



ACT 250 Racial Impact Assessments

March 1, 2019

To: House Natural Resources, Fish and Wildlife,
CC: Governors Workforce Equity and Diversity Council, Racial Equity Panel, Human Rights Commission, Civil Rights Commission,

The General Assembly established a Commission on Act 250: the Next 50 Years (the Commission) in ACT 47, 2017 intending that the Commission “review the vision for Act 250 adopted in the 1970s and its implementation with the objective of ensuring that, over the next 50 years, Act 250 supports Vermont’s economic, environmental, and land use planning goals.” Act 250, now codified as 10 V.S.A. chapter 151, In Sec. 1 (D) states that “it is necessary to regulate and control the utilization and usages of lands and the environment to insure that, hereafter, the only usages which will be permitted are not unduly detrimental to the environment, will promote the general welfare through orderly growth and development and are **suitable to the demands and needs of the people of this state.**” The commission was charged with the review of the goals of Act 250, including the findings set forth in 1970 Act 250 and the Capability and Development Plan adopted in 1973 and “**assess, to the extent feasible, the positive and negative outcomes of Act 250’s implementation from 1970 to 2017.**” **Section (e) (2) (H) of ACTC47 charges the Commission to submit a report, including “review and recommendations relating to such other issues related to Act 250 as the Commission may consider significant.”**

Background

The general assembly has acknowledged racial disparities in the criminal justice system, housing employment, education, health services and economic development in Act 54, Attorney General and Human Rights Commission Task Force Report (2017). The general assembly has also recognized systemic racism throughout all state government in the passage ACT 9, an Act Relating to Racial Equity in 2018.

The Challenge

Despite the legislature flagging racial disparities as an issue across all state systems (Act 54, 2017) and providing a statute to "mitigate systemic racism" (Act 9, 2018), this 18 Month initiative seems to have failed to provide any analysis in an attempt to determine the extent to which Act 250 contributes to limiting statewide racial diversity or creating racial economic inequity. Discussions with VNRC, a Commission Advisor and one Commission Member as well as a review of the Final Report confirm that the **ACT 250 was not reviewed in light of a racial impact assessment to adequately determine the extent to which the legislation contributes to adversely impacting racial equity and diversity in Vermont.**



The Solution

Prior to completion of the report, Justice For All, other representatives of the community of color and VNRC concluded that **(in light of the time constraints surrounding report submission)** the best approach would be to submit limited language to be included in the report. It was agreed that the language submitted would suggest that the matter be referred to the newly appointed Racial Equity Director (Act 9, 2018). The full text of the memo is included as enclosure 1. The Commission Chair denied the request, indicating that the request was received past the report deadline and it was “too late to take up a new subject.”

Assessment and Recommendation

It is our view that the failure to conduct a racial impact assessment of this legislation obfuscates its historical impact on racial diversity and equity in Vermont and lends to its potential continued impact over the next 50 years. We ask that you legislatively mandate a racial impact assessment of the language and all processes of Act 250. We also suggest that language be included to mandate recurring assessments in perpetuity. We ask this to ensure that Vermont holds true to protecting our constitutional “natural, inherent, and unalienable rights amongst which are the enjoying and defending life, liberty, acquiring and possessing and protecting property and pursuing and obtaining happiness and safety.

Respectfully,

Mark A. Hughes,
Executive Director
Justice For All
Vermont Racial Justice Alliance
Coordinator



Enclosure 1

From: Justice For All and VNRC

To: Commission on Act 250: the Next 50 Years (the Commission)

December 21, 2018

The necessity of examining Act 250 from a racial equity and diversity perspective was brought to the commission's attention during the final phase of report preparation. While this commission was not specifically charged with examining Act 250 in terms of racial equity and diversity, Act 47, section 2, (e), (2), (H) does state that the commission may address "other issues related to Act 250, as the commission may consider significant." After consideration, the commission does view racial equity and diversity as an issue that is highly significant in any analysis of Act 250.

We propose that the Executive Director of Racial Equity in coordination with the Human Rights Commission examine the language and all processes associated with Act 250. We suggest that race based data on high impact / high discretion decision points be collected and analyzed to determine the extent to which disparities exist that contribute to adverse impacts on racial equity and diversity. With the passage of Act 9, "An act relating to racial equity in state government," in 2018, the state committed to promoting "racial justice reform throughout the State by mitigating systemic racism in all systems of the State government and creating a culture of inclusiveness." Accomplishing this is a long-term process that must include scrutinizing how our policies, especially long-standing ones, may contain aspects that perpetuate systemic racism.

The distinct but related issue of environmental justice is also one that should be explored further. The commission supports work to fully understand and define what environmental justice means for the state of Vermont in order to ensure that the state's policies, including Act 250, advance environmental justice outcomes.

Some have noted that overall improvements to Act 250 around issues such as citizen access, transparency, and appeals can serve to promote racial equity and environmental justice. While the Commission is committed to such improvements, it also recognizes that the mitigation of systemic racism involves a more deliberate approach than ensuring processes are generally accessible.