

Testimony of James Arisman, Town of Marshfield  
Before the Senate Committee on Economic  
Development, Housing and General Affairs  
Regarding Housing Code Enforcement, February 10, 2021

Thank you for offering this opportunity to provide testimony regarding the rental housing market in the State of Vermont. I have a background in housing, health, law, and law enforcement, and I have some specific thoughts today on the subject of housing code enforcement in Vermont. My home community of Marshfield, like most other small Vermont towns, depends on the efforts of local volunteers to provide services that elsewhere would be the work of paid government employees. I volunteered to serve as a Town Health Officer in Marshfield because this is a position that has important responsibilities for looking at local health concerns, rental housing conditions, and working to protect the well being and safety of our local citizens.

Unfortunately, the present Covid 19 pandemic has compounded the inherent weaknesses of the Vermont town health officer system. Due to concerns regarding their own safety and wellbeing, the town health officers have had to either to entirely stop carrying out rental housing inspections or have given up their positions entirely because it has become dangerous to carry out their responsibilities, particularly enforcement of the rental housing health code. That work can only be done through on-site visits and close interactions with renters and property owners. I resigned my own position as health officer this year because I have an immune disorder condition that made it unwise for me to continue this work.

Each Vermont town has at least one town health officer. Health officers have broad responsibilities for housing inspections, enforcement of rental housing codes, monitoring sewage and septic systems, lead paint, animal control, drinking water safety, insect and rodent infestation, hazardous spills, asbestos, and air quality. This all

requires a substantial fund of knowledge and a great deal of time to do this work properly.

Town health officers are volunteers who generally receive only small stipends from their local town budgets. The town health officer system is effectively an unfunded mandate for small town government, and is one for which the towns generally lack the budgetary resources to support and expertise to manage. The volunteer health officers are well intentioned and conscientious, but most lack the time, technical knowledge, and the legal expertise to carry out these responsibilities.

In rough numbers, there are an estimated 75,000 rental housing units in the State of Vermont. Of these, about 25,000 units are subject to larger jurisdiction inspection and code enforcement programs. The remaining roughly 50,000 units of rental housing are provided inspection and enforcement service only through the work of the volunteer town health officers. The current system is insufficient to protect the safety and needs of both renters and landlords.

The town health officers are appointed by the Health Department but receive only very limited support and training to carry out work that involves complex inspections, decision-making, negotiation, and legal enforcement efforts. The local health officer positions regularly turn over when volunteers “burn out” while doing this work or simply quit because the time required conflicts with their own work and family obligations.

The most demanding and difficult responsibility for town health officers is carrying out inspections of local rental housing under the state rental housing health code. Well more than half the rental housing stock in Vermont is not subject to any ongoing inspection to protect against health and serious safety dangers. 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 an obvious

correlation between the age of our rental housing stock and the presence of housing code and safety violations that require correction.

Because Vermont has no statewide system to register the location and ownership of its rental housing stock, most town health officers have no readily available information regarding where rental units are located within their local jurisdictions. Any enforcement of the rental housing health code in small towns is necessarily complaint driven. Landlords often feel aggrieved when complaints lead to inspections, enforcement, and the expense of making unexpected repairs. Most town health officers lack the technical expertise needed to carry out a complete rental housing inspection, meaning that the standards actually imposed are likely to vary from town to town.

Town health officers are often caught in the middle in the inspection process, trying to assist both sides through mediation and negotiation. The legal complexity and budgetary cost of enforcement actions means that the health officer realistically has little power to induce landlords to correct health or safety violations. A state registry system would provide a foundation for communication with landlords and foster efforts to ensure better maintenance and rehabilitation of our rental housing stock.

Larger municipalities in Vermont have established their own local inspection programs to protect their housing stock and ensure that rental housing units are decent, safe, and sanitary. These municipal inspection programs operate as an organizational unit within local government and are staffed with qualified and professionally trained inspectors. Inspectors follow up with renters and landlords to guide and assist in the correction of deficiencies.

Carrying out a rental housing code inspection requires technical skills that many (most) health officers 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, technical skills, and time required to effectively carry out such detailed, crosscutting inspections of the local rental housing stock.

Most health officers do not possess the legal capabilities to obtain and enforce a legal health order from their local selectboard. Even when a health order is entered by the local selectboard to correct serious deficiencies, very few small municipalities are willing or able to spend their limited budgets to enforce these health orders through legal action. Health officers may seemingly have the authority to enforce corrective action under the rental code, but in truth they lack the practical power to follow through.

In sum, the current system utilizing volunteer town health officers to carry out inspections of local rental housing units is inadequate to protect renters and ensure the sound condition of this housing resource. The efforts of the town health officers receive but limited support from the Department of Health that appoints them and then assumes little responsibility for their work.

I hope that the legislature this year will move our state toward creation of an effective program of rental housing code inspection and enforcement, specifically including registry of units and landlords. Studies and reports over the years have identified what needs to be done. We continue to risk the health and safety of the many Vermont citizens who depend on the rental housing market when we fail to professionally inspect this housing to ensure it is being properly and safely maintained. Landlords and renters will both benefit from regularizing and professionalizing the rental housing code inspection process in Vermont to provide greater protection and predictability for all concerned.