

Testimony on S.311  
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Thank you, Committee and Chair,

We believe that this committee has the opportunity to create real reform for land use and housing development. You have the tools in S.311 and the pending H.687.

Both bills are the result of the work of the Natural Resources Board and Designation summer study groups that participated in

We have heard for a number of years that Vermont has a “housing crisis.” Recently I heard a housing developer dispute the “housing crisis” label. He said a crisis is something that happens in an unexpected fashion. In Vermont, we have known for years that restrictive permitting discourages development causing well intentioned developers to avoid Act 250 and the legal jungle that it creates. You have the opportunity to fix this.

Another reason to look at the way we encourage development is its impact on the grand list. This year’s significant increase in property taxes highlights the lack of growth in our statewide grand list. We are not expanding fast enough to provide the resources required to support education and the operation of government.

It is our hope that your committee will combine reasonable interim exemptions framed in S.311 and provide sufficient time for the Natural Resources Board to develop guidelines for tiers and for the planner’s association to complete work on their Maps.

We do have a concern that municipalities will need time and motivation to complete their work. Much of the work that will be required to qualify for Tier 1A or 1B will fall on municipalities. If the requirements are too burdensome, municipalities will be challenged to satisfy all conditions. Keeping it simple comes to mind when reviewing the standards.

## Section 3 Regarding interim exemptions to the Act 250 thresholds

### 75 Units **Zoning and Subdivision Bylaws and Water and Sewer No miles 2 years.**

30 Units Zoning and subdivision bylaws, no miles 2 years.

10 Units no zoning no miles 2 years

### Permit Exemptions

#### ADU

Commercial Conversion 29 or fewer units. This will not be enough to incent very expensive re-development of commercial buildings but is part of a necessary policy decision.

Designated Center ½ mile radius this is crucial for interim exemptions to have the opportunity to create new housing.

We suggest identifying all Designated Centers to include Designated Downtowns, Growth Centers, and New Town Centers

Village Centers ¼ mile radius, this is fine as an interim exemption.

The reason that we need these modest development circles around Designated Centers is because we need to address the large swath that river corridors cut through every Vermont community. We all see the need to flood proof structures in these corridors. However, rivers impact a significant portion of many cities and towns through their core where infill development may not be favorable in the future. Creating reasonable extensions to Designated Centers for residential development will allow for a thoughtful approach to river corridor areas.

### Workforce Housing

Workforce housing can refer to any form of housing, including ownership of single or multi-family homes, as well as occupation of rental units.

Workforce housing is generally understood to mean affordable housing for households with earned income that is insufficient to secure quality housing

in reasonable proximity to the workplace. Paying more than 30% of income for housing.

Vermont's workforce needs workers to be housed at all income levels. Yesterday a Realtor® related to me a housing search with a Doctor and an Attorney who were looking to relocate to Vermont because of the Doctor's offer of employment. After several months of searching, they could not find a property to meet their needs and decided to settle in New York.

Senator MacDonald has asked why builders are not developing affordable housing. In their efforts to avoid Act 250 and especially appeals, builders build smaller projects or avoid projects entirely if the risk is great. If you want to encourage more workforce housing, institute the higher thresholds in this bill so more projects will be economically feasible.

Duplicative permitting. Senator Brey and others have questioned where permitting is duplicative. We agree that this is not only Act 250 but the overlap of Act 250 Agency of Natural Resources permits and municipal planning and zoning. The example we have heard is the requirement for a state ANR permit for a municipal wastewater connection that is also permitted by the Municipality.

Section 9 Municipal Zoning expands on last year's Act 47 legislation. Most are minor tweaks to density and parking.

Section 18 Appeals of Municipal Administrative Officer 3% or 25. This is a municipal appeal, not Act 250 appeal.

No appeal: less than 25 units

Mixed use that does not require conditional review.

Housing or mixed use in a designated center, this is why we need to define all designated centers and include the ¼ and ½ mile development areas.

The addition of one Superior Court Judge, I assume this would be in the Environmental Court. We do not feel that the reconstituted Natural

Resources Board should hear appeals of Act 250 permits. Regulators who make the rules and assist district commission in decisions should not sit in judgement of those same decisions. We have separation of powers for a reason, Judiciary should hear appeals.

