

PROJECT LAUNDRY LIST

The Right to Dry

Many people in the United States, Canada, and, increasingly, in other parts of the world are not allowed to hang out their clothes to dry in the sun. For instance, the former Soviet republic of Uzbekistan cracked down on outdoor clotheslines over the last couple years in its capital city.

Community covenants and rules, landlord regulations, and zoning laws are the three primary means of stopping people from using clotheslines. State, local, and federal legislators are encouraged to introduce "Right to Dry" legislation to stem this growing problem; government executives and commissioners are encouraged to act by executive order or rule-making. *It is time for Americans to re-claim their rights and shine the sun on common sense solutions.*

A Brief History

No US state or Canadian province bans clotheslines at the state or provincial level. Six states (FL, UT, HI, ME, VT, and CO) have some sort of law that overrides or strikes some or all of the contractual and covenantal prohibitions on clotheslines.

Florida has the best law and it passed in the 1970s. Colorado passed a weak law that applies only to retractable clotheslines in 2008. The Premier of Ontario in Canada lifted the ban in subdivision for the province on April 19, 2008 (National Hanging Out Day). Utah has a very limited law that applies only to the approval of plats. Maine and Hawaii joined Vermont in passing legislation in the spring of 2009.

Be Careful What You Wish For

Legislative efforts in Oregon, Virginia, Maryland, North Carolina, and several other states have not yet met with legislative success; however, Project Laundry List cautions that many of the calls we receive from homeowners being told to remove their clothesline come from Florida. Passage of a law does not mean that the public is aware of its existence and law enforcement and attorneys general are unlikely to crack down on associations that still maintain unreasonable restrictions on outdoor line drying. We believe that the most public benefit and education arises from repeated attempts to pass a bill. *What we need more than a legal solution is a cultural shift.*

It Is About More Than Clotheslines

The Right to Dry movement is really about how we live in community and solve the problems that arise when one neighbor does something that another neighbor dislikes. The Right to Dry is about reforming community associations and municipalities so that we can compost, garden, xeriscape, hang clotheslines, have screen windows, and participate in all sorts of frugal, green, common sense activities currently banned or severely restricted by many associations.

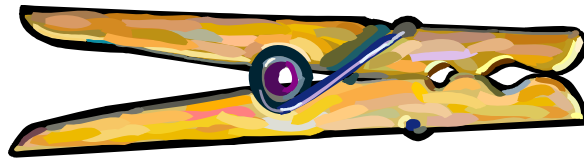


Project Laundry List Board of Advisors member Hon. Dick McCormack, a Vermont State Senator, re-introduced the Right to Dry bill in 1999, which his brother had introduced almost ten years prior. The battle of common sense over aesthetics finally ended in Vermont in Spring of 2009 with the passage of a Right to Dry bill modeled on Florida's.

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Model Legislation

Can you find a legislator or local leader willing to introduce language similar to this bill?



Things to think about include:

- who is a respected and respectable sponsor.
- whether you can pass a bill that will repeal or excise current rules or whether the law will only apply going forward.
- how the bill, once passed, will come to the attention of developers and association boards. Who will enforce it and how?
- whether you can include other things, like solar devices, in the bill.

If you plan to testify, make sure you:

- properly address the members of the committee and, especially, its chair;
- familiarize yourself with the process of passing a bill;
- do not indicate that you are testifying on behalf of Project Laundry List;
- keep your testimony brief (often there is a time limitation) and engaging;
- know the issues and the law; and
- show respect.

AN ACT CONCERNING THE RIGHT TO DRY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (Effective July 1, 20XX) (a) For the purposes of this section, "governing body" means any municipality, political subdivision of the state, fire district, sewer district, village, beach or improvement association or any other district or association or any condominium or cooperative association; and "direct solar energy" means direct sunlight or ambient outside air warmed by sunlight.

(b) No governing body may impose an ordinance, regulation or other restriction prohibiting the drying of clothes using direct solar energy through the use of clotheslines, drying racks or other apparatus in any residential setting.

(c) No deed restrictions, covenants, landlord-tenant agreements, private contracts or similar binding agreements running with the land shall prohibit, or have the effect of prohibiting, the drying of clothes using direct solar energy through the use of clotheslines, drying racks or other apparatus in any residential setting, provided such clotheslines, drying racks or other apparatus do not affect public safety, including, but not limited to, hampering access to public buildings or impeding rapid emergency egress.

