
MAINE LAND USE REGULATION COMMISSION
AFFORDABLE HOUSING POLICY STATEMENT

Adopted April 4, 2007

Housing that is affordable to diverse households, particularly those in the lower to middle income ranges, has become difficult to find in many regions of Maine, including certain areas of the Commission's jurisdiction. The rising costs of both land and homes and the difficulties experienced obtaining workforce housing are subjects that have come before the Commission at various times in recent years.

Defining Affordable Housing

Maine's Growth Management Program, 30-A MRSA §4312, establishes a set of state goals "to provide overall direction and consistency to the planning and regulatory actions of all state and municipal agencies affecting natural resource management, land use and development." The housing goal is "to encourage and promote affordable, decent housing opportunities for all Maine citizens." The Maine State Planning Office defines affordable housing as, "decent, safe and sanitary living accommodations that are affordable to lower income households and moderate income households."

Affected Income Groups

Two factors determine affordability – the price of housing and the ability of people to pay that price. The generally-accepted standard for housing affordability holds that a household should spend no more than 28 to 33 percent of its income for housing, including mortgage or rent, insurance, utilities, and taxes. Planning for such housing originally sought to assure a supply of housing to two lower income groups: 1) "Very low income" households, with incomes 50% or less than the median income; and 2) "Low income" households, with incomes between 51% and 80 % of the median income. Given the trends of housing price increases relative to income gains over the past two decades, however, a third group, "moderate income" households, with incomes between 81% and 150% of the median income is also included in efforts to increase the supply of affordable housing units.

The issue of affordable housing affects three general groups of households: 1) Those whose incomes are fixed or low, such as Social Security recipients or single parents; 2) Those who can't afford to live where they work (hence the phrase, workforce housing¹), such as bank tellers, firefighters, nurses, police officers, sales clerks, teachers and other service providers; and 3) Those who seek to buy their first home, often young people just starting full-time in the workforce. The three groupings tend to span age categories from young adults through middle-age workers to retirees – the kind of age diversity that contributes to maintaining stable community populations.

Affordability and Housing Market and Income Trends

Generally, housing costs have increased at a rate much higher than Mainers' incomes over the past decade, and housing has become less affordable for more people. Current economic and housing information is available by political jurisdictions that don't correspond to the Commission's

¹Workforce housing is a term that applies to the gap facing those who make too much to qualify for affordable housing subsidies, but not enough to buy a home or rent an apartment.

jurisdictional boundaries. Therefore, this discussion of housing costs and incomes presents specific state-wide data as well as information for communities in and adjacent to and regions overlapping portions of LURC territories.

The median sales price for a home in Maine reached \$184,000 in 2005 according to Maine State Housing Authority (MaineHousing) statistics. A Maine household would need an income of approximately \$61,648 to purchase that median-priced home; 68% of Maine households have annual incomes below that figure. The median household income in Maine is \$43,370, and a household earning that income could afford a home priced around \$129,445.

