

Dear Stewart Partners,

We hope you enjoyed a peaceful Memorial Day earlier this week and were able to take time to remember those who made the ultimate sacrifice for our country. In this week's Mid-Week Update, we review a recent Maine court decision on easement rights and are providing an update of the status of the pending FinCEN real estate reporting rules. In addition, for those practicing in Vermont or who have real estate clients with properties in Vermont, we are highlighting some continuing efforts to regulate short term rentals in Vermont.

Lastly, take note of some upcoming educational opportunities. If you've missed any of Stewart's webinars hosted by our New England Underwriting team you can always listen to the recorded webinar on Stewart Academy. If you need access to Stewart Academy or are having any issues accessing this resource, check with your Stewart Account Representative, who will be able to assist you.



**Maine Law Court Decision on Access Easement Interference:
Can Dominant Estate Use Full Width** By: Zachary Greenfield, Maine
State Counsel

Maine's Supreme Judicial Court recently issued an opinion in a case involving an interference with an access easement to the Webhannet River, a tidal river that flows through the Rachel Carson National Wildlife Refuge into Wells Harbor, then empties into the Gulf of Maine between massive jetties built by the U.S. Army Corps of Engineers in 1962. Anglers fish the Webhannet downstream for striped bass and upstream for sea-run brown trout and brook trout, clammers work the mud flats at low tide, and others enjoy the river for kayaking, paddleboarding, and canoeing.

Richard and Sandra Lytle and Gregg Wilson (the "Neighbors"), and Douglas and Louise Lind (the "Linds") own properties in Wells, Maine, shown on a recorded 1938 subdivision plan entitled "Plan of the Wells Beach Improvement Company." The plan depicts a ten-foot-wide easement running between the Linds' property and property of parties in interest, Eric and Kristen Blomgren, to a cement bulkhead and stairway leading to the bank of the Webhannet River. The Neighbors use the easement to access the river with their paddleboards and kayaks.

In 2023, the Linds installed a split rail fence just inside the property line running the length of the subject properties to the river, essentially dividing the path into two five-foot-wide paths. Soon thereafter, the Neighbors filed suit against the Linds in the York County Superior Court seeking, among other things, a declaratory judgment that the fence

unreasonably interfered with their easement rights. Upon the parties' cross-motions for summary judgment, the trial court held, among other things, that the Neighbors had either express or implied easement rights to the path, but that the Linds' erection of the fence did not unreasonably or materially interfere with the Neighbors' use of the easement.

On appeal to the Law Court, the Neighbors argued that the fence wrongfully interfered with their easement rights because they could no longer easily carry their water-sports equipment to the river. The Law Court agreed. In so doing, it explained that "since 1898, we have routinely held that owners of easements have the full right to use the entire width of a right-of-way," and that considerations of necessity and convenience are generally irrelevant to the interference analysis. As such, the Law Court vacated the trial court's order and remanded the case for entry of judgment for the Neighbors, essentially instructing the trial court to order the Linds to remove the fence. The case is an important reminder that permanent obstructions within an easement that permits travel are not permitted.

To read the court's decision, follow this link: [2026 ME 36 Richard Lytle et al. v. Douglas E. Lind et al.](#)



U.S. Treasury Department Appeals FinCEN Ruling; Reporting Still Suspended

On May 11, 2026, the U.S. Department of Justice, acting on behalf of FinCEN, filed a Notice of Appeal from the decision of the U.S. Court of Appeals for the Fifth Circuit in the case of Flowers Title Companies, LLC v. Bessent which declared the federal government's Anti-Money Laundering Regulations for Residential Real Estate Transfers Rule unlawful. Last week, FinCEN published an updated FAQ sheet on its website to provide continued guidance to title industry professionals. According to the updated FAQ sheet, "If the court's order is overturned and the RRE Rule again becomes legally effective, reporting persons will not be required to file reports for covered transactions that would have been required to be reported while the court's order was in force." While this clarification is helpful, it is only temporary. We will continue to monitor the situation and encourage you to do so the same. A copy of the updated FAQ sheet is available at this link: [Updated FAQ sheet](#).



Vermont Municipalities Continue to Tighten Short-Term Rental Rules By: Jill Spinelli Quong, Vermont State Counsel

In the past, our Mid-week has included articles about the growing regulation of short-term rentals (STR) in Vermont, but the issue continues to evolve as more municipalities adopt increasingly restrictive approaches. Stowe has now become one of the most closely watched examples, with proposals that could reshape how resort communities statewide balance tourism, property rights, and Vermont's ongoing housing shortage.