(d) Notwithstanding subsection (c) of this section, a governing body may prohibit the drying of clothes using direct solar energy through the use of clotheslines, drying racks or other apparatus in any residential setting if (1) nonpermanent alternatives, such as folding racks, would provide the same drying service as permanent installations of clotheslines and supporting structures; (2) functionally equivalent alternate drying facilities, such as indoor drying rooms, are available, provided said facilities do not rely on the use of electricity or fossil fuels specifically for drying; or (3) such prohibitions incorporate aesthetic considerations, provided such restrictions do not substantially interfere with access to direct solar energy for drying purposes.

Modeled after FLA STAT ch. 163.04- Energy devices based on renewable resources.

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Sample Testimony I

Testimony of
Alexander P. Lee
Executive Director, Project Laundry List
Concord, NH
on
February 19, 2009, 10:30 AM
before the
House Commerce and Consumer Affairs Committee

Madam Chair and members of the committee,

My name is Alexander Lee and I am the Executive Director of Project Laundry List, an internationally known nonprofit whose mission is making air-drying laundry acceptable and desirable as a simple and effective way to save energy. We have appeared on the front page of the *Wall Street Journal* for starting a green movement and for trying to get the Obama family to re-install a clothesline at The White House. We have appeared on the ABC World News, NPR, The CBS Morning Show, and dozens of local TV and radio shows.

I am here today to tell you four illustrative stories. The first story involves a spook, whose wife wanted to speak out for the Right to Dry. The two of them live in a DC-area suburb populated by colleagues from the FBI and CIA. Their covenant-breaking clothesline is hidden in the woods. When this woman asked her husband about going public to the local papers about their clandestine line, he said that he did not want to be perceived as anti-authority by his colleagues so they never spoke out. *I call this the don't rock the boat problem.*

The second story is about a 75 year-old New Hampshire man who is the head of his association's board. He built his house 20 years ago and his wife has used the clothesline since then without a complaint. Asked by me why he would not change the rules at their annual meeting, this man, who is not a frequent rule-breaker or rebel, said, "If we lost, we would have to take down our clothesline which has never bothered anybody. My wife would never forgive me. Furthermore, it is a lot of work to change the rules. I can't be bothered." *I call this the inertia problem.*

The third story, which made the front page of the Wall Street Journal in Sept. 2007, involves a nurse who lives in a community where the developer still controlled the CC&Rs twenty years after the community was developed. In speaking to her last week, I learned that the community association wrested control of the rules last July, but her clothesline is now being cut



Susan Taylor of Bend, OR, received a fine of nearly \$1000 because her neighbor takes a picture every time she hangs her clothes and reports her behavior. She even moved her clothesline to her garage and to a new place in her yard. She did not fines were accruing.

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down in the middle of the night by an offended neighbor so she must bring her clothesline inside along with the American flag that she hangs from it, which she does because she believes it is patriotic to conserve. *I call this the NIMBY problem.* (Of course, Project Laundry List is an IMBY group, advocating for things that we can and should be able to do in our backyards.)

The fourth story is the saddest. Last year, one neighbor tore down his neighbor's clothesline and the owner of the clothesline was so infuriated that he went and got his uncle. When they got back, things escalated and the man who tore down the clothesline was shot and killed. This is the most extreme example of a kind of angst that builds inside of people who are not allowed to do reasonable things with their own property when they wish. There are countless other stories that mirror this. I do not mean to be hyperbolic by telling this story, but only to give you the most extreme example of errant behavior that results from people having their private property rights curtailed. *I call this the two bad neighbors problem.*

It is bad for community and it is bad for democracy for people to live in places where it is nearly impossible to change the rules. Rules that were made thirty or forty years ago might be outdated today, but how do we change them?

Changing the rules is no easy process. Once you overcome the inertia factor, the "don't rock the boat" factor, and the NIMBY factor you need somewhere between 50 and 100% of your neighbors, depending on what kind of association you live in, to overturn the rules. Some places these folks actually have to show up for a meeting, not just sign a paper. Community associations, often called common-interest communities, are not the mini-democracies that they are often held up to be. Many operate quite undemocratically with nary a quorum. It is nearly impossible to change the rules.

I am not opposed to community associations. In fact, I think they work quite well for some people in some circumstances, but *this is America and we should not contract away the right to a functional democracy.* The kinds of conversations that this bill would begat are healthy for our communities.

In closing, I just want to touch on the public policy reasons why community association rules should protect the public health, safety, and welfare by encouraging the development and use of renewable resources in order to conserve and protect the value of land, buildings, and resources.

