events in the two years before Act 250 passed indicate that race was in the forefront of Vermonters' minds when they considered the Act.
- Finally, I will talk briefly about why Act 250 represents an exciting opportunity to improve our state's efforts to prevent and mitigate racial injustice, and why it's imperative that more testimony from leaders of color in the state be heard.

I want to start by mentioning that Act 250 deals with unceded Abenaki land, and that there are four state-recognized Abenaki tribes. If we're going to talk about how control over the land leads to racial injustice, we really need to look no further than the way that dispossession of the land is at the root of a lot of the ways that indigenous people are marginalized in the U.S. today.

There is well-documented evidence that residential segregation in urban areas is the result of government policy and discriminatory practices by realtors and landlords, and that it cannot be reduced to personal choice or simply economic factors. The quintessential example of this is "redlining," a practice in which, beginning in the 1930s, the Federal government refused to guarantee loans in urban areas that they considered "risky"--not surprisingly, these "risky" areas were neighborhoods predominantly populated by people of color, especially Black people. These "risky" areas were marked with red on the map--hence the term "redlining".

Homeowners in other sections of cities didn't want to sell to people of color for fear that their neighborhoods would become "risky" as well; they "protected" their neighborhoods by requiring restrictive covenants preventing sales to people of color (and sometimes Jewish people as well), and landlords and realtors used discriminatory steering practices to prevent buyers of color from accessing these areas. People of color were forced either to borrow from predatory lenders or to rent homes; this meant they were largely unable to become homeowners, and that they remained

concentrated in inner cities as whites moved outward to the suburbs (and, I would mention, starting in the 1960s, moved out into rural areas like Vermont, as well).

Especially after WWII, when whites took advantage of the GI bill and became homeowners in droves, this created a dramatic divide between white and Black Americans, one that persists today. White families have been able to accrue equity in the form of homes and pass it down from generation to generation. They can leverage that equity as a safety net if things go wrong, or can use it to invest in things like a child's college education. Meanwhile, confined to renting, Black families have not had the same opportunities. Today, the mean wealth of White families is *twelve times* that of Black families, at \$134, 230 and \$11,030, respectively.

In a racially segregated society, all sorts of decisions about space--like land-use decisions--have racial implications. Things like deciding to put parks in some places and incinerators in others, or deciding to invest in highways to bring people to the suburbs instead of public transportation to help people within cities end up being decisions about which racial groups will receive public investment, and which will experience disinvestment.

## 2: Zoning

Up until the 1960s, it was relatively easy to maintain segregation using policy that referred openly to race. But the victories of the Civil Rights movement meant that open reference to race became increasingly difficult. This does not mean that White Americans gave up on segregation. It simply means that they began to use new methods of achieving the same ends.

One of these methods was exclusionary zoning. In the early 1970s, "growth management" popped up as a planning goal all over the country, seemingly spontaneously.

Briefly, zoning can function as a method of exclusion by limiting the number and type of new housing units that can be added through methods including hard caps on numbers of new housing units, lot size minimums, and restrictions on apartment complexes. This creates artificial scarcity, which drives up housing prices.

An economist and historian of exclusionary zoning, William Fischel, describes it like this: "Faced with the curtailment of selective exclusion, localities began to opt for general exclusion." In other words, white Americans decided that if they could not keep people of color out specifically, then they might as well keep everybody out.

It was at this moment in history, when white Americans were beginning to use exclusionary zoning to maintain their segregated enclaves without openly referring to race, that Act 250, in some ways the mother of all “growth management” initiatives, passed. When Act 250 passed, there were fewer than 600 Black people in the state. In other words, it was just the sort of segregated enclave that white people might want to protect.

This raises an important question: to what extent did the architects of Act 250, consciously or unconsciously, intend to maintain Vermont’s white majority by keeping new people from coming to the state?

This claim may feel like a lot. I don’t want to discount the reality that there was a pressing environmental situation that led to Act 250’s passage, and the passage of policies like it throughout the country. I also don’t want to understate the positive impact the legislation has had on the natural environment in our state. But the historical events in the two years leading up to Act 250’s passage suggest that race was at the forefront of Vermonters’ minds when they discussed “keeping Vermont the way it was.”

