

## **Community Associations Institute Vermont Legislative Action Committee**

### **House Committee on Agriculture, Food Resiliency, and Forestry Hearing on House Bill 537**

**March 11, 2026**

Rep. David Durfee, Chair, Rep. John Bartholomew, Vice Chair, Rep. Richard Nelson, Ranking Member and Members of the Committee:

Thank you for the opportunity to provide testimony on House Bill 537 on behalf of Community Associations Institute and our Vermont Legislative Action Committee, which represents approximately 109,000 Vermonters who live in 47,000 homes in approximately 1,500 community associations.

House Bill 537, sponsored by Rep. Martin LaLonde, includes sections that introduce new provisions directly impacting Vermont's community associations and their ability to regulate the use and modification of commonly owned land allocated for the exclusive use of units.

#### **COMMENTS ON SECTION 2 – PROPOSED 3-125**

CAI supports a balanced approach concerning the rights and legitimate interests of unit owners to use common land allocated to their exclusive use and of the associations responsible for governing them in the best interest of the community and owners as a whole according to the governing documents to which all owners agreed when they bought into the community. Consistent with this policy, we raise the following concerns related to the provisions of H-537.

1. Existing law already provides a mechanism for owners in communities who want to allow vegetable gardening to do so where appropriate for each individual community. Vermont's Common Interest Ownership Act (the "Act"), codified in Title 27A, is a comprehensive act addressing all aspects of creation, alteration, operation and management of common interest communities ("CICs"), as well as protection of purchasers in them. Among the protections of purchasers is a requirement that they be provided with copies of the current governing documents of the community. These include the declaration which creates the CIC and defines "who owns what," as well as permissible uses of areas within the community. This allows prospective purchasers to know what they're considering purchasing. Prospective purchasers also receive a copy of the bylaws which provide for governance of the community, and the current rules. The declaration

and bylaws set out the procedure by which the owners in the community can amend them. This level of local control is important here because of the great variety of CICs in Vermont.

2. It's not clear what it means to install a vegetable garden or to effectively prohibit or unreasonably regulate it. Vegetable gardens may include permanent or semi-permanent elements such as raised beds, trellises and supports. They may involve soil amendment or the addition of compost, and fencing to deter wildlife. Even organic fertilizers can have offensive odors. Associations should be permitted to regulate these and similar elements in the specific context of the communities they govern. Because the Act already requires that all rules be reasonable (see 27A V.S.A. § 3-120(h)), any association regulating installation of vegetable gardens already has a duty to do so reasonably.

3. The application and approval process for installation of a vegetable garden should likewise allow for the variation in communities and the fact that they are governed by volunteer boards which may not have established policies for architectural modification applications. Because the installation of a garden on common elements entails the use of land owned not by a unit owner but by all owners through the association and may present difficult issues (water use may not be separately metered, for example), boards may need to consult with counsel to rule on an application. The Act already imposes a duty on board members to act reasonably and in the interest of the association, so the provision for deemed approval after 60 days is unnecessary and should be stricken.

4. The section should provide that, in the event an owner fails to fulfill their responsibilities under this section, the association may perform any necessary work and assess the cost thereof to the unit owner.

5. The Act already provides a mechanism to address violations of the Act, as well as the declaration, bylaws and rules, whether by the association or a unit owner. See 27A V.S.A. § 4-117. That mechanism includes the authority of a court to award attorney's fees and costs as well as damages. Proposed Section 3-125(d) should therefore be deleted.

We hope the comments provided in this letter are helpful to the Committee and will assist in refining this legislation so that it is workable for homeowners in Vermont's community associations. Please feel free to contact us to discuss these comments or any legislation impacting community associations and their homeowners.



For more information on CAI and Vermont legislative resources, please contact us at [government@caionline.org](mailto:government@caionline.org), visit [our website](#), or learn more about [CAI's New England Chapter resources](#).

If you have any questions about this testimony, please contact Phoebe Neseth, Esq., CAI's Vice President of Government Relations, Public Affairs & Legal at [pneseth@caionline.org](mailto:pneseth@caionline.org).

Respectfully Submitted,

**Members of CAI's Vermont Legislative Action Committee**

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