



Homeowner Legal Assistance Project
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February 22, 2024

House Committee on General and Housing
115 State Street, Rm. 45
Montpelier, VT 05633

RE: Vermont Legal Aid Comments on H.553

Dear Chair Stevens & Committee Members:

I write on behalf of Vermont Legal Aid's low-income, disabled, and older homeowner and tenant clients to express our vehement opposition to House Bill 553, *An act relating to the right of entry following a tax sale*. If passed, the bill threatens to provide entities, both municipal and private, that have no ownership interest in a property, broad access to "secure" properties and even lockout homeowners or tenants from their homes under the pretense of risk of damage or deterioration to the property.

Vermont property tax-sale process is extraordinary, in that it allows a municipality, without any judicial oversight to conduct an auction of a private citizens' entire home or property to collect any amount of back taxes owed. A survey conducted by Vermont Legal Aid in 2021, showed that Towns have sold properties at tax sale for past due debts as small as \$180. Property owners retain legal ownership rights for a year after the sale and may redeem the property during that period by payment of past due taxes, fees, and interest. Towns report that most properties are redeemed and never transfer to the highest bidder at tax sale.

The bill before your committee would grant Towns or third-party tax-sale purchasers virtually unfettered access to properties against the interests of the actual property owner during the redemption period, so long as they unilaterally determine there is risk of damage from exposure to elements or deterioration. This puts low-income homeowners and tenants at particular risk of being subjected to unwelcome entry by strangers and even possible lockout due to any deferred maintenance resulting from their financial hardship. While, in our experience, most Town officials act in the best interests of their residents, taken to its extreme, this bill could be exploited by bad actors to remove residents deemed undesirable through self-help.

Under Vermont's landlord-tenant laws, not even actual property owners have such sweeping authority to violate the possessory rights of their tenants by entering and securing the property based solely on a perceived threat of deterioration of the property. See 9 V.S.A. § 4460 (granting landlords access without prior notice only if there is imminent danger to persons or property); *Id.* § 4463 (prohibiting landlords from denying tenants' access to and possession of the rented property without judicial process). Further, after the U.S. Supreme Court's unanimous 2023 decision in *Tyler v. Hennepin Co.*, 598 U.S. 631, municipalities that deprive an owner of the use of their property by "securing" it during the redemption period after tax sale could be deemed by courts to have unconstitutionally taken the property without just compensation.

As VLCT's Ted Brady testified in committee, this bill attempts to address the "tiny portion [of properties] that are not redeemed and that tiny portion of that tiny portion that are a threat to public safety." Given the other legal mechanisms for Towns to address properties that pose a true threat to public safety, it seems incredibly unwise as a policy matter to expand non-owner municipality and third-party purchasers' rights in this unprecedented and frankly dangerous manner to solve what Towns acknowledge is an exceedingly rare problem.

In summary, Vermont Legal Aid strongly believes that H.553 is bad policy that threatens' homeowners' and tenants' rights to be secure in their homes. If the

committee continues to discuss this proposal, we would welcome an invitation to testify on behalf of our homeowner and tenant clients.

Sincerely,

/s/ Grace B. Pazdan
Homeowner Legal Assistance Project Director