

Testimony to Landlord-Tenant Law Study Committee

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Good morning! Thank you for your attention to this important issue and for the opportunity to comment. For the record, my name is Erhard Mahnke. Before my retirement last year, I spent over 40 years working in affordable housing, community development and municipal affairs in Vermont, regionally in New England, and at the national level. For 25 years I coordinated the work of the Vermont Affordable Housing Coalition, now merged with the Vermont Coalition to End Homelessness to form the Housing and Homelessness Alliance of Vermont. Together these organizations counted among their members over 125 Vermont housing nonprofits, public housing authorities, homeless shelters and service providers, and major quasi-state and anti-poverty agencies. Until 2021, I served as the legislative liaison for both coalitions and was a daily presence at the state house. For the last 2 ½-plus years of my career, I worked on Senator Sanders' staff as an outreach representative and as his housing policy advisor. I was directly involved in one way or another with much of the housing and community development related legislation passed by the General Assembly from the late 1980's until well into the COVID-19 pandemic, including every change to the state's landlord-tenant law up through the state's pandemic era eviction moratorium. My remarks will address the legislative mandates of this committee, but I hope you'll grant me license to stray a bit further afield with some general observations that I think will help put the landlord-tenant issues you have been tasked with in a broader perspective.

I've listened to a good share of the testimony your committee has received and would observe first and foremost that my central take-away is the systemic failure of the private, for-profit housing market to meet the housing needs of Vermonters, especially low- and moderate-income working families, seniors living on fixed incomes, people with disabilities, and those with special needs. People are getting evicted, primarily, because they cannot afford to pay rents that are unaffordable to them. One unforeseen financial emergency leads to missing the rent, to eviction and – in today's impossible housing market – the likelihood of homelessness. Evictions of tenants in good standing for no cause likewise can help drive families and individuals into the downward spiral of homelessness.

I know you heard at some length from Nate Lantieri at VHFA about the challenges of our current housing market, but let me give you a few concrete examples about how the open market fails low-income renters. A single parent in Chittenden County with two children working a service sector job and earning roughly \$26 an hour, or 50% of the HUD Area Median Income (AMI),¹ can only afford to pay \$1,182 a month for rent,² not including utilities.³ Where in Chittenden County can you find that kind of rent for a two-bedroom apartment? What landlord can afford to charge that kind of rent, cover ever-increasing expenses, keep their unit in good shape, and make a modest profit?

¹ U.S. Department of Housing & Urban Development (HUD), 2024 Income Limits,

https://www.huduser.gov/portal/datasets/il.html#data_2024. 50% of AMI is considered "very low-income."

² The industry-wide standard for rental housing affordability is paying no more than 30% of income for rent and utilities.

³ Vermont State Housing Authority, 2024 utility allowances, <https://www.vsha.org/wp/wp-content/uploads/2024/10/Single-Family-Utility-Allowance-Schedule-12.1.24.pdf>. Utility allowances for a two-bedroom apartment with natural gas heating and cooking amount to \$157 a month. For fuel oil and propane heated units, subtract an additional \$58 to \$77 a month, respectively, from the affordable rent not including utilities.

The situation is no different in other parts of the state where rents are simply not affordable to people of modest means. In Lamoille and Orange Counties and the Northeast Kingdom, that same single parent with two kids at 50% of the Area Median Income earns about \$20.50 an hour⁴ and can only afford \$912 a month plus utilities for a two-bedroom rental. The median household income for renters statewide is close to that at about \$22 an hour, meaning the average renter can afford only \$991 a month plus utilities.⁵

For a single individual with a disability living on Supplemental Security Income (SSI), the situation is far worse and completely untenable. Someone receiving the maximum SSI benefit for a single individual of just under \$1,000 a month⁶ can afford no more than \$300 a month for rent and utilities. A couple with both individuals on SSI receives a maximum of \$1,521⁷ and can afford no more than \$456 a month for rent plus utilities. I think it's safe to say that there is nowhere in Vermont where these folks can find a studio or one-bedroom apartment for anywhere near that amount. Fully 17,450, or 24% of Vermont renter households, are what's called "extremely low-income", meaning they earn 30% of HUD Area Median Income, which ranges from \$25,410 annual income in Orleans County to \$35,650 in Chittenden.⁸

I cite these examples to underscore that private, for-profit landlords simply cannot serve this market without some form of public assistance. No revision to landlord-tenant law will change this reality.

When markets fail, we look to the federal, state and local governments to intervene. This is where both mission-driven social housing, which removes housing from the speculative, profit-driven market, as well as public investments, come in. Nationally, only one quarter of eligible households receive public housing assistance. While there are no comparable figures for Vermont, they are likely much the same. Unlike some societal issues, housing related problems are largely resource driven and can be alleviated through an infusion of public funding, whether at the federal, state or local level. We saw this with the unprecedented federal pandemic relief and recovery investments, which tripled annual affordable housing production, sheltered and fed every homeless and at-risk Vermonter safely in motels, and provided rental arrearage, mortgage and utility assistance to tens of thousands of Vermonters to preserve their housing, health and safety.