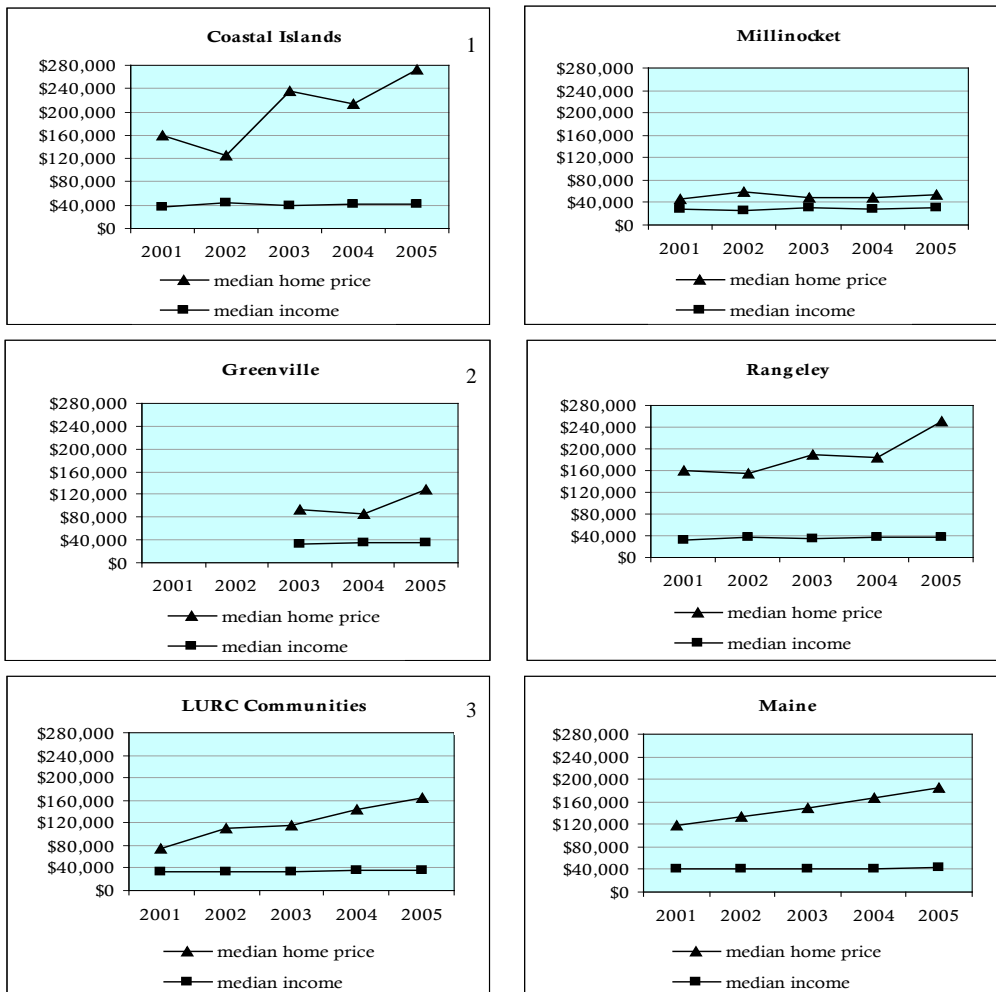
Maine housing costs, whether sales prices or rental rates, have been increasing much faster than incomes in most areas of Maine over recent years, although local economies and housing markets vary regionally. MaineHousing points specifically at coastal and southern Maine as areas where home prices have outstripped incomes and limited workforce housing threatens to become an impediment to economic growth. MaineHousing keeps track of regional housing costs to determine where in the state costs exceed the reach of households earning the median income. The following table presents information on regional affordability by towns and housing markets closest to the jurisdiction's plantations and townships. *An index rating of less than one indicates the town or region has an affordability problem; an index over one indicates a more affordable area.*

Table 1. 2005 Homeownership Affordability for Buyers at Median Income				
Community or Housing Market	Affordability Index ¹	Median Home Price	Median Income	Income Needed to Afford Median Home Price
Communities				
Greenville	0.81	\$127,500	\$35,948	\$44,604
Rangeley	0.46	\$251,250	\$38,243	\$83,826
Counties				
Aroostook County	1.41	\$67,000	\$32,809	\$23,249
Hancock County	0.66	\$196,000	\$41,869	\$63,206
Franklin County	0.84	\$127,000	\$35,930	\$42,752
Hancock County	0.66	\$196,000	\$41,869	\$63,206
Knox County	0.69	\$192,875	\$44,005	\$63,675
Lincoln County	0.64	\$209,000	\$43,559	\$68,281
Oxford County	0.88	\$129,900	\$38,123	\$43,510
Penobscot County	0.88	\$132,500	\$39,453	\$44,988
Piscataquis County	1.02	\$92,000	\$31,652	\$30,994
Somerset County	1.14	\$91,500	\$35,153	\$30,898
Washington County	0.89	\$95,000	\$29,105	\$32,723
Labor Market Areas²				
Dover-Foxcroft LMA	1.06	\$86,750	\$30,982	\$29,291
Millinocket LMA	1.81	\$53,950	\$33,440	\$18,488
Coastal Islands³	0.50	\$272,500	\$42,716	\$85,035
LURC MCDs⁴	0.68	\$165,000	\$36,554	\$53,498
Maine	0.70	\$184,000	\$43,370	\$61,648
Notes: ¹ Affordability Index – the ratio between how much of a mortgage loan the area's median income can afford divided by the area's median home price;				
² LMA – Labor Market Area.				
³ Based on data for 10 coastal islands, including Criehaven, Matinicus and Monhegan.				
⁴ MCD – Minor Civil Division, based on data for 58 towns, townships and plantations in LURC jurisdiction and 8 organized towns.				
Source: Data compiled by Maine State Housing Authority, distributed at LURC meeting, August 2, 2006.				