### Section 23 New Act 250 Tiers

This is where the Natural Resources Board summer study really got it right understanding where we want to incentivize development and where we want to protect natural resources.

However, the first section of this section, the “Road Rule” is really problematic for us, it seems arbitrary and will impact property owners who have no idea that they would be subject to this rule. We can be supportive of this rule when the area that it applies to is better defined.

Really what can work is to better define areas or tiers where the road rule will apply.

All the tier definitions require mapping, municipalities will require the expertise of VAPTA to create maps for these designations. Municipalities will not be able to create these maps on their own.

Section 24 outlines definitions for Tiers. It requires the board to engage in a broad spectrum of Vermonters including engaging renters, unhoused persons, and historically marginalized groups. How about homeowners!!

Municipalities develop the application for designation and proposed maps and submit to regional planning commission? Municipalities have neither the technical ability (think mapping) or in many cases the ability to “develop the application” These requirements are more thoroughly described in H.687 and will be a challenge for many communities to qualify for. We have less than 20 Neighborhood Development Areas in the state because the rules are difficult to satisfy.

### Qualifications for Tier 1

Municipal Plan: most communities have a municipal plan; they should be accepted by the Board

Flood Hazard Planning and Flood Hazard and river corridor bylaws. This is going to be extremely challenging for most towns.

Permanent Zoning and Sub-division bylaws: the 137, 10-acre towns should automatically qualify for this requirement.

Permitted Water and wastewater systems. Most wastewater systems are permitted.

Regional Plan. This is a requirement of the RPC's not the municipality.

Transportation Corridors. These areas must have municipal services, not sure how development should occur in transportation corridors.

Exemptions once tiers are established and plans are approved.

Tier 1A no permit or permit amendment required. This is a ramping up on the interim thresholds in S.311

Tier 1B or Transportation areas no permit required for 75 or fewer units.

Tier 2 The definition of Tier 2 and location of Tier 2 will cut across broad swaths of Vermont. Tier 2 will encompass one-acre towns, farm land, forest land all with disparate requirements for land use. In addition tier 2 will likely include areas in 1A and 1B municipalities that fall outside of the designated growth area. We suggest that Tier 2 should be carefully considered with separate standards depending on location and intended land use.

Designation for Tier 3 using regional land use maps. Tier 3 covers a variety of natural resources. When we think about Tier 3 the mountains above 2500 feet come to mind. However, current discussions include River Corridors which cut through every town in Vermont. The standards for these quite different natural resources need to be considered and addressed separately.

Section 27 Tax on Transfer of title to Property

The property transfer tax has been referred to by attorneys at the closing table as the “Welcome to Vermont Tax.” Realtors® have always opposed increases to the property transfer tax and this initiative is no different. We will wait to have this discussion in Senate Finance where we will show how this tax is counterproductive to the economic vitality of the State and an impediment to overall tax revenue.

Section 34 New construction or Rehabilitation exemption. This is a complicated formula but simply, it allows the owner of a property, who is making significant improvements that would allow for an increase in the Grand List value of the property to fix that value pre-improvement for a period of two years if the property is inhabited as a primary residence whether owned or rented. This is an incentive in a number of other states who typically offer the pre-improvement rate for a period of not less than 5 years.

Short Term Rentals:

The language in this bill confirms what the Department of Fire Safety is already required to do. If you want to do something to help with the short term rental issue, require a local property manager contact for STR's.

Section 56 Flood risk Disclosures. We have to disclose material facts this disclosure applies to owners and should be required.

Land Bank Report. The Vermont Association of Realtors® introduced this concept to Senate Economic Development, Housing and Military Affairs in 2021. We believe that municipalities will benefit from this option to return blighted, tax sale and unutilized municipal properties to productive use. We look forward to participating with the group to create a land bank program that work for Vermont.

Section 67. Landlord Tenant Law. This is a long overdue study to consider landlord tenant relations. Vermonters rely on rental housing for the majority of Vermonters and having clear, concise, and efficient rules to guide landlord tenant relations is important to Vermonters. The Vermont Association of Realtors® would like to be part of the study group.



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