Adoption of rules or bylaws which will have the ultimate effect, however unintended, of driving the costs of owning and operating commercial or residential property beyond the capacity of private owners to maintain seems to be exactly what we have done to land ourselves in the current economic and housing crisis. We have lived too high off the hog for too long. We have lived beyond our means. At this point, I think it is entirely appropriate for government to step in and protect us from ourselves, to point us in new directions.

Thank you for your time, Madam Chair and members of the committee. I am happy to take your questions.

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Sample Testimony II

Testimony of
Alexander P. Lee
Executive Director, Project Laundry List
Concord, NH
on
February 19, 2009, 2 PM
before the
House Commerce and Consumer Affairs Committee

Madam Chair and members of the committee,

My name is Alexander Lee and I am the Executive Director of Project Laundry List. Since you heard from me this morning, I will dispense with a recitation of our organization's mission and accomplishments and refer you to my earlier testimony.

I know that you take up a lot of important legislation in this committee and that a bill about clotheslines may not seem "high priority" in these grave economic times, but this bill is about finding a new way of doing business and a new way of protecting future generations from the excesses of yesterday. It is about giving people permission to save money, save energy, and reduce climate change.

Since 1945, Americans have bought into the myth that appliances would free us from the drudgery of housework, but now we sit behind a desk and earn money so we can buy a new \$800 machine every 11 to 18 years or stuff quarters into a machine. For those who use a dryer in the home, these machines are estimated to be responsible for well over ten percent of the monthly electric bill.

On the other hand, a piece of rope and some clothespins can be had for about \$10 and your clothes will last longer and you will be in better touch with the weather and maybe even your neighbors. Clotheslines build social capital....and save lives.

Every year, 15,600 dryer fires cost 15 American lives and require our insurance companies to pay out close to \$200 million. Having space for clotheslines is a good public policy for lots of reasons. I hope this question does not scandalize anybody here, but what is uglier rising sea levels lapping at the door in Portsmouth or a colorful array of clothes and undergarments blocking your view? These are the questions we send you to Concord to weigh. What is worse—an unproven *de minimis* drop in property values because somebody thinks "poor white trash" lives in your neighborhood or a house burning down?

Project Laundry List categorizes objections to clotheslines into the prudery and snobbery category, but we recognize that as long as we design our communities, as we have done since 1945, without space to line dry, there is an architectural or design flaw that is pitting neighbor against neighbor, frugal Yankee against spendthrift Yuppie, *nouveau* Puritans against skivvy-hangers. This can be solved by requiring that new developments design a tasteful and discreet place to hang clothes outside.

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We shrink the margins to save paper!

Project Laundry List is anxious to produce a YouTube video of a woman in a sari, a woman in a birkah, and a woman in a habit hanging out their dainties with a caption that says, “Break Your Bad Habit. We have been hanging out for centuries. What’s your problem?” The rest of the world stands in awe at our dryer addiction. A couple weeks ago, I spoke with a Bosnian friend who now lives in Turkey. She said that we are the only nation in the world that is so obsessed with the dryer and idea of convenience.

In fact, we work more and take less vacation time than any of the citizens in nations that we like to compare ourselves to—a change in our lifestyle that has trended with the adoption of appliances, like the dryer, as magical leisure-producing items.

In Italy, a nation bedecked or bedraggled with clotheslines (a matter of opinion), only 4% of people own a dryer, compared to about 80% of people here who have one in their house. Granted that Italy and Spain have a very different climate, but even as you go north to England, the Netherlands, and Belgium, dryer saturation rates only get up to about 60%. The electric dryer accounts for roughly 6% of residential energy use in the United States. To say nothing of the 17% of American households that use a gas dryer or the millions who use coin-operated laundries and multi-housing facilities.

Of course, thousands more kilowatts and BTUs are consumed by hospitals, hotels, restaurants, Laundromats, multi-family housing laundry facilities, fish piers, and universities. This bill does not go far enough. It should include institutions, particularly those belonging to the state, in its prescription.

Why on earth do Granite Staters pay for prisoners to have their clothes dried in a machine? Are we afraid of a hanging? This committee and this legislature should urge, through strong signals, that we re-evaluate our institutional and residential laundry practices so that we save taxpayers and rate-payers money.

The Governor is eager for us not to complain, but to come to the table with suggestions. This state could save a lot of money washing its institutional laundry in cold water and hanging it out to dry. Here is my suggestion: amend this bill so that state-run institutional laundries must use cold water technologies for all laundry not soiled with fruit stains. Amend this bill so that residential customers are provided with a free laundry ball by their utility company or with a cold water detergent rebate funded by the systems benefit charge energy efficiency dollars. Amend this bill so that Laundromat owners and landlords are required not to set their hot water temperature above the 120-degrees, which was recommended by the Coin Laundry Association as adequate. Don’t fritter around the edges. Solve some big problems for all of us who want to do the right thing, but cannot.

