Recommendations

The Act 157 Steering Committee puts forth the following recommendations to improve and maintain existing housing, encourage new housing development and the infrastructure needed to support mix-income housing projects. The recommendations are based on the review of existing programs and statutes, stakeholder input and consideration of the housing needs throughout Vermont. The recommendations are not intended to be exhaustive or all-inclusive. Several require more investigation or study. However, if implemented they are designed to address the goals outlined in the Act.

Expand the 'Priority Housing Project' Exemption from Act 250

In 2013 changes were made to Act 250 to promote affordable housing projects in certain designated centers by raising the number of units which can be built without triggering Act 250 review. The following changes would encourage more housing in areas designated for growth:

1. **Remove the caps on the number of housing units in a Priority Housing Project.** Surveys and outreach with developers indicated that the caps on the number of allowed units are not working as envisioned, are arbitrary, do not consider the size of parcels and are decreasing density in some cases. Deferring to the number of units allowed under local regulations would help develop more housing in locations supported by the community.

2. **Modify the compliance requirements related to "affordable housing" and "mixed income housing" to boost use of the incentive.** To qualify as a Priority Housing Project, at least 20% of rental units must be affordable for households earning less than 80% of county median income and the affordability must be in place for at least 20 years. While developers and builders support the mixed income goals, they have concerns over the compliance cost and risk of documenting affordability over 20 years, especially on projects that do not have state or federal subsidies.

3. **Exempt Priority Housing Projects from having to obtain an Act 250 amendment for properties that have existing Act 250 permits.** Once an Act 250 permit is issued on a tract of land, current law requires that the owner seek a permit amendment for any future changes, even if the change is to develop a Priority Housing Project (except in state-designated downtowns). Several projects that meet the state's affordable housing goals did not qualify as Priority Housing Projects solely because they were located on land with an existing Act 250 permit. After obtaining the necessary designation and proposing a Priority Housing Project it is discouraging for developers to be faced with this limitation, especially given the state's need for new housing.

Infrastructure Financing

There is a need to expand the availability of Tax Increment Financing (TIF) and develop a simpler method to dedicate property tax revenues to housing infrastructure projects in smaller communities. TIF is a tested and proven method to finance the cost of municipal infrastructure required to encourage private, mixed-use development, including housing, primarily within downtowns and growth centers. Every active TIF District in Vermont is resulting in the development of housing, including affordable housing.

4. **Increase or Eliminate Statutory Cap on TIF Districts.** Current law prohibits the approval of any new TIF Districts. However, one of the original TIF Districts is retired and another was terminated. It is recommended that, at a minimum, the approval of TIF Districts be allowed to replace the two that are no longer active. Given the limited funding for certain types of public infrastructure, the documented backlog of delayed infrastructure maintenance and upgrades, the new clean water requirements to remove phosphorus, and the evidence that shows how infrastructure investments support housing and economic development, it is recommended that the cap on TIF Districts be eliminated altogether.

5. **Dedicate Revenues for Housing Infrastructure.** The geographic limitations and requirements for public good outcomes placed on TIF approvals, while desirable, when combined with the statutory requirements for approval, recordkeeping, monitoring, and reporting tend to put this financing tool outside the reach of smaller communities that do not have full-time planning and/or economic and community development staff. To address this, consider a program, perhaps in pilot form, that allows for the dedication or reallocation of incremental municipal and state education property tax revenues, generated by a housing development that benefits from public infrastructure, to help finance public infrastructure costs. All properties within the development pay their property taxes but, for a specified period of time, the municipality is authorized to dedicate all or a portion of the incremental property tax revenues to the cost of the public infrastructure that was required to get the housing built. It is recommended that requirements be minimized, the approval process kept simple and with technical assistance provided so that the program is accessible to smaller communities.. Additional administrative requirements at the state level would be minimal as the system already in use by municipalities and the Department of Taxes/Property Valuation and Review to track parcels in TIF Districts can be utilized for this proposal.

6. **Expand Downtown Transportation Fund.** The cost of driving from home to work, the grocery store and to school is an important consideration in the true cost of housing, especially in rural areas. Many working families face a tradeoff

between paying a greater share of their income for housing or enduring long commutes and high transportation costs. Increasing housing development in walkable places produces the biggest return on Vermont's investment in existing infrastructure and allows for significantly reduced housing costs. Thus, increased investments in the downtown transportation fund and continued efforts to make transportation investments that support economic development by creating better places (e.g. Barre, St. Albans, Winooski) is a proven way to revitalize local economies by leveraging private investments into existing housing stock and commercial space.

