

My name is Mikaela Osler and I am from Jericho. I am sharing this testimony to provide background information about Act 250's relationship to institutionalized racism in Vermont.

In 2018, I graduated from Stanford University with a Bachelor's degree in Comparative Studies in Race and Ethnicity. My senior year, under the guidance of Michelle Wilde Anderson, a professor in the law school, I completed an honors thesis in which I explored the story of how Vermont became the state with the second-highest percentage of non-Hispanic White people in the United States. My research showed that it was not inevitable or accidental that Vermont ended up this way. It is, at least in part, the direct result of conscious and unconscious actions by White Vermonters that kept people of color out of the state, and that cemented the marginalized position of people of color who were in the state. If we as a state are to reckon meaningfully with the reality of racial injustice in the nation and in our state today, it is important that we look at the history of policies that have contributed to racial injustice and segregation. Based on my research, it is my belief that there is compelling evidence that Act 250 may be such a policy.

In this testimony, I will explain why the racial impact of Act 250 merits a closer look. It will take significantly more in-depth research than I have been able to conduct to definitively say whether Act 250 has had an impact on diversity, equity, or racial justice in Vermont, or what that impact has been. However, I hope that by providing this context, I can demonstrate why the Act merits such an investigation:

- First, I will discuss the way that policies relating to land use or ownership have historically contributed to segregation, and I will briefly touch on why segregation, in turn, leads to many of the forms that institutionalized racism takes.
- Next I will talk about how, at the moment when Act 250 was passed, there was a shift from using policy that talked openly about race to using policy that did not talk about race but nevertheless was effective at maintaining segregation.
- Finally, I will talk about how the events leading up to the election of Deane Davis, the governor who oversaw Act 250, and leading up to Act 250's passage itself, suggest that race may have been in the forefront of Vermonters' minds when they expressed the desire to "keep Vermont the way it was," as many advocates for Act 250 did.

#### **Unceded land:**

Before I begin I want to note that there are currently four state-recognized Abenaki tribes in Vermont and that land-use decisions made through Act 250 impact unceded ancestral Abenaki land.

#### **Racial Segregation, Inequality, and Land-Use Policy:**

For urban areas, there is well-documented evidence demonstrating that residential segregation is the direct result of a confluence of government policy and discriminatory practices by realtors and homeowners, and demonstrating that, although policies and practices that refer openly to race have largely been dismantled, policies from the past continue to have impacts

today. A commonly cited example of this is the story of “redlining.” In the 1930s, the Federal Home Loan Bank Board commissioned “residential security maps” for the country’s major cities. These maps divided the cities into different types of areas based on desirability and security for lending purposes, and, not surprisingly, predominantly Black areas were identified as the most risky—they were marked in red on the maps, hence the term “redlining.” The Federal Government would not back loans in these areas, which led to widespread disinvestment by landlords. A vicious cycle ensued: when Black people moved in to an area, White homeowners feared that more Black people were coming, which would decrease the value of their homes, and it often prompted a rapid sell-off of homes, which did, indeed reduce their value. To prevent this, banks often required, or looked favorably on, homes in predominantly White areas with deeds that had restrictive covenants that forbade sale to people of color (and sometimes Jewish people as well).

Black people were forced either to rent houses or to borrow from predatory lenders because they were prevented by these restricted covenants and by discriminatory practices employed by realtors. This meant that they were largely unable to become homeowners. Especially after World War II, when droves of White people took advantage of the GI Bill to purchase their own homes, this created a dramatic divide between Black and White Americans. While White Americans gained equity in the form of their homes, Black Americans were stuck renting, unable to accrue equity. The result of this is that, though Black incomes have improved in relation to White incomes in the last few decades, there is still a dramatic difference in wealth between Black and White families. The mean wealth of White families is *twelve times* that of the mean wealth of Black families, at \$134,230 and \$11,030, respectively. Wealth, as I’m sure you can imagine, has huge ramifications for one’s life, and the life that one can give one’s children. A family with little wealth, even with a steady income, is extremely vulnerable to unforeseen emergencies like the loss of a job or an accident or illness. And wealth begets more wealth, both in the form of investments and in the opportunities, including college, that you are able to give your children if you have the equity to do so.

Segregation has other far-reaching impacts on equity and justice. People of color in America are still often confined to areas with under-resourced schools and without access to hospitals and supermarkets. Segregation is also profoundly connected to who bears the brunt of polluting industries and activities in the U.S.; studies show that race is generally a better predictor than class for whether someone will be exposed to pollution.

### **Shift to race-neutral means of enforcing segregation:**

After the victories of the Civil Rights movement in the 1960s, it became increasingly difficult to pass and enforce policies with language that openly referred to race. This does not mean that White Americans gave up on segregation. Rather, they adopted new methods of achieving the same ends. One such method was zoning. Seemingly spontaneously, “growth management” popped up as a planning goal all over the country in the early 1970s, just as Jim

Crow and other methods of enforcing racial segregation were crumbling. Zoning can function as a method of exclusion by limiting the number and type of new housing units that can be added, creating artificial scarcity that drives up housing prices and sorts the people who can move to an area by class and race. Economist William Fischel writes of this moment in America's history, "Faced with the curtailment of selective exclusion, localities began to opt for general exclusion." Predominantly-White areas could no longer explicitly keep out people of color, but they could keep *everyone* out, which would have much the same effect.

It was at this moment in history, when White Americans began to use exclusionary zoning to maintain segregated enclaves without using policies that openly referred to race, that Act 250 passed. When the Act was originally adopted, there were fewer than 600 Black people in the state of Vermont. In other words, Vermont was just the sort of segregated enclave that White people might want to protect.

### **Historical Context for Act 250:**

To what extent did the architects of Act 250 want, consciously or unconsciously, to maintain the white majority in Vermont by keeping new people from coming to the state? This may feel like an outrageous claim, and I don't want to discount the reality of the environmental situation in Vermont, and in the nation, that led to Act 250's passage, and the passage of policies like it throughout the country; nor do I want to understate the positive impact the legislation has had on the environment. But the historical events in the two years leading up to Act 250's passage, especially Deane Davis's candidacy for governor, suggest that race was at the forefront of Vermonters' minds while they discussed Act 250.

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. Contrary to the progressive history we like to imagine for our state, 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 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.

### **Conclusion:**

More research is necessary to see whether Act 250 had a racial impact or what that impact was. In this testimony, I simply intended to demonstrate the reasons why we may want to take a closer look at the legislation: because policies relating to land ownership have historically been a tool of institutionalized racism; because Act 250 emerged at a moment when policies similar to Act 250 emerged as a strategy to reinforce segregation without openly referring to race; and because the historical context around Act 250 suggests that White Vermonters had race in the forefront of their minds when they turned to land use planning in the 1970s.