In closing, let me state for the record that Project Laundry List and the more than 400 New Hampshire members we represent support this legislation.

Thank you for your time, Madam Chair and members of the committee. I am happy to take your questions.

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Know the Law

The Contract Clause

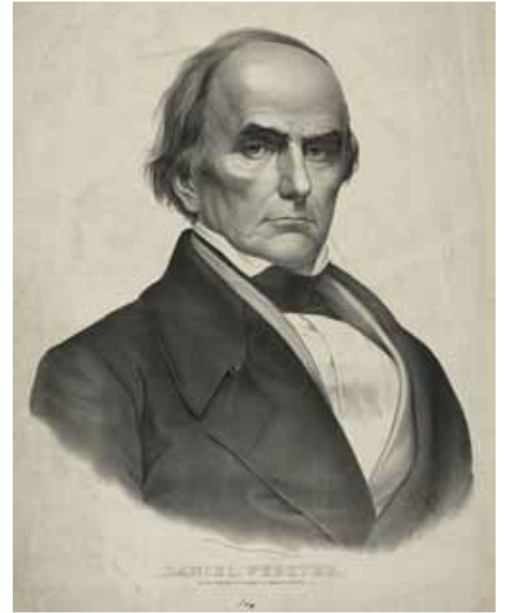
Perhaps no clause of the US Constitution has been the source of more litigation than the Contract Clause that says no State shall pass any law impairing the obligation of contracts.

Nevertheless, in our history, for reasons of overwhelming public policy concern, the Supreme Court has allowed Congress and the President to remove certain language from contracts. The most obvious example is the civil rights legislation that put an end to Jim Crow laws. At one time, in communities across the country, property owners signed restrictive covenants that barred African Americans and sometimes other groups-including Jews, Asians, and Latinos-from many neighborhoods.

Another more recent example of a change to existing contracts involved an FCC rule concerning satellite dishes that prohibits most restrictions that: (1) unreasonably delay or prevent installation, maintenance or use; (2) unreasonably increase the cost of installation, maintenance or use; or (3) preclude reception of an acceptable quality signal. See <http://www.fcc.gov/mb/facts/otard.html>.

Three Current Overwhelming Public Policy Concerns

Earlier in this manifesto, you learned that the US Department of Defense stated, "Although they produce distinct types of challenges, climate change, energy security, and economic stability are inextricably linked." We played no role in drafting the 2010 Quadrennial Defense Review, but have long touted these three challenges as the basis for altering laws, covenants, and other regulations that prohibit or unreasonably restrict line drying, composting, backyard gardening, etc.



DANIEL WEBSTER LIVES- The Dartmouth College case, argued by Daniel Webster, is one of the most important Supreme Court rulings, strengthening the Contract Clause and limiting the power of the States to interfere with private charters, including those of community associations.

Going Retro

While unusual, a retroactive law is only unconstitutional if it impairs vested rights, interferes with obligations under contracts (such as creating new obligations or attaching new disabilities), has the effect of an *ex post facto* law or bill of attainder, or is prohibited by the United States Constitution.

Since roughly twenty percent of the United States population lives in more than 300,000 community associations, we recommend looking closely at the question of whether a Right to Dry law should operate retroactively.



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Objections and Responses

While sheer laziness and persistent myths about the convenience a tumble dryer provides are perhaps the most culturally significant reasons Americans reject the clothesline, the reasons that you can expect to hear from certain real estate and community association lobbyists are quite different.

Nonsense We Have Heard

The Prudery Objection

"Those rules are why when I look out my window I now see birds, trees and flowers, not laundry." "I don't want to look at my neighbors thong." "Modern homeowners don't like people's underwear in public. It's just unsightly."

The Snobbery Objection

"That looks like poor white trash." "Clotheslines strung everywhere makes it look like a tenement." "We don't want it to look like Appalachia around here."

The Property Value Objection

"A clothesline in a neighborhood can lower property values by 15 percent." "It's already hard enough to sell a house in this economy."

The Safety Objection

"Clotheslines in common areas are a liability and could cause financial harm to residents." "What if somebody is walking their dog at night and they walk into a clothesline? The association will be liable."