MaineHousing information places Maine's homeownership affordability index at 1.10 in the mid-1990's. Over the next five years, it had slipped to 0.95, suggesting affordability problems were increasing. By 2005, the index had decreased to 0.70. The trend in those markets most pertinent to LURC's jurisdiction, based upon data available for 66 towns, townships and plantations, has decreased at a more extreme rate. The average index for those communities in 2001 was 1.26 with a median home price of \$74,000 and a median income of \$33,145; by 2005 the index had dropped to 0.68 with a median home price of \$165,000 and median income of \$36,554.² The median home price more than doubled in five years, while the median income only increased by about \$3,400 or 10% – a very negative trend in terms of affordability.

Figure 1.

Median Incomes and Housing Costs 2001 – 2005



Notes: 1 – Coastal Islands data covers 10 islands, including Cribhaven, Matinicus and Monhegan.
 2 – Greenville data not available for 2001 and 2002.
 3 – LURC Communities data covers 58 LURC towns, townships and plantations and 8 organized towns.

Source: Data compiled by Maine State Housing Authority, August 2006.

²Maine State Housing Authority. 2005 Housing Facts for LURC Regions, Maine Islands, Greenville, Millinocket, Rangeley. Compiled by MSHA for Land Use Regulation Commission Meeting Housing Panel Discussion. August 2006.

Specific information for the last five years exists for some communities adjacent to or within LURC's jurisdiction. The Coastal Islands and Millinocket trends, shown above, bracket the high and low extremes, respectively, of the housing situation within the unorganized territories. The line graphs illustrate an increasing gap between median incomes and housing costs in recent years. Even though the housing market is currently undergoing a period of adjustment, housing experts predict that affordability will remain an issue in Maine in coming years.

LURC Regulatory Approach

The Commission's regulations have not specifically addressed affordable housing in the past. Chapter 10 zoning rules specify where residential development and subdivisions can occur and set dimensional and other land use standards that can affect housing costs through impacts upon land and infrastructure costs. In recent years, rule revisions have changed the minimum lot size for residential development from a soils-based variable minimum of 20,000–80,000 square feet to 40,000 square feet per unit across the jurisdiction and added standards that control residential buffers, scenic character, subdivision design and layout, subdivision road design, floodplain development, and wetland alterations. The standards also include provisions that allow cluster development and open space protection, with reduced dimensional requirements through a waiver process when benefits to important natural features result.

Affordable Housing Issues

The Affordable Housing Subcommittee of the Community Preservation Advisory Committee (CPAC), at the direction of the Maine Legislature in 2003, undertook a study to identify barriers to creating affordable housing and to provide recommendations for addressing the issue. The subcommittee distilled a long list of specific barriers into several categories, including: 1) lack of funds and simple programs for affordable housing, 2) lack of key state support for affordable housing, 3) expensive land and infrastructure in high-growth areas, 4) restrictive local regulatory practices that increase housing costs, and 5) local attitudes towards housing development.³ Clearly, the categories most pertinent to the Commission involve land and infrastructure costs and the impact of land use regulations upon housing costs. There are, however, additional aspects of the situation that must be considered by the Commission as it addresses the issues surrounding affordable housing. The following discussion begins with consideration of the Commission's rules and potential impacts upon housing costs and then covers other issues regarding housing affordability.

Development and Regulation

Affordable Housing Demand and Location

The Commission must consider appropriate locations for affordable housing within the context of its own goals as well as overall State goals regarding growth management and smart growth. The extent to which lower land costs and property taxes in rural unorganized areas influence the spread of residential construction into LURC's jurisdiction is difficult to ascertain.

Over the course of its work, the CPAC Affordable Housing Subcommittee linked the issue of affordable housing to both economic development efforts and sprawling land use patterns. Developing areas of the state need housing for workers. The lack of affordable units, whether sales

³Affordable Housing Subcommittee of the Community Preservation Advisory Committee. *Affordable Housing: Barriers and Solutions for Maine*. December 2003.

or rentals, can result in labor force shortages and interfere with job creation. Developing areas also often experience rising land and housing costs. High housing costs and property taxes in locations close to work can force many people to move to the countryside, resulting in longer commutes, increased fuel consumption, additional infrastructure development and disrupted rural habitat. Moving further and further out into the country-side, including into LURC's jurisdiction, is not a desirable or effective affordable housing strategy over the long-term due to the factors just cited.