7. **Create a Revolving Loan Fund for Infrastructure Serving Housing Development.** This financing tool could be targeted either at developers who are undertaking the construction of infrastructure systems or created to encourage municipalities to invest in the required infrastructure. For developers, a financier who is willing to provide relatively low interest loans for the construction of roads, waste and stormwater systems, and such elements required to service housing development, would preclude the need to apply for conventional bank loans, which are often not available for housing projects. As an alternative, the General Assembly could consider providing a loan loss reserve for single family development projects meeting the objectives of Act 157. Depending on how this was structured and if these reserves were targeted for use with VHFA, it might enable VHFA to reactivate its single-family construction loan program.

Other Recommendations

In addition to the specific areas set forth in the Act 157 Study Committee Charge, the Steering Committee has additional recommendations to improve the quality and quantity of housing in Vermont, as follows:

Regulatory Reforms:

8. **Create a single point of contact to coordinate and accelerate state permitting for housing projects.** A single state point of contact to coordinate and accelerate housing projects could address potential issues early; help resolve disputes between the public, developers and agency personnel; coordinate agency comments; and assist in moving projects through the permit review process faster.

9. **Encourage greater municipal control of water and wastewater permitting.** In 2007, the state was granted exclusive jurisdiction over permitting all connections to the municipal water supply and sewer mains. While municipalities can approve the location of the connection of the water or sewer service line, they can only approve the design or require design changes if the state formally delegates its authority to the municipality. To date, no Vermont towns have sought this limited delegation to review and approve public sewer and water connections. Only two towns have secured the broader authority to implement the state water and wastewater rules in full, primarily for local review of onsite systems. Towns appear to be unaware of the opportunity to obtain delegation of permitting for municipal hookups.

10. **Offer municipalities financial incentives to make housing development happen.** Most incentives for housing development in Vermont are targeted towards developers and not municipalities. Innovative programs in Massachusetts and California provide direct payments to municipalities that approve building permits for housing. After establishing a payment schedule

based on the number of units to be constructed in a project, Massachusetts officials found that relatively small payments to municipalities (as little as $500 per unit) issued in part at time of permitting and part at issuance of a Certificate of Occupancy, were effective in increasing the number of building permits for housing. A direct incentive to the municipality for permitting units reduced local opposition, as the benefit of permitting was immediate and clear. State officials found that such incentives encouraged local planning and zoning officials to "get to 'Yes'" faster.

11. **Link new housing incentives to updates in local regulations.** Outdated public works standards, subdivision regulations, and zoning bylaws are often overly complicated and restrictive. Currently three of the existing state designation programs (neighborhood development areas, new town centers, and growth centers) require communities to modernize their zoning regulations to qualify for state benefits. Linking any new housing incentives to required local regulatory tune-ups can improve local permitting that results in more housing. Model regulations suitable for Vermont, would help municipalities with limited resources modernize their development review process more easily.
12. **Consider increasing the income level used to calculate the maximum price of owner-occupied homes considered "affordable" for purposes of the Vermont Planning and Development Act (Chapter 117) from 80% of median income to up to 120%.** While an 80% of median income limit is appropriate for affordable rental properties, allowing up to 120% of median income for homeownership developments would increase the viability of developing new homes using the incentives municipalities offer to affordable housing developments.

Tax-based incentives and reforms:

13. **Update the tax code to encourage housing investment that provides a high return on public investment in existing infrastructure.** Vermont does not have many 'housing developers' outside of Chittenden County, therefore work to improve Vermont's housing stock is going to be incremental and small in scale. Tax codes could be updated to encourage more Vermonters to take on projects to improve the quality of the housing in their neighborhoods.
14. **Support the investment and rehabilitation of distressed homes with changes to the treatment of real-estate gains.** In Vermont, the profit resulting from the sale of an investment is taxed as a capital gain. Currently $5,000 in real estate gains may be excluded but the law could be updated to further tax advantage investment in housing by treating capital gains in real estate more like other forms of capital gain. (Details in Tax Technical Bulletin 60)
15. **Eliminate the land gains tax to support new housing construction.** Currently the profit from the sale of land that was held for less than six years can be taxed. This law was aimed at reducing real-estate speculation and pre-dates Act 250. Since existing land use regulations, including Act 250 serves the purpose of reducing speculation and controlling unregulated growth, this tax may no longer be needed. Moreover, the law has many exemptions, is complicated to administer, and generates less than $1 million in annual revenue.
16. **Expand the existing use tax (sales tax) exemption available to contractors completing a qualified priority housing project.** Vermont's Tax Code currently allows for sales tax exemptions on materials used in the construction of