Our Quite Reasonable Responses

On Prudery

"Where in Victorian times, clotheslines were ubiquitous, Mrs. Brown's brassiere blowing in the breeze has apparently become scandalizing to some modern Americans. A strange brand of prudery has made it impossible for some people to conserve energy and money by using a clothesline." - Helen Caldicott, M.D., Founder of Physicians for Social Responsibility (PSR) and member of Project Laundry List Board of Advisors

On Snobbery

"What is uglier: a clothesline or the effects of climate change? Clotheslines are not flags of poverty, but penants of the eco-chic." -Alexander Lee, Executive Director, Project Laundry List

On Property Values

"We're not aware of any research or study or report that shows any correlation between clotheslines and property values." -Eric D. Berman, spokesman for the Massachusetts Association of Realtors.

On Safety

"The public policy concern ought to be about dryer fires." -Rick Harpenau, Owner/President, In-O-Vate



In August of 2008, *The Washington Post* reported, "Managers of a downtown office building yanked a sculpture called "Unmentionables . . . then and now" from an exhibition last week after tenants complained that the art was inappropriate...Of all the office buildings downtown, Washington Square is perhaps the oddest place for an underwear-art controversy: One of its tenants is Victoria's Secret. The lingerie store, under renovation until fall, is just a few feet from where [the] installation once stood. Victoria's Secret is known for its racy window displays of scantily clad mannequins."

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Changing The Rules

Project Laundry List admits that there may be such thing as an ugly clothesline and that sloppy clotheslines can be offensive. We stop short, though, of thinking that means we therefore need overbroad rules that ban even discreet and tasteful clotheslines. A polite conversation with your neighbor about your feelings, if you are offended, should be sufficient to find a mutually agreeable solution. We recognize, especially in the wake of a murder in Mississippi which sprung from a clothesline dispute, that this is, unfortunately, not always the case.

A Word About Community Associations

Community associations—the fourth layer of government or government-by-contract—exist as common-interest communities to protect property values and enhance the living situation of the 60 million Americans who have chosen to reside in or who have been born into a condo, mobile home park, gated community, or any of a dozen other types of community association.

Community Associations Institute (CAI) is a national organization, with almost 60 chapters, dedicated to fostering vibrant, competent, harmonious community associations. It is their position that each community should make an individual decision about whether or not to permit outdoor line drying. We have explained that there are overwhelming public policy reasons to eliminate barriers to outdoor line drying and it is our position that the federal and state governments are best prepared to act swiftly and broadly.

Resources for Frustrated Homeowners

This handbook hopes to provide you information about some other resources if you choose to address the problem at the community association board level rather than a more global level.

Specifically, we recommend the Community Associations Institute's *Be Reasonable! How Community Associations Can Enforce Rules Without Antagonizing Residents, Going to Court, or Starting World War III* (1998) and *Reinventing the Rules: A Step-By-Step Guide for Being Reasonable* (2002).

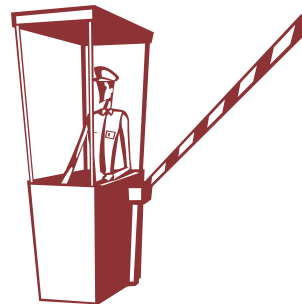
We also recommend Marlene Coleman and Judge Huss, *Homeowners Association and You: The Ultimate Guide to Harmonious Community Living* (Sphinx Publishing, 2006) and Joni Greenwalt's *Homeowner Associations: A Nightmare or a Dream Come True?* (Cassie Publications Inc. 1998).

Some Suggested Readings

Evan McKenzie, *Privatopia: Homeowner Associations and the Rise of Residential Private Government* (Yale University Press, 1996).

Private Cities: Global and Local Perspectives eds., Georg Glasze, Chris Webster, and Klaus Frantz (New York: Routledge, 2006).

James S. Duncan and Nancy G. Duncan, *Landscapes of Privilege: The Politics of the Aesthetic in an American Suburb* (New York: Routledge, 2004).



Robert H. Nelson, *Private Neighborhood and the Transformation of Local Government* (Washington, DC: Urban Institute Press, 2005).

Robert M. Fogelson, *Bourgeois Nightmares: Suburbia, 1870-1930* (New Haven, Ct.: Yale University Press, 2005).

Adam Rome, *The Bulldozer in the Countryside: Suburban Sprawl and the Rise of American Environmentalism* (New York: Cambridge University Press, 2001).

David E. Shi, *The Simple Life: Plain Living and High Thinking in American Culture* (New York: Oxford University Press, 1985).

William S. Worley, *J.C. Nichols and the Shaping of Kansas City: Innovation in Planned Residential Communities* (Columbia: University of Missouri Press, 1990).