Vermont's stark fiscal reality is that those funds have run their course and, given the results of the recent presidential and congressional elections, we cannot expect much additional help from the feds. In fact, it will take the concerted efforts of our congressional delegation and their allies in Congress to minimize the erosion of federal assistance over the next four years. We now face a similar situation as in the early 1980's, when President Reagan took a budget axe to federal housing programs, forcing Vermont to finally invest its own taxpayer dollars in affordable housing for the first time. Prior to that, we had relied exclusively on federal funding for housing assistance. Vermont will now need to dig deep

⁴ HUD, 2024 Income Limits, https://www.huduser.gov/portal/datasets/il.html#data_2024.

⁵ National Low Income Housing Coalition (NLIHC), 2024 "Out of Reach" report, <https://nlihc.org/oor/state/VT>.

⁶ Social Security Administration (SSA), 2024 Vermont Supplemental Security Income (SSI) for a single individual, www.ssa.gov/pubs/EN-05-11128.pdf

⁷ SSA, www.ssa.gov/pubs/EN-05-11128.pdf.

⁸ NLIHC, <https://nlihc.org/sites/default/files/Housing-Profiles/Congressional-District-Housing-Profile-VT.pdf>.

to increase its own public investments if it wants to improve our dire housing situation. I'll provide a few recommendations for your consideration in a moment, but first, a few additional general observations:

- It is hard to overstate just how important housing is as a foundation for thriving, successful families, children and communities. Housing is a basic human need and right, without which no one can thrive and succeed in their lives. There is an ever-growing body of research that demonstrates the clear need for housing stability, health and safety to children's and family outcomes.⁹
- During the pandemic, we learned just how directly housing and health are related. Had we not had an eviction moratorium and a motel voucher program that housed and fed everyone in the state who was either homeless or precariously housed, countless additional deaths would have occurred.
- In fact, housing can be a matter of life and death, as we saw, tragically, over the last several weeks in the deaths of three unhoused individuals with major health and disability issues living in tents, including one who reportedly lost their home and became homeless *due to a no-cause eviction*.

Here are my general housing recommendations:

- It is a delicate balancing act to protect tenants' right to due process and to protect them from the potential loss of their homes, while also ensuring that landlords have the ability to regain control of their property when tenants fail to pay rent, engage in criminal activity that endangers the safety of others, or exhibit behavior that denies their neighboring renters their own right to peaceful enjoyment of their homes. It is important to remember that, while landlords often act as though tenants have all the power, in reality it is tenants who are at a perennial disadvantage in the relationship. They can be subject to illegal, retaliatory eviction if they complain about substandard conditions, often by landlords using the no-cause eviction process. They often have to settle for substandard housing conditions. They have almost no consumer choice in our current housing shortage. And they are often subject to housing discrimination, state and federal protections notwithstanding. Given that landlord and property rights interests predominate at the state house, I urge you to *proceed with extreme caution* as you contemplate changes to the law. The history of changes to Vermont's landlord-tenant law is one of gradual erosion of tenant protections over time and unfulfilled promises to strengthen them.
- Please bear in mind that any business has risks and that there are no guarantees of a return on investment. Renting property clearly entails greater risk, and returns come largely through appreciation over time. It is not for the faint of heart. Our culture of using real estate for flipping and quick profits is a good part of the problem, often resulting in unconscionable rent increases,

⁹ See for example Sandel, Megan, MD MPH, "Housing as a Vaccine: A Prescription for Child Health", <https://legislature.vermont.gov/Documents/2016/WorkGroups/House%20Human%20Services/Department%20for%20Child%20and%20Families/Economic%20Services%20Division/Homelessness/W~Dr.%20Megan%20Sandel~Housing%20as%20a%20Vaccine-%20A%20Prescription%20for%20Child%20Health~1-7-2016.pdf>.

Also, Center for Housing Policy, "Compounding Stress: The Timing and Duration Effects of Homelessness on Children's Health", https://www.childrenshealthwatch.org/wp-content/uploads/Compounding-Stress_2015.pdf

gentrification, and tenant displacement. I recommend revisiting the state's real estate land speculation tax to prevent predatory practices.

