

TO: Tom Stevens, Chair of House General and Military Affairs Committee

FROM: Jessica Radbord, Staff Attorney
802-383-2208
jradbord@vtlegalaid.org

Mairead O'Reilly, Staff Attorney
802-383-2225
mcoreilly@vtlegalaid.org

SUBJECT: General Assistance Emergency Housing Program, FY2022 Budget Adjustment

DATE: January 11, 2022

Thank you for your commitment to meeting the needs of Vermonters experiencing homelessness. Vermont Legal Aid appreciated the opportunity to testify earlier this week regarding the Department of Children and Families' proposal in the Budget Adjustment Act to amend Title 9 to create a transitional housing program for people receiving General Assistance Emergency Housing in the motels.

We applaud the Department's goal of providing greater stability for Vermonters experiencing homelessness. However, as we testified to earlier this week, we object to any change in Title 9 through the Budget Adjustment Act because we believe it is unnecessary and would create a host of new challenges for tenants who reside in motels, participants in GA emergency housing, motel owners, and Vermont courts.

VLA met with the Department yesterday to explain our concerns, identify points of agreement, and begin to identify possible solutions. This morning, we submitted a memorandum to the Department to further expound on our concerns and identify a path forward. Below is a summary of the content of those discussions and our recommendations. We have not yet heard back from the Department, but we are committed to continuing to collaborate in this important work.

- (1) VLA's first concern about the Department's Budget Adjustment Act proposal is that the language as drafted would create unintended consequences for tenants already residing in motels who access VERAP outside of the Department's new program by removing their Title 9 rights. The Department agreed that the language would have that unintended consequence.
- (2) Amending Title 9 is unnecessary to achieve DCF's stated goals of creating this General Assistance Emergency Temporary Housing Program. The Department can rely on the statutory exclusion that already exists in 9 V.S.A. § 4452(8) (excluding participants in GA Emergency Housing from landlord-tenant law) if they promulgate rules for this new

GA Emergency Transitional Housing Program. In our memorandum to the Department, we suggested rules for the program to make rights and responsibilities clear for all parties involved, including eligibility criteria, hearing rights, and so forth. While we are happy to continue to work with the Department to formulate emergency rules for the program, we believe that it will be necessary to obtain broad stakeholder input and time is needed to do that. This program cannot be made operational by March 1.

- (3) The occupancy agreement between motels and occupants, and the occupancy addendum outlining the agreement between DCF and motels will require careful crafting to ensure that the rights and obligations of motels, participants, and the Department are clear and equitable. As legally binding contracts, the Courts will be left to interpret these written agreements, and the Courts should not be left to guess the meaning of confusing terms. It will take care consideration and time to ensure these contracts are legally valid and fair. This work is unlikely to be completed by March 1.
- (4) The Legislature should require the Department to extend the GA Emergency Housing program, without the categorical eligibility requirements and 84-day durational limits, until the end of FY2022. This will create more stability for GA Emergency Housing participants while affording the Department additional time to re-engage with stakeholders including members of the legislatively created GA working group to create this new program.

In summary, we have asked the Department to take the following steps: (1) withdraw the BAA proposal to amend Title 9; (2) amend the GA program rules to eliminate the eligibility categories and durational limit on benefits until the end of FY2022; (3) reconvene the GA working group to provide input on program rules, the occupancy agreement, and addendum; (4) present the proposed plan to the committees of jurisdiction in the Legislature for consideration for the FY2023 fiscal year (earlier if possible); (5) promulgate rules through the appropriate APA process.