Two years before Act 250 passed, the progressive administration of Vermont’s first Democrat governor in over a hundred years, Phil Hoff, was in full swing. Hoff was extremely popular and had already won reelection twice.

In the spring of 1968, Hoff, inspired by a report linking the civil unrest in cities of the summer before to White racism, partnered with New York Mayor John Lindsay to create the Vermont-New York Youth Project, in which hundreds of Black and Puerto Rican youth from New York came up to Vermont for the summer of 1968 to attend summer camps alongside White Vermont youths.

Many White Vermonters vehemently opposed the project, citing concerns about “criminal elements” and about having to compete with people of color on the job market. Hoff later stated that he believed he lost about a third of the Democratic party’s support over it.

1968 was an election year. The candidates in the race were Lieutenant Governor John Daley, a Democrat who wholeheartedly supported the Youth Project, Attorney General James Oakes, a Republican who nonetheless expressed his approval of the project, and a Republican businessman, Deane Davis. Davis alone expressed opposition to the project; in response to a

question from one reporter, he said, “I hope it will do more good than harm...People are concerned—concerned that rioting and criminalities will invade Vermont.”

Another event, which has come to be called the “Irasburg affair,” cemented Davis’s role as the racially conservative candidate in the race. In July of 1968, Reverend David Lee Johnson, a Black man from California, moved to Irasburg with his family. Two weeks after they arrived, they awoke in the night to people shooting at their house from a car. Though the state police had identified a suspect by the next day, they spent two more weeks investigating, ostensibly to find a motive for the crime, since the Public Safety Commissioner vehemently denied it was racially motivated. The investigation was likely linked to rumors that the Johnson family was in Vermont to gain a foothold for a wave of Black settlement. Soon, the state police shifted to investigating Johnson for adultery, and arrested Johnson and a young White family friend at gunpoint on these charges despite the fact that adultery was almost never prosecuted at the time. The Johnson family left Vermont soon afterwards.

At all steps throughout the Irasburg Affair, Attorney General Oakes stood squarely on the side of the Johnson family and rebuked the state police, the Public Safety Commissioner, and the Orleans county State’s Attorney who had chosen to prosecute Johnson for adultery. Oakes lost handily to Davis in the Republican primary, and many credited his loss to his strong position on the Irasburg affair. Davis then won easily against Daley in the general election. In other words, Davis, the only candidate who had consistently distinguished himself by opposing developments that might meaningfully lead to integration in the state, had proven to be overwhelmingly popular with Vermonters.

Davis became Governor in January of 1969, and quietly reversed the consequences that Hoff had attempted to bring against the state police in response to the Irasburg Affair. By the spring of 1969, just a few months later, the entire political discourse in the state had shifted to land use planning. The goal of this planning was to “keep Vermont the way it was,” and to protect the state from “outside pressures.” Davis’s gubernatorial campaign suggests that, though these phrases certainly had to do with the natural environment, they also very well could have to do with the racial environment in the state—that Vermonters could have been thinking about segregation as well as land use preservation.

More research is necessary to determine whether Act 250 has materially impacted racial equity in the state. With this history, I have intended to show why the events leading up to Act 250’s passage suggest that the legislation merits such an investigation.

But I also want to conclude by pointing out that Act 250 doesn't just represent negative things with regards to race in the state. Vermont is almost unique in this country in having a law like Act 250 that conducts planning and permitting at a state level. Because racial injustice is such a spatial phenomenon, this means we have a really excellent tool in our toolbox when it comes to preventing and mitigating racial injustice.

The legislation is already concerned with spatial patterns of investment and disinvestment when it comes to rural settlement patterns--it's not that far of a logical leap that Act 250 could also address spatial patterns of resource distribution with relation to race. We already have the regulatory framework set up--we just need to make sure it is possible to use it in this way.

I believe you received written testimony from Mark Hughes today laying out several amendments that would make it possible for Act 250 to serve as a tool in addressing racial inequity. An issue like this would almost certainly be best addressed by people in the impacted community, that is, by people of color in the state. Because of this, I want to conclude by reiterating what I stated at the beginning: to fully engage with this issue, it's of the utmost importance that further time be made available so that leaders of color can testify on the subject as well.

Thank you.