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NOVEMBER 2008 NEWSLETTER

CAPITAL AREA HOUSING ASSOCIATION

“LANDLORDS WORKING TOGETHER”

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www.caha4u.org

PRESIDENT'S MESSAGE

As it continues to cool off outdoors, the price of oil continues to drop, although a quick check of the New York Port price showed about a 9-cent rise yesterday. Still, it's WAY better than it was this summer.

My solar heat-collector is almost done. I'm looking forward to getting it finished - another couple of days - so I can install it and see what kind of heat it produces. My calculations with the dehumidifier indicate that it increases the efficiency of 'electric heat' by about 80% - that is, using a dehumidifier as a heat-source instead of resistance-electric heat almost doubles the BTUs/dollar spent, provided the humidity level is above 60%. With the current cost of electricity, it's about equivalent to buying oil at \$2.50/gallon.

The board is moving forward on the database front. We intend to use the next regular CAHA meeting [November 11th, at the Credit Union] to work out the final version of our bid-specifications. We need to move quickly because we need to get moving on membership renewals [done in December], so we want a contract in place by the end of November - our current provider has indicated that he will not do the renewals, so things are going to be a bit unsettled for a bit - please bear with us.

I'm also going to ask the board to examine our current modus operandi. At the last regular meeting, apart from the board members present, we had only three or four members in attendance. It simply does not make sense for us [the board] to invest the time and effort to put on meetings which so few members attend. Perhaps three or four regular meetings per year, when items of interest [like the oil contract] are up for discussion would make more sense. This will also be up for discussion at the next CAHA meeting, so if you have an opinion, that would be a good time to express it. Our current by-laws require monthly meetings from September to June, so any change in the meeting schedule would require a by-laws revision.



Harold Booth
President

PRESIDENT'S MESSAGE, continued on next page

UPCOMING MEETING:

NOVEMBER 11, 2008 ~ 7:00 P.M.
K.V. FEDERAL CREDIT UNION
GENERAL BUSINESS WILL BE DISCUSSED

NEXT MEETING:

DECEMBER 9, 2008 ~ 7:00 P.M.
K.V. FEDERAL CREDIT UNION
GENERAL BUSINESS WILL BE DISCUSSED

ASK THE LAWYER

Q. A new tenant gave me a check for the security deposit and first month's rent the day he moved in. A few days after depositing the check, my bank notified me that it had been dishonored due to insufficient funds in the account. The tenant apologized and asked me to resubmit the check the following week when he made his own deposit on pay day. The check bounced again and the tenant finally admitted that he did not have the money to cover the check or to pay ongoing rent. It took a month to serve the tenant with a notice to quit and go through the entire eviction process to remove the tenant from the apartment. Now I am out almost two month's rent and I had to pay court fees and sheriff fees to evict this tenant. What can I do?

A. Part 2; Civil Penalties for Bad Checks – Title 14 §6071

Last month I addressed aspects of possible criminal prosecution against the tenant and recovery of the bad check as restitution. This month I address the possibility of recovery through a civil judgment under a statute specifically related to recovery of bad checks.

Title 14 §6071 permits a holder of a bad check (here the landlord) to recover a judgment in the aggregate of the amount of the check, court costs, any bank charges assessed against the landlord plus 12% annual interest from the date of dishonor.

The landlord must first provide the tenant with a specific "notice for non-payment" as described in §6073 which cautions the tenant that unless the check is paid within 10 days after the date the notice is postmarked, that the tenant may also have to pay additional costs for attorney's fees, service costs, processing charges, interest and a civil penalty of \$50.00.

If the tenant fails to pay the amount of the check, plus bank fees and mailing costs within 10 days of receiving the notice, the landlord can then file an action in court. Then, if the tenant does not pay the amount of the check, plus the costs and interest, before the court hearing, the court can award those sums, plus reasonable attorney's fees to the prevailing party and an additional civil penalty of up to \$50.00.

The penalties escalate in circumstances where the person intentionally tenders a second check to the same

payee within one year of a first dishonored check. In these circumstances the payee must make a written demand for payment within 30 days, and upon failure to honor the second dishonored check, the holder of that check can recover the face amount of the check, along with all of the costs and attorney's fees and the \$50.00 civil penalty, along with additional liquidated damages of up to twice the face amount of the check or \$400.00, whichever is less, if the second check is dishonored due to insufficient funds. If the second check is dishonored because there is no account with the bank, then the additional liquidated damages jump to twice the face amount of the check or \$750.00, whichever is less.



Disclaimer: For general information of CAHA members; not intended as legal advice. Consult a lawyer for your specific situation © 2008 Eric S. Dick, Esq., Augusta, Maine (207) 622-5872.

While I have attempted to provide a simplified description of this process, it is rather technical and may require professional legal assistance.

However, before throwing good money after bad, the first consideration should be whether one can reasonably expect to collect the resulting judgment. State law protects certain types and amounts of income, as well as a broad range of assets from seizure by creditors. Generally, weekly take home pay of less than forty times minimum wage (currently \$290) cannot be taken or garnished. Certain types of income such as Social Security Disability, Workers' Compensation Benefits, Veterans