qualifying projects. To qualify, a project must be intended for exclusively public use and be owned by Federal or State government or a 501(c)(3). Expanding the qualifying parameters for this exemption to include certain housing projects would reduce the cost of construction materials for these projects. See "Form S-3C" for current definitions of qualifying projects.

17. **Increase funding for the Downtown and Village Center Tax Credit program and explore ways that these credits could be used to better support housing needs.** Housing investment will not occur when the development costs exceed what banks estimate a property will be worth afterwards. Tax credits help close that gap and are proven to improve the quality of housing stock in targeted areas. Grand List analysis shows this public investment is quickly repaid through increased property taxes.

    Since 2002, demand for downtown and village tax credits has exceeded funding by as much as 3 to 1. The long queue for tax credits can delay project startups by as much as three years. Funding is currently capped at $2.2 million annually. Additional, or targeted rental housing tax credits would foster more housing redevelopment and mixed uses in downtowns and village centers. Existing VHFA tax credit programs could also be enhanced to support more housing investment.

Capital incentives and other recommendations:

18. **Provide capital incentives (low interest loans and grants) to improve existing housing stock.** We are fortunate in Vermont to have a suite of housing rehabilitation programs managed by a network of regional housing organizations through their Homeownership Centers. These organizations and the revolving loan funds they operate (capitalized with CDBG and other federal, state, and private funds) exist throughout the state and are well positioned to help address this need. This resource is primarily offered to low and moderate income homeowners and has proven to be an effective tool, rehabilitating nearly 500 homes in the last 5 years. The need to assist low and moderate income homeowners continues, however by expanding the services of the Homeownership Centers to include existing small rental housing properties that have fallen into disrepair or are un-occupied due to code, weatherization or other habitability issues, the quality and quantity of the housing stock can be improved in communities throughout the state. With continued support, these regional organizations and other partners such as Vermont Community Loan Fund, Vermont Housing and Conservation Board and Vermont Housing Finance Agency can make loans and grants to small scale landlords to help them re-invest in their rental properties, improving the safety, energy efficiency and general habitability of these properties and the associated neighborhoods.

19. **Maximize the use of existing housing stock by providing education, support and services to ensure a successful rental housing market:** Landlords have expressed a need to protect their investments in property with more successful tenancies and less costly turn-over of units. Many landlords cite a lengthy eviction process as a major issue that leads to a loss of rental income and the inability to re-invest in their properties. The eviction process can be prolonged by a lack of familiarity with Vermont's legal system and tenant protections as well as an overloaded and backlogged court system. To assist small-scale landlords recover from failed tenancies and damaged property, efforts should be made to increase landlord tenant education, ensure support services are

available when needed, and explore alternatives to the current court eviction process.

Education is often the most effective tool for ensuring a successful outcome for both the landlord and the tenant. Many Vermont landlords are considered small by national standards, often operating other businesses and owning only a few units. Landlord tenant law, the eviction process, and fair housing rights are increasingly complicated. Continuing joint educational efforts by the Vermont Apartment Owners Association and Vermont Tenants, exemplified by "Finding Common Ground: The Definitive Guide to Renting in Vermont", is recommended.

Support and services such as the pilot "landlord liaison" program for landlords who house "high risk renters" will ensure more successful outcomes for renters and landlords. Several non-profit service provider organizations that work to help low income Vermonters find and maintain housing have utilized the landlord liaison model, whereby a case manager is assigned as the point of contact for a landlord when concerns with the tenant arise. These types of arrangements can help resolve issues outside of the court system and provide increased confidence for the landlord that they will have a successful relationship with the tenant.

Consider alternatives such as a dedicated "housing court," as used in Massachusetts to provide a specific legal venue for housing-related proceedings, or "virtual court proceeding" to reduce the time it currently takes for a court to hear an eviction cases, which landlords state is often four to six months, during which time the landlord is not receiving rent and property damage may be occurring.