The above pattern, though, occurs to varying degrees across the Commission's jurisdiction as well as in other areas of the state. Although most economic development activities in Maine do not usually focus on the unorganized territories, permitting information suggests that in the jurisdiction, sprawling land use patterns occur in those areas providing high quality recreational opportunities and experiencing sustained demand for second homes because of nearby exceptional resource values – coastal islands, oceanfront property, lake shorelines, mountains views – and adjacent service center communities – Bethel, Rangeley and Greenville. Anecdotal information indicates that the impact of seasonal and second home demand on land and housing costs may then cause the local workforce and residents' children to go even further away to find affordable land and housing. The concentrated demand for seasonal properties in high value resource areas that drives up the cost of land can also drive people looking for affordable housing into surrounding rural areas. The information for Maine's coastal islands and Rangeley in Table 1 and Figure 1 appears to support the perception that housing is least affordable in LURC's jurisdiction near resort and tourist communities and economies. To a lesser degree, this situation most likely occurs in other parts of the unorganized territories as well.

The Commission takes location into consideration as part of its overall approach to development, and therefore, affordable housing proposals will be entertained in areas deemed appropriate for residential development. While the Commission will accommodate such initiatives in all areas appropriate for residential development initially, as such projects are proposed and developed in coming years, the Commission will monitor affordable housing activities in the jurisdiction and review the issues surrounding location as necessary.

Environmental Protection and Land Use Regulation

The Commission's statutory responsibilities require that it balance preservation of ecological and natural values and provision for various development activities including appropriate residential uses. Consideration of the Commission's rules with respect to affordable housing raises questions regarding how efforts to preserve and protect the jurisdiction's natural features and resources may inadvertently add to housing costs. Lot size and dimensional standards, landscaped buffers, erosion control measures, road standards, and other requirements can add to the costs of designing and constructing residential projects. The Commission will examine its land use provisions to determine which standards might be reduced or waived, as long as undue adverse impacts to ecological and natural values do not result, in order to facilitate the creation of affordable lots and residences.

Regulatory Techniques

There are a number of regulatory approaches used to encourage the provision of affordable housing opportunities. The objective of such efforts is to create and maintain a relatively permanent stock of affordable housing units that help sustain diverse and vibrant communities, populations and economies. In order to provide a sound basis for the Commission's affordable housing strategy, the following discussion describes various techniques that are used to expand affordable housing opportunities in Maine and across the nation.

Inclusionary zoning

Inclusionary zoning is the term used to describe zoning regulations which allow affordable housing development as an integral part of overall development occurring within communities.

Inclusionary housing provisions promote the production of affordable housing by encouraging or requiring developers to incorporate a certain percentage of affordably priced housing lots or units in development proposals.

Density bonuses and lot size reductions

Density bonuses typically allow an increase in the number of market-rate lots or units that can be developed on a parcel in exchange for pricing some lots and units within the affordability ranges of low to moderate income households. Affordable housing density bonuses tend to range from 10 to 50 percent and occasionally up to 100 percent, depending upon the number and price ranges of affordable lots/units being constructed. The bonuses usually apply to developments larger than a certain threshold number for subdivision lots or housing units, for example, 5-lot/unit and greater subdivisions. The practical result of density bonuses is a reduced minimum lot size.

Simply reducing lot size requirements for the purpose of providing affordable housing units is another approach to changing dimensional standards for dwelling units. Such reductions can be applied across the jurisdiction for residential development proposals, if language that requires the construction and long-term maintenance of affordable dwellings accompanies the lot size reductions.

Accessory apartments

Accessory apartments offer another approach to providing affordable housing options. Accessory apartments are self-contained second dwelling units built within or attached to an existing single family home. They have their own private entrances, kitchens and bathrooms. Sometimes they are permitted in converted accessory structures, such as barns, garages and sheds. In all cases, accessory apartments are smaller than the main dwelling unit, and if attached, are usually constructed to be similar in architectural style and look like part of the main house. There are often requirements placed upon the provision of adequate and safe water supplies and wastewater disposal and the application of setback, lot coverage, and parking standards.

