

**Senate Natural Resources and Energy
S.234, Conservation and Development, Act 250
Testimony, January 26, 2022**

Thank you for the opportunity to testify about land use, Act 250 and S.234.

Lack of housing is a current crisis in Vermont at all levels of income and in virtually every part of the state. There is no doubt that it regularly constrains people's ability to move to Vermont, return to Vermont, or stay in Vermont. Land use laws, permit requirements, supply chain shortages, lack of labor, and costs of development all contribute to the long-term difficulty of developing housing in Vermont.

Untying this Gordian knot, which has taken decades to create, is an enormous challenge. We should make every effort to not exacerbate the problem.

Local governments are working to update and implement plans, bylaws and regulations that facilitate the development of housing and grow local economies. They are taking advantage of the Municipal Planning Grants' focus on zoning for great neighborhoods and modernizing bylaws. They are working with non-profit and for-profit developers as well as individual home owners to take advantage of both existing* and proposed funding (\$70 million) to build housing, including \$5 million in grants to municipalities to support development of affordable mixed-income rental housing. They are working with the Agency of Natural Resources to utilize the Governor's proposal for \$15 million in ARPA funds to design and construct community scale wastewater and water supplies that will enable the addition of new housing units in underserved designated areas.

We oppose the proposal for a new Smart Growth Designation Program administered by the Natural Resources Board as is contemplated in S. 234. That designation would be overlaid on an already designated downtown development district or designated neighborhood development area. The bar for successfully securing a designated downtown or neighborhood development area is already high, and requires in-house professional capacity at the local level. There are only 23 designated downtowns and nine neighborhood development areas statewide, which serves as a demonstration of the programs' complexity.

In no way will a new designation process that is yet to be developed and that would be approved by a different board than the Downtown Board, facilitate the development of housing.

We urge you to:

- ◆ Eliminate Act 250 jurisdiction in designated downtowns, new town centers, neighborhood development areas, growth centers, and in municipalities with robust zoning and development capacity.
- ◆ Reduce Act 250 jurisdiction over priority housing projects as is proposed in H. 511.
- ◆ Eliminate the language in Act 250 that establishes jurisdiction based on “construction of housing projects...” constructed or maintained on a tract or tracts of land, owned or controlled by a person, *within a radius of five miles of any point on any involved land and within any continuous period of five years*” .(10 VSA 6001 (3)(A)(iv)). Likewise, amend section (19)(A)(i) for purposes of housing, to remove the language regarding “*within a radius of five miles of any point on any lot, or within the jurisdictional area of the same District Commission within any continuous period of five years*”.
- ◆ Require Act 250 and state permitting programs to render a permitting decision within a certain number of days or they are deemed issued as is the case with local zoning permits: *24 V.S.A. § 4448(d) “if the administrative officer fails to act with regard to a complete application for a permit within 30 days, whether by issuing a decision or by making a referral to the appropriate municipal panel, a permit shall be deemed issued on the 31st day.”*

*Karen Horn, Director
Public Policy & Advocacy*

- * [Department of Housing and Community Development 2021 Vermont Housing Budget and Investment Report](#)