For the record, My name is John McCann and I co-own North Branch Vineyards with Katherine McCann in Montpelier/Middlesex. Kate and I founded North Branch Vineyards in 2007.

My testimony today is about a current use issue with our vineyard, not directly related to affordable housing. H.134 just happens to be a good vehicle for a solution. I did speak to Representative Kimbell, the bill sponsor and he pointed me in this direction.

I will be presenting a timeline today to address the issue and offer a couple of suggestions for the committee to review.

In 2015, North Branch Vineyards leased 13.7 acres in Middlesex from Eugene Joslin to plant a vineyard. The 13.7 acres was part of a 48 acre parcel of land. The entire 48 acres was enrolled in current use prior to North Branch Vineyards leasing the 13.7 acres.

Because of the time and financial commitments to develop this property as a vineyard, this was a multi-year lease. The lease also included an irrevocable option for North Branch Vineyards to purchase the 13.7 acres. Between the lease and the option, North Branch Vineyards obtained significant control of the 13.7-acres when the agreement was signed.

In 2018, Eugene Joslin passed away and his son Randy Joslin purchased the entire 48 acres from his two sisters. At that time, Randy re-enrolled the entire 48 acres into the current use program without penalties because the parcel remained in the Joslin family.

In 2020, Randy got a municipal subdivision permit to split the 13.7 acres from the 48-acre property so Randy could sell it to North Branch Vineyards. In January 2021 Randy got a state subdivision (WW) permit to subdivide the property. Randy recorded the permits and a subdivision plan in the land records. At that time the Current Use program contacted Randy and let him know that he had subdivided the property and triggered the land-use change tax (LUCT). With my help Randy was able to re-enroll in current use with no penalties because I was currently farming the land and it did not change ownership.

In 2023, the 13.7 acres was conveyed from Randy to the McCann's / North Branch Vineyards. I sent in an application to keep the 13.7 acres enrolled in current use. Soon after, we were contacted by the VT dept. of Taxes and was told that our 13.7 acres had been withdrawn from current use effective on the date the property was transferred to us, and that we would owe LUCT of 10% of the fair market value, or $14,794, regardless of whether we re-enroll the property in current use.

According to the tax department, we owed the LUCT because we had "developed" the property under 32 V.S.A. § 3752(5)(B), which says in relevant part: "'Development' also means the subdivision of a parcel of land into two or more parcels, regardless of whether a change in use actually occurs, where one or more of the resulting parcels contains less than 25 acres each". https://legislature.vermont.gov/statutes/section/32/124/03752. If we had purchased 25.1 acres this would not have occurred.

As you can imagine, we were entirely surprised by this.

First, and most importantly, we did not subdivide the land. Randy Joslin subdivided the land – first when he carved off part of it and leased it to us; second when he applied for, received, and recorded subdivision permits; and lastly when he conveyed us the land. Randy was also the one who enrolled the property in current use, and benefitted from lower tax rates under the program.

Second, the commodity (grapes) has not changed between the time the parcel was leased and purchased. This parcel is not being developed. It is and will continue to be farmland. There is no change of use. That means the Tax Department is penalizing me as a small farmer simply for managing to gather sufficient resources to buy, instead of lease, my farmland. Just at the point where my agricultural operation is becoming financially stable, the Tax Department is destabilizing it with a significant penalty. The purpose of the current use program is to encourage agricultural use of land. Imposing the penalty against me as a farmer

for being able to buy farmland has exactly the opposite effect. Indeed, a penalty of this amount could make farming the property unfeasible, could force me to stop farming the property, not re-enroll in current use, and sell the property to a developer.

According to the State of Vermont **Agency of Agriculture Food and Markets**, most farms in Vermont, and across the country, are small. Looking back 20 years, to the 2002 Census, we had 6,571 farms, about the same as today, but 1,508 were dairies. Nearly a thousand farms have shifted from dairy to other products, making agriculture more diverse. We now have 744 farms selling vegetables and 471 farms selling berries. There are 507 farms in the greenhouse and nursery business, 441 orchards, and 266 farms selling Christmas trees.

I added this data to show that farming in Vermont continues to change in both size and commodity. It doesn't necessarily take 100+ acres to run a farm, it can be merely 10 acres.

Indeed Vermont needs more affordable housing, and H.134 makes perfect sense to waive the LUCT for this need. However, we also need to make changes to help Vermont continue to farm.

I have two suggestions that would solve the tax penalty in this situation. The first would be to eliminate section 32 V.S.A. § 3752(5)(B) from the statute. The second suggestion would be to reduce the 25 acre limit to 10 acres or smaller to meet the changing landscape of today's farms.

Thank you for the opportunity to speak today.