

Senate Committee on Natural Resources and Energy
S.100: Housing Bill
Testimony of Ed Stanak
February 25, 2023

My name is Ed Stanak and I am a resident of Barre City. I was employed for 30 years as a district coordinator for the Act 250 program. I also served for 6 years as a member of the Barre City school board, one year as board chair, and for three terms as president of the Vermont State Employees Association. The testimony that follows provides perspective on S.100 – Housing. My comments are presented in the context of four categories.

There is no doubt that Vermonters are experiencing a severe housing crisis. It is likewise certain that this crisis has been growing for years. Solutions to this crisis require clarity regarding both its causes and the potential effectiveness of the proffered remedies in S.100.

The Impacts of the Act 250 Permitting Process – S.100 includes further jurisdictional exemptions of housing projects from the Act 250 permitting process based on the premise that such exemptions will materially assist in the number, and expedited construction, of housing projects. As a threshold question, will the Committee request data documenting that prior “carve outs” from jurisdiction have resulted in the construction of increased housing units?

The Committee will be told that the Act 250 process has been the cause of unreasonable delays and costs due to the appeals of district commission decisions to the Environmental Division of the Superior Court. Will the Committee be provided evidence of actual statistics regarding the processing of Act 250 applications? General data available in the annual reports to the General Assembly by the Natural Resources Board (NRB) are instructive. Approximately 80% of all Act 250 applications are processed as “minors”, meaning only 20% of all applications for all types of land uses have hearings at which individuals may request party status. More to the point, on annual average less than 7 % of all Act 250 applications are appealed. It would be enlightening if the Committee obtained from the NRB a detailed breakdown, at least over the last 5 years (better yet between 2005 – the year of “permit reform” legislation- and 2022), of the actual number of housing projects which have been appealed. The evidence would show that very few housing projects are appealed. Conversely, how many housing units have been permitted by Act 250 district commissions that have not been subject to appeals ? Is there demonstrable proof (as opposed to anecdotes and myths) that the Act 250 process is a substantial cause of the housing crisis? *

*The Committee will likely be told about examples of Act 250 housing projects (such as Woodstock Commons) unduly delayed and increased in cost due to appeals by parties. In fact, this case is representative of the abuse of the Act 250 process by wealthy project opponents represented by lawyers who bring frivolous appeals. The remedy to this abuse lies elsewhere, such as disciplinary proceedings for, and sanctions of, lawyers and much better docket management by the judges of the Superior Court Environmental Division. During my career as a district coordinator I witnessed attempts to abuse the process and I am willing to share some accounts with the Committee. One example is legal counsel for a wealthy client who sought to block a housing project near his residence by raising spurious “woodcock habitat” claims under criterion 8(A). That client was active in Vermont politics and a prominent critic of the permit process; his counsel was a frequent lobbyist in the State House. Both had no difficulty in such hypocritical abuse of the Act 250 process. The process itself is not the problem, nor is the party status aspect of Act 250.

The Lack of a Skilled Work Force - During my tenure on the school board (1984-1990), the board was responsible for the administration of the regional vocational training facility (as it was known at that time). This was the era of the advent of “high tech” jobs. While the board recognized the need to thus revise curriculum, some of us asked about efforts to sustain ongoing programs for the training of future carpenters, electricians and plumbers. That was lost in the rush toward the “new economy”. Likewise, the then Department (now Agency) of Education provided no assurances of policies and programs to ensure an adequate work force of skilled workers going forward. And so now Vermont has an inadequate work force not only for the construction of new housing units, but for the renovation of an aged housing stock. Is it any wonder that available carpenters, electricians and plumbers are attracted to the construction of upscale homes in communities like Shelburne and Charlotte? I was visited by the president of the Laborers International Union of North America in 2001 when I was VSEA president. He was visiting all New England states in an effort to recruit future skilled workers for the construction trades because there was a marked decrease in young people entering the trades. This work force aspect of the housing crisis has long gone unrecognized and unaddressed by state policy and must be included in a comprehensive effort by the legislature to address the housing crisis. This related work force crisis will be exacerbated by the pressure that will result from the wave of ARPA funded infrastructure projects.

The Siphoning Off of Long Term Residences— The Airbnb phenomenon began in 2008 and has blanketed the nation resulting in the conversion of otherwise long term residences into use as short term rentals, a need previously met by the hotel and motel industry, small scale inns and beds and breakfast. Here in Vermont the number of short term rental units has risen from 6,624 units in 2017 to 9,757 units in 2022. Approximately 2.5% of Vermont’s total housing stock is now used as short term rentals. Will the Committee receive data and analysis about the impact of this loss of thousands of otherwise available full time residences? Will the Committee consider any of the many studies and reports from across the nation which have drilled down into the adverse effects of the Airbnb conversions? Is the Committee willing to deliberate on legislation that would enable the regulation of, and constraints on, this diminishment of the available housing stock and the undue effects on affordability ?

Exceptional Vacancy Rate of Vermont Housing Stock- An analysis by the Pew Trust estimates a housing vacancy rate of 20 % (other estimates range as high as 28%) in Vermont – tied with Maine for the highest in the nation. A significant component of this vacancy rate is the number of seasonal homes in Vermont. There was a time (1950-1970s) in Vermont when there was a surplus of housing and that dovetailed with the fostering of the tourism industry through state policies. But circumstances have changed and will change even more with the effects of the climate crisis. Will the Committee consider possible revisions to these policies such that the encouragement of second (and third) homes in the Green Mountains is no longer in the public

interest? There are also vacant housing units in Barre City (which I observe daily in walks through the community) and similar communities. Will the Committee consider the reasons for these types of vacancies? The state has a range of options in its “toolbox” to ease these units back into the availability pool. Will the Committee explore the tools available for action on behalf of the common good for full time Vermont residents?

Conclusions- The housing crisis in Vermont has many causes and it has been building for decades. Unfortunately there is no quick fix. But one thing is clear: reliance on accelerated deregulation and market forces will not solve the crisis.

Further deregulation ,through increased jurisdictional exemptions, will only weaken the effective Act 250 land use permitting process, noting that the important opportunity for legitimate public participation through party status is not the real issue - it’s the abuse of the process by some legal counsel and the failure of the judges to control the appellate proceedings. And the market itself, driven by motives of profit margins and additional sources of income for property owners, cannot provide a path forward.

Thank you for your consideration of these comments.