



February 15, 2023

Senate Committee on Economic Development, Housing, and General Affairs
c/o Scott Moore
133 State Street, Montpelier, VT 05633

RE: Omnibus Housing Bill (DR 23-0091, draft 7.2, February 13, 2023)

The following observations are offered regarding the proposed changes and additions to State statute proposed in the above-referenced housing bill, and how they may affect community planning and housing development in the NEK region.

Parking, Page 1: It is understood that the proposed changes to § 4414 seek to prevent municipalities from requiring an excessive amount of off-street parking per residential unit, which can hamper the ability to develop additional housing units. However, this proposed provision appears to make no distinction on the size of a residential unit, or the proximity of the residential unit to mass transit or public parking areas. In the NEK region where public transit is scarce to non-existent, households with more than one member working outside the home typically have more than one car by necessity. In densely developed neighborhoods with small (1/4 acre and smaller) lots, space for parking may already be tight and this proposed provision that limits the amount of off-street parking a town may require for new units could exacerbate the issue. Some towns prohibit overnight street parking in the winter to facilitate snow removal, so unless there are public parking lots nearby, cars may wind up blocking sidewalks or parked in front yard areas, posing safety concerns.

Density Pages 2-3: NVDA supports the provision allowing 4-unit dwellings in residential districts served by water and sewer.

Owner-occupied neighborhoods, Page 3: Revisions were made not long ago to § 4412, (E) to specify that accessory dwellings could be located on an *owner-occupied lot*. The previous language had stated that the accessory apartment was permitted as accessory to an owner-occupied residence. The previous change allowed for a scenario where a downsizing property owner had the opportunity to move into an accessory apartment on their own property and rent out the larger, primary residence. However, this newly proposed change removes the requirement altogether that the lot be owner-occupied.

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For communities that have single-unit, owner-occupied neighborhoods, particularly those with lower to moderate household incomes, accessory apartments are important as a way to create affordable units for smaller households while also allowing moderate-income homeowners to have access to an important source of supplemental income. This proposed new statutory language may result in the unintended consequence of transforming currently owner-occupied, moderately priced neighborhoods to places where housing units are owned by institutional and absentee landlords.

This proposed new provision will likely disproportionately affect neighborhoods where housing prices are lower. High-income areas will likely continue to remain low density, owner-occupied single-family neighborhoods due to the high cost of real estate and the fact that a high-income household has little incentive to exchange a measure of privacy for the supplemental income of an accessory apartment.

Allowing municipalities to require that accessory apartments in single-unit districts be only permitted on an owner-occupied lot can serve to retain the character and owner-investment in moderately-priced, single-unit neighborhoods.

Density, Page 4: The increase in allowed density provided in § 4412 may support additional housing development in areas served by adequate infrastructure, although it is noted that many areas served by water and sewer infrastructure in the NEK region already allow for an effective density of at least 5 units per acre. However, a definition of density is needed in statute to clarify whether an accessory unit to a single-unit dwelling is being properly accounted for in residential density calculations.

The proposed language in §4412 (13) will affect communities differently depending on their base zoning, since the provision states that for a certain class of development, density “may exceed density limitations for residential developments by an additional 20 percent.” This may be a reasonable density increase if the base permitted density is low, but unreasonable if the permitted base density is already high. (**Note:** the previous draft 6.1 of the bill also pre-empted local height limitations, which was removed in draft 7.2)

Emergency Shelters, Page 7-8 (page 5 in draft 6.1): The changes proposed to §4413 include the addition of “emergency shelters” as a use that is protected under statute, and provides a definition for the use. The new definition is “any facility, the primary purpose of which is to provide a temporary shelter for the homeless in general or for specific populations of the homeless and that does not require occupants to sign leases or occupancy agreements.” As provided in the existing language of §4413, municipalities will continue to have the ability to identify the locations in which emergency shelters are appropriately located, require site plan review and regulate their heights, setbacks, screening, etc., provided that such regulations do not have the effect of interfering with the intended functional use. The new proposed language in this section specifies that “regulating the daily or seasonal hours of operation of an emergency shelter shall constitute interfering with the intended functional use.” In the past, some municipalities have hosted shelters that were only used when the weather became dangerously cold, and seasonal hours of operation were set. This proposed language will preclude the ability of municipalities to regulate the hours or seasons when such shelters may operate. Since some communities may define emergency

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shelter as it is defined in 16 V.S.A. § 3453, a place used during a declared emergency, it's suggested that "homeless shelter" be the term for this use defined in § 4413, which more accurately describes how it is used.

Appeals, Page 11: NVDA supports the elimination of 24 V.S.A. § 4465 (b)(4), which currently allows any ten people to appeal a decision, since this could be a method of stalling housing projects.

Housing Resource Navigators, Page 19-20 (page 14 in draft 6.1): The bill proposes to create and fund "Housing Resource Navigators," which may be helpful to smaller, private landlords attempting to navigate the variety of incentive programs available for the creation of housing. However, the cost of construction, overlapping state regulations and time spent in the permitting process seem to be the primary impediments to housing development cited by housing developers in the NEK region. Changes proposed to the Act 250 thresholds (noted later in the bill) may help ease the burden of state permitting requirements. Housing Resource Navigators combined with a guaranteed source of financial incentives to private developers (who may not be in a position to tap traditional streams of federal and state housing funds) may be further effective.

Regional Plan Housing Element, Pages 16-17 (this did not appear in draft 6.1): Additions are proposed to 24 VSA § 4348a that prescribe the detailed content of regional housing elements, to include " the regional and community-level need for housing for all economic groups in the region and communities that will result in an adequate supply of building code and energy code compliant homes where most households spend no more than 30 percent of their income on housing and no more than 15 percent on transportation." The proposed statutory language indicates that the department of Housing and Community Development will "publish statewide and regional housing targets or ranges as part of the Statewide Housing Needs Assessment" and that the regional planning commission "shall estimate the total needed housing investments in terms of price; quality; unit size or type; zoning district as applicable; and shall disaggregate regional housing targets or ranges by municipality." This language did not appear in the earlier draft of the housing bill, and it would be advisable to give the regional planning commissions some time to digest this new proposed requirement for regional housing elements, and determine its likely efficacy in realizing new housing development.

Change in threshold under Act 250, Pages 20-22 (pages 15-16 in draft 6.1): The proposed revisions to Title 10 to change the thresholds in the definition of development requiring an Act 250 permit and allowing for denser development in designated areas may help achieve housing developments of a scale that will have an impact on housing supply. However, the high cost of construction still poses a significant barrier, particularly in our region.

Missing Middle-Income Homeownership Development Program, Pages 34-35 (pages 30-31 in draft 6.1): The program, which proposes to provide subsidies for new construction or acquisition and substantial rehabilitation of affordable owner-occupied housing for purchase by income-eligible homebuyers, should help in the creation of new or improved housing stock.

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The definitions of “Affordable owner-occupied housing” and “Income-eligible homebuyer” in proposed 10 V.S.A. § 629 (b) (1) and (2) should be consistent with the existing definitions in 24 VSA § 4303 and 10 VSA § 6001, which bases affordability on 120% of the **highest** of the following: (i) the county median income, as defined by the U.S. Department of Housing and Urban Development; (ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or (iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development. This will allow for more equitable opportunity for housing development and purchase across the state.

Thank you for the opportunity to provide comments on these proposed legislative changes.