Accessory apartments can supply housing opportunities within neighborhoods and present an effective means to disperse affordable housing throughout communities. They are not always intended to supply affordable dwelling units, however. Often homeowners add the apartments to provide additional income to themselves, use extra space and share heating and maintenance costs, or to house younger or older family members or caretakers. Many communities allow accessory apartments without restricting their use to affordable housing.

In areas with high levels of tourism and limited land and lodging opportunities, permitting additional residential choices through the development of accessory apartments may result in units rented to transitory occupants and seasonal residents at rates that local year-round residents cannot afford. That is the case with some Monhegan Island Plantation rental properties, where year-round residents stay during the off-season in rented accommodations from which they must move during the main tourist season. Utilizing incentives for accessory apartments in order to facilitate affordable housing must be accompanied by deed restrictions that link the units to oversight by local housing groups, require local employment and set maximum rental rates and income limits for

tenants. Homeowners must be willing to comply with such oversight and regulation in order to develop the units.

Multi-family development

One of the most effective ways to boost affordable housing options is to increase multi-family housing units. Multi-family housing can place many more units on a piece of land than single family dwellings, although very dense concentrations of units (multiples of ten per acre) can only be accommodated in areas with public or common water supplies and wastewater disposal. Such areas are quite limited within LURC's jurisdiction. So while the Commission will examine its dimensional standards regarding all types of residential development, there is a limit to the density of units that can be safely constructed for development utilizing private wells and subsurface disposal systems, which predominate throughout the unorganized areas.

Incentives versus Mandates

Inclusionary zoning strategies aimed at facilitating the provision of affordable housing can utilize either incentives or mandates to achieve the desired outcome – additional affordable housing opportunities. A recent examination of several studies⁴ has shown that mandatory requirements are generally more effective than regulatory incentives. In the majority of studies examined, no or few affordable residential units were constructed under incentive programs. At the same time the evaluation shows that municipalities that established or switched to mandatory programs experienced the construction of significant numbers of affordable housing units.

Inclusion of affordable units

Requiring that affordable housing be incorporated within all larger housing developments helps greatly to integrate such units into an area's overall housing stock and avoid the opposition associated with concentrated low income housing projects in various parts of Maine in the past. Implementing guidelines that require affordable housing to be similar in outward appearance to the market rate units in projects facilitates acceptance of both the housing units and residents into host communities.

In-lieu fees

Mandatory inclusionary zoning programs sometimes include payment of in-lieu fees for situations where the creation of affordable lots or dwelling units is not feasible or desirable. While the payment of in-lieu fees can either be optional or by right, often the fees are only allowed when developers can show that constructing the required affordable units is not possible for a variety of reasons. Otherwise, developers may opt for the payments, thwarting attempts to integrate affordable units into local housing stocks.

Land dedication

Off-site construction or land dedication provisions allow developers to accommodate mandatory affordable housing requirements through the substitution of construction of affordable units in other locations or donations of land suitable for development in place of constructing the units on-site in a proposed housing project.

⁴Brunick, Nicholas J. Zoning Practice, Issue Number Nine, Practice Inclusionary Housing, Part One, American Planning Association. September 2004.

Ensuring Long-term Affordability

Regulatory strategies usually provide for long-term affordability assurances. Otherwise, as has occurred in Maine and other parts of the country, regulatory provisions in local or regional plans and ordinances offer density bonuses or waive certain requirements only to have the affordable units “escape” when the original or subsequent owners sell and reap the increased market values that have accrued over the years. Effective affordable housing strategies now address both affordability time frames and mechanisms.

While most strategies include specified time frames, they vary widely, from 10 to 99 years. Some states mandate minimum time periods, such as 30 years, in their zoning enabling acts. Other guidelines recommend that the period of affordability be established in perpetuity, using 99 years or the useful life of the building. The Commission will consider the benefits and drawbacks of various length affordability assurances when it revises its rules to accommodate affordable housing proposals.

Maintaining affordability of for-sale housing is more complicated than for rental units. For rentals, the oversight agency can set rent limits and require verification of new tenants’ incomes as they apply for housing units; for housing sales, the process includes pricing formulas that may incorporate factors like inflation, home improvements, and initial subsidies, in addition to income and affordability limits.

