



**New England Regional Midweek Update**  
**10/8/2025**

Dear Stewart Partners,

In this week's edition, we explore two compelling developments shaping property and housing in New England. First, we examine *Hamer v. Byrne*, a Connecticut appellate decision clarifying the legal standards for adverse possession, easement interference, and "spite fence" claims. The case highlights the high evidentiary bar courts impose when neighbors clash over property lines, fences, and access rights. Next, we turn to Vermont, where the state's growing refugee population is transforming the housing landscape. From new protections for immigrant renters under S.127 to innovative homeownership programs for Afghan refugees, Vermont is adopting creative approaches to ensure access to housing.

Additionally, we've included a couple of reminders. First, FinCEN's residential real estate reporting regulation is being postponed until March 1, 2026. We will continue to keep you posted on the rule and Stewart's newly launched company designed to assist you with the necessary information gathering and reporting under the rule. Also, on the education front, Tracie Kester, Stewart's Associate Senior Underwriting Counsel for Massachusetts, will be part of an expert panel presenting at MCLE on the topic of trusts and real estate transactions. Information about that educational opportunity can be found below.

Lastly, in case you missed it, Stewart issued a nationwide Special Alert and Underwriting Bulletin. Links to both are below.



**Hamer v. Byrne: Connecticut Appellate Court Affirms Trial Court in Neighbor Dispute Over Fence, Easement, and Adverse Possession** By: Frank Cammarano, Esq., Connecticut Underwriting Counsel

In [Hamer v. Byrne, 231 Conn. App. 53 \(2025\)](#), the Connecticut Appellate Court addressed a contentious dispute among neighbors in Westport, Connecticut involving claims of adverse possession, interference with easement rights, and the erection of a so-called "spite fence."

The plaintiffs, Christopher and Cynthia Hamer, own property on Evergreen Avenue in Westport. Their parcel abuts both the Byrne property, owned by Marian Byrne and occupied with her adult children, Jack and Rachel Precious, and the Melone property, owned by Janis Melone. Access to all three parcels is provided by an approximately twenty-eight-foot-wide strip of land owned by Byrne but encumbered by easement rights in favor of the Hamers and Melone for purposes of ingress and egress.

In 2019, Christopher Hamer initiated litigation against Byrne, her children, and Melone. That action was later withdrawn, and in 2020 the Hamers commenced the present suit, alleging adverse possession, interference with easement rights, and that Byrne had erected a “spite fence” to block their view of a pond located on the Byrne property. The Byrnes counterclaimed, alleging vexatious litigation and prima facie tort.

Following a bench trial, Judge Trial Referee Robert L. Genuario issued a memorandum of decision largely in favor of the defendants. The court held that the Hamers failed to establish adverse possession of the disputed strip of land; Byrne’s stockade fence, though impairing the Hamers’ view and property value, was not a “spite fence” under Conn. Gen. Stat. §§ 52-480 and 52-570 because it served legitimate purposes of boundary delineation and privacy; mailboxes and a fence within the access strip did not materially interfere with the Hamers’ easement rights, though Byrne was ordered to relocate one mailbox; and the Byrnes’ prima facie tort claim failed, as the alleged conduct was adequately addressed by existing tort doctrines. Jack and Rachel Precious prevailed on their vexatious litigation claim but were awarded only nominal damages due to lack of proof of actual loss. Both sides appealed, however, for purposes of this article, discussion is limited to the plaintiffs’ appeal of the rulings involving claims of adverse possession, interference with easement rights, and that Byrne had erected a “spite fence.”

The Appellate Court, in an opinion authored by Judge Alvord, affirmed the trial court in all respects. Reaffirming the six elements set forth in *Whitlock v. Uhle*, 75 Conn. 423 (1903), the court emphasized the essential elements necessary to state a cause of action under Conn. Gen. Stat. §§ 52-480 and 52-570 are: (1) a structure erected on the defendant's land; (2) a malicious erection of the structure; (3) the intention to injure the enjoyment of the adjacent landowner's land by the erection of the structure; (4) an impairment of the value of adjacent land because of the structure; (5) the structure is useless to the defendant; and (6) the enjoyment of the adjacent landowner's land is in fact impaired; with the plaintiff bearing the burden of demonstrating each of these elements by a fair preponderance of the evidence. Because Byrne’s fence served legitimate purposes — delineating the property line and providing privacy— the Hamers failed to meet their burden. The court also held that minor encroachments, such as mailboxes and a fence, did not materially obstruct the Hamers’ easement rights over the strip of land owned by Byrne but encumbered by easement rights in favor of the Hamers and Melone for purposes for access to and from their respective properties. The plaintiffs retained full ingress and egress, and the trial court’s limited order requiring relocation of one mailbox was sufficient. The Hamers’ adverse possession claim failed under the demanding “clear and convincing evidence” standard, explaining that sporadic maintenance and plantings by prior owners likely with the consent of Byrne were insufficient, and the Hamers’ own occupancy since 2017 fell far short of the statutory fifteen-year period.

The *Hamer v. Byrne* decision provides important clarification on the evidentiary burdens for adverse possession, easement rights impairment, and spite fence claims under Connecticut law. Spite fence claims pursuant to Conn. Gen. Stat. §§ 52-480 and 52-570 face a high bar, and any legitimate utility of a fence defeats the claim. As to impairment of easement rights claims, minor obstructions do not constitute material interference, absent proof of substantial impairment. Finally, in claims of adverse possession, courts strictly construe claims, requiring clear and convincing evidence of exclusive, visible, hostile, and continuous use for the statutory period. By affirming the trial court’s judgment, the Appellate Court

signaled a cautious approach to disputes involving property boundaries and underscored the evidentiary rigor required for adverse possession, easement rights impairment and spite fence claims.