Stowe's Proposal: A Potential Precedent for Resort Communities

Recent reporting from the [Stowe Reporter](#), [Vermont Public](#), and [VTDigger](#) shows that the Stowe Selectboard is considering significant revisions to its STR ordinance. Unlike many Vermont towns that focus on registration, inspections, and operational standards, Stowe is weighing rules that directly limit who may operate an STR.

The most debated proposal would prohibit future out-of-town buyers from using properties as STRs. Existing non-owner-occupied STRs could continue under grandfathering, but the right would not transfer upon sale. Resort-area stakeholders have pushed for carve-outs, underscoring the economic stakes in a community where tourism is foundational.

Why Stowe's Debate Matters

Stowe has more than 1,000 registered STRs—one of the largest concentrations in Vermont—clustered around Spruce Peak, Topnotch, and other destination developments. Local officials cite concerns about declining year-round residency and limited workforce housing. Industry groups counter that STRs support small businesses and sustain the tourism economy. The Vermont Short Term Rental Alliance has warned that Stowe's approach could prompt similar restrictions in other resort towns.

Statewide Context

Municipalities including Burlington, Killington, Woodstock, and Chester have already adopted varying levels of STR oversight. Stowe's proposals go further by tying STR eligibility to ownership and residency—an approach that mirrors national trends and raises ongoing questions about the scope of municipal authority over residential property use.

Legal Landscape and Emerging Challenges

Municipal STR restrictions continue to face litigation nationwide. In **Hignell-Stark v. City of New Orleans**, 46 F.4th 317 (5th Cir. 2022), the Fifth Circuit held that a residency requirement for STR operators violated the Dormant Commerce Clause because it discriminated against out-of-state owners. While not binding in Vermont, the case highlights constitutional vulnerabilities for ordinances that restrict STRs based on ownership or residency.

Practical Implications for Attorneys Representing Buyers and Agents

For anyone representing a buyer of a property intended for use as a short-term rental, it is prudent to carefully confirm all applicable municipal STR restrictions before closing. Buyers should understand that STR regulations are subject to change and may become more restrictive over time, potentially affecting both permissible use and long-term income expectations.

Conclusion

As Vermont municipalities continue reevaluating short-term rental regulation, the issue has expanded beyond health and safety compliance into broader housing and land-use policy. Stowe's deliberations may signal the next phase of STR governance in Vermont—one in which ownership-based restrictions become more common and legal challenges more likely.



Upcoming Education

David Veleber, Connecticut Underwriting Counsel, presenting at the CBA 2026 Legal Conference on June 2, 2026

David Veleber, Esq., Connecticut Underwriting Counsel, will be presenting at the Connecticut Bar Association's 2026 Legal Conference on Tuesday, June 2, 2026 at 9:00 A.M. The 1-hour presentation, entitled "Standards of Title: Key Sections – Recent and Long-Standing" is eligible for 1 CT CLE credit. Attendees will learn how to clear mortgages from title without a release; how to clear estate and trust titles; and how to clear titles by using affidavits. For more information, or to register for the all-day conference, go to the CBA website: <https://www.ctbar.org/events-education/events/event/2026/06/02/default-calendar/2026-connecticut-legal-conference-2027617>

Stewart's Massachusetts Underwriters Talk Title – June 3, 2026

Join Jutta Deeney, Esq., Stewart's New England Regional Underwriting Counsel, and Tracie Kester, Esq., Deputy New England Regional Underwriting Counsel, for the next installment of their "Probate 101" series. In this installment, they'll be discussing reviewing probate in the back chain of title when the death occurred after the enactment of the Massachusetts Uniform Probate Code. The 30-minute webinar will be held on June 3, 2026 at 11 AM. To register, click this link: [Register Here](#)



Zachary Greenfield to Present with Maine Bar Council

On July 15, 2026, from noon to 1:00 PM, Zachary Greenfield, Stewart's Maine State Counsel, will present a webinar with Aria Eee, Esq., Executive Director and General Counsel for the Maine Board of Bar Overseers. The webinar will cover ethical issues for attorneys in real estate transactions. Participants will qualify for one (1) Maine CLE credit. Registration instructions will be provided when available



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