A number of methods help assure that affordability is maintained. Certain legal mechanisms such as deed restrictions and covenants can be recorded and used to guarantee that the units remain affordable for the specified time period. There are different methods for controlling resale pricing. Determinations must be made regarding whether and to what extent sellers will be allowed to recoup the value of capital investments in their homes. Some housing entities retain a right of first-refusal when affordable housing is being sold and an income-qualified buyer cannot be located. Local and regional variations in housing stock and markets may require varied solutions to maintaining affordability. Although the Commission will require that long-term affordability be provided, it will leave the method to applicants and retain oversight of proposed mechanisms through application review procedures.

Housing Oversight***Local and Regional Housing Groups and Agencies***

Local housing authorities, community land trusts, regional housing providers and MaineHousing are all involved to varying degrees and in diverse ways in the promotion, provision and oversight of affordable housing in the state. The Commission will need to work with local or regional housing entities, which vary from region to region within the jurisdiction. LURC will rely upon such agencies or groups to oversee the screening and certification of buyers and renters of affordable units. Determinations must be made of qualifying income levels and any residency requirements (i.e., year-round owner/renter residency, local employment). Because of this reliance upon local or regional housing entities, the Commission has an interest in the experience and viability of such organizations. Therefore, the Commission will not only require the involvement of such entities in affordable housing proposals, but will also evaluate the groups’ qualifications, past and current activities, and objectives.

Continuing Oversight

The Commission will also need the on-going involvement of local or regional housing groups to maintain effective oversight over the long-term. The housing groups must oversee not just the initial rentals or sales of affordable units, but also subsequent rentals and sales. The Commission has an interest in the viability of the oversight authorities, because it must consider what happens to the affordable housing units if a local group disbands for whatever reasons, whether next year or in 10 years. The Commission will consider requiring back-up options for the original housing entities when reviewing project proposals.

Affordable Housing Goal Statement and Policies

Goal: Facilitate the provision of affordable housing opportunities in appropriate locations to households with a full range of incomes.

Policies:

Ensure that dimensional requirements and land use standards for residential structures and subdivisions do not contain any unnecessary barriers to the creation of affordable residential lots and construction of affordable dwelling units.

Require that permitted affordable housing is overseen by experienced local or regional housing groups or agencies that can assure it is maintained as affordable housing over the long-term.

Ensure that permitted housing affordable to households with varied incomes is interspersed within residential projects and development subdistricts, as appropriate.

Work with local and regional housing groups, plantation and town officials, and regional planning agencies to identify the need and appropriate locations for affordable housing.

Sources: Affordable Housing Subcommittee of the Community Preservation Advisory Committee. Affordable Housing: Barriers and Solutions for Maine. December 2003.

Brunick, Nicholas J. Zoning Practice, Issue Number Nine, Practice Inclusionary Housing, Part One, American Planning Association. September 2004.

GrowSmart Maine. Accessory Apartments: An Affordable Housing Strategy. Accessed at www.growsmartmaine.org.

Maine Department of Economic and Community Development and Maine State Housing Authority. Maine Consolidated Plan, Five Year Plan: 2005-2009, 2005 Action Plan. November 2004.

Maine Real Estate Information System, Inc. Maine Real Estate Statistics – Yearly Housing Report 2005. January 27, 2006.

Maine State Housing Authority. 2005 Housing Facts for LURC Regions, Maine Islands, Greenville, Millinocket, Rangeley. Compiled by MSHA for Land Use Regulation Commission Meeting Housing Panel Discussion. August 2006.

Maine State Housing Authority. Maine Homeownership Facts; Maine Rental Housing Facts. 2005.

Rhode Island Division of Planning, Statewide Planning Program. Handbook on: Developing Inclusionary Zoning. 2006.

Richert, Evan, and Sylvia Most for Maine State Planning Office. Comprehensive Planning: A Manual for Maine Communities. 2005.

Sullivan, Tim. Putting the Force in Workforce Housing. Planning, The Magazine of the American Planning Association. November 2004.

U.S. Dept. of Housing and Urban Development. Why Not in Our Community? Removing Barriers to Affordable Housing. February 2005.

Vermont Housing Council and Vermont Housing Awareness Campaign. Between a Rock and a Hard Place, Housing and Wages in Vermont. 2006 Update.