## **Vermont's Refugee Communities and the Evolving Real Estate Landscape** By: Jill Spinelli Quong, Esq., Vermont Underwriting Counsel

Vermont has become a notable resettlement destination for asylum seekers and refugees, including arrivals from Afghanistan, Ukraine, and Central America. This growing population is influencing the state's housing market, creating both opportunities and challenges for affordability, development, and community integration.

The influx of refugees has increased demand for affordable housing in a market already constrained by limited inventory. Many newcomers initially rely on temporary accommodations, but long-term housing solutions are critical. Organizations like the Vermont Housing & Conservation Board (VHCB) have allocated funding to support affordable housing initiatives, including projects designed to assist refugee populations.

Ensuring equitable access to housing is a growing priority for both policymakers and community organizations and has led to the adoption of legal protections for fair housing access for immigrant families. A new law, entitled **Vermont's Housing Access for Immigrant Families Law (S.127)**, enacted in June 2025, provides important protections to immigrants and asylum seekers seeking housing.

### **Key Provisions of this Law:**

- **Prohibits discrimination based on immigration status:** Landlords and housing providers may not refuse to rent to individuals solely based on citizenship or immigration status.
- **Acceptance of alternative forms of identification:** Landlords cannot require a Social Security number (SSN) and must accept other government-issued IDs such as passports, driver's licenses, or ITINs.
- **Prohibition of rental application fees:** Landlords cannot charge application fees for residential rental housing.

The goal of this legislation is to improve access to stable housing, promote equitable treatment for immigrant families, and reinforce Vermont's commitment to fair housing. The full text of S.127 can be found [here](#) (See Section 10).

### **Empowering Afghan Refugees Through Homeownership**

In addition to ensuring equitable access to housing for refugees generally, Vermont has launched an innovative program to help certain refugees achieve homeownership to ensure long-term stability and community integration. The homeownership program designed to assist Afghan refugees in Vermont is a collaborative effort between the U.S. Committee for Refugees and Immigrants (USCRI) Vermont and the Champlain Housing Trust. This initiative aims to provide Afghan families with pathways to homeownership through education, financial support, and culturally tailored services.

## Program Highlights

- **Homebuyer Education:** The program offers homebuyer education sessions in Dari and Pashto, covering topics such as credit building, mortgage options, and homeownership responsibilities.
- **Financial Assistance:** Participants may be eligible for the **Shared Equity Program**, which provides a \$25,000 interest-free, forgivable loan to assist with down payments and closing costs.
- **Cultural Support:** The program ensures that all materials and communications are available in the participants' native languages and works with financial institutions to develop lending options that comply with Islamic law, which prohibits interest-based lending.

This program is specifically designed for Afghan refugees residing in Vermont. Eligibility criteria may include factors such as residency status, income level, and family size. More information about this program can be found [here](#) and [here](#). If you are asked to insure an interest-free forgivable loan through this program, please reach out for underwriting guidance on how to structure the policy and to navigate any other complexities of the transaction relative to insurability.



### **FinCEN Real Estate Reporting Rule delayed to March 1, 2026**

On September 30, 2025, FinCEN announced the postponement of the Residential Real Estate Reporting Rule until March 1, 2026. The Rule had been slated to go into effect on December 1, 2025. According to the announcement on FinCEN's website, the purpose of the postponement is to provide the industry with more time to comply with the rule. You can read the announcement on FinCEN's website here: [FinCEN Announces Postponement of Residential Real Estate Reporting Until March 1, 2026 | FinCEN.gov](#)

As a reminder to agents who issue policies on properties in Massachusetts and Connecticut, the FinCEN Geographical Targeting Order (GTO) remains in effect, meaning reporting is still required for transactions in those covered counties where residential property is being purchased by an entity for consideration of \$300,000 or more and there is no bank financing involved. The current GTO expires on October 9, 2025, but we expect that it will be renewed. You can read the Bulletin issued on April 15, 2025 regarding the current GTO on Stewart's Virtual Underwriter website here: [Bulletin: SLS2025004](#)



### **In Case You Missed It – Recently Issued Special Alerts and Underwriting Bulletins**

[Special Alert: SA2025289](#) - This Special Alert is directed to all issuing offices and approved attorneys and was distributed on October 1, 2025. Per the alert, effective immediately you

are instructed not to accept orders, issue any commitments, or close any transactions without written clearance from Stewart Legal Services, which involve the following individuals or entities: Marco Giovanni Santarelli, Marco Santarelli, Norada Capital Management LLC, a Wyoming limited liability company, and MO Holdings 2, LLC a Missouri limited liability company. To view the complete Special Alert, please follow the hyperlink above.

[Bulletin: SLS2025010](#) – This underwriting bulletin reminds all issuing offices and approved attorneys of the guidelines for insuring fractional interests in deeds, mortgages, or other interests in real property, as well as reliance on payoff letters and releases. To view the complete bulletin, please follow the hyperlink above.



### **Tracie Kester presenting at MCLE**

Tracie Kester, Associate Senior Underwriting Counsel at Stewart, will be presenting at a webinar hosted by Massachusetts Continuing Legal Education on Thursday, October 9, 2025, from 12:30 PM to 2:30 PM. The program is entitled “Critical Traps for Unwary Real Estate Practitioners Using Trust Documents,” and is chaired by Kristin Dzialo of Rubin Rudman. Carrie Rainen of Rainen Law Office is a co-presenter. To review the agenda and register for the program, go to MCLE’s website here:

<https://www.mcle.org/product/catalog/code/2260058WBC>



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