- I would urge you to support increased funding for back rent assistance, tenant-landlord mediation and representation, landlord risk-pools, and supportive services for tenants who are struggling to pay the rent. Programs like the Vermont State Housing Authority's Landlord Relief Program help mitigate the risk to landlords associated with renting to risky tenants. Vermont Legal Aid's representation of tenants undergoing eviction through eviction clinics must be continued and expanded statewide. Vermont should enact and fund guaranteed tenant representation in evictions. The state's Housing Opportunity Program provides funding for rental arrearage assistance and local landlord liaison initiatives that support landlords who rent to risky tenants.
- Please support landlord and tenant education efforts by groups like CVOEO, Vermont Legal Aid, and The Vermont Landlord's Association. A lot of the problems in landlord-tenant relations I encountered over the years involved lack of knowledge by landlords about responsible, best business practices, their rights and responsibilities under the law, and adherence to the eviction timelines set forth in statute. Similarly, many low-income renters often need counseling and support to understand their rights and responsibilities and how to adhere to commonsense practices.
- I recommend increasing state rental assistance programs and supportive services for vulnerable, at-risk households like people with mental health disabilities, families on Reach Up through the VT Rental Subsidy Program, and individuals coming out of prison. Each of these programs should also broaden its eligibility criteria.
- Please support extending Pathways Vermont's Housing First services to chronically homeless Vermonters with psychiatric disabilities and/or with co-occurring substance use disorder statewide.
- Increase funding for the Family Supportive Housing Program, which provides case management and supportive services to families on Reach Up that have experienced homelessness. This program helps mitigate landlord risk when renting to these at-risk families.
- Enact a tenant right of first refusal to purchase when multi-family rental properties come up for sale, patterned after the state's mobile home park law. Provide funding and technical assistance for conversions to resident owned housing co-ops or ownership by mission-driven nonprofit housers to own and operate the property on behalf of the residents.
- And of course, provide full statutory funding to the Vermont Housing and Conservation Board to create and preserve additional, permanently affordable housing to alleviate the state's ongoing, chronic housing affordability crisis.

Specific landlord-tenant law recommendations:

- Eliminate no-cause evictions and guarantee automatic lease renewal to tenants in compliance with their leases and state landlord-tenant law. At a minimum, pass the four existing municipal charter changes to enact Just Cause Eviction at the local level. As you know, several states and numerous local jurisdictions have passed successful and effective Just Cause Eviction measures. I helped write Burlington's proposal, which the voters passed with a huge, super-majority vote. With limited exceptions, there is absolutely no reason for a landlord to want to evict a tenant that is paying the rent, keeping their apartments in good shape, co-existing peacefully with

their neighbors, and otherwise abiding by their lease and fulfilling their responsibilities under state landlord-tenant law.

- Just Cause will help prevent no-cause evictions that can result in homelessness, housing instability, and future challenges in securing safe, stable housing.
- Just Cause will prevent illegal, retaliatory evictions in response to legitimate tenant complaints about housing habitability.
- Just Cause will prevent needless evictions resulting from unconscionable rent increases. We have seen increases as much as several hundred dollars a month causing needless economic displacement, sometimes for seniors who have lived for years in an apartment, or vulnerable individuals with disabilities, with ensuing costs to state taxpayers to stop their potential spiral into homelessness.
- Just Cause will prevent potential illegal housing discrimination against demographics protected under the state's Fair Housing Law.
- Just Cause will not interfere with a landlord's legitimate right to evict tenants for nonpayment of rent, damage to their property, interference with a neighbor's right to peaceful enjoyment, or other violations of the lease and/or landlord-tenant law.
- Just cause protections will provide security of tenure and housing stability that can help stem the tide of young Vermonters leaving the state.
- In fact, housing nonprofits, resident owned co-ops and mobile home park owners successfully operate their properties with Just Cause Eviction protections and automatically renewable leases. I served for over 30 years as a community representative on the board of resident-owned and controlled Northgate Apartments in Burlington, at 336 homes the largest social housing development in the state. While we were sometimes forced to evict tenants for nonpayment and other lease violations, we never evicted for no cause and our leases provided automatic renewals to all tenants in good standing.
- I would also urge you to fund periodic, cyclical minimum housing habitability inspections by the Vermont Department of Fire Safety, which enforces the state's Rental Housing Safety Code, together with a *public* housing database, or rental registry, funded by a modest annual per unit fee. This would provide the state's renters with essential consumer protections by making public information on rental safety conditions and inspection records for apartments they are considering renting. It would also provide the state with essential information on Vermont's rental housing stock, thus helping to inform public policy and funding decisions. I served for several years on the legislatively mandated Rental Housing Advisory Board, whose recommendations should finally be fully implemented.
- Enable statewide rent stabilization to prevent rent increases above CPI plus 1%, patterned after the state's mobile home law. With the rapid increase in rents over the last several years, several states have enacted rent stabilization measures that Vermont would do well to emulate. At a minimum allow local jurisdictions to create their own rent stabilization measures.

Thanks again for this opportunity to comment. I'm happy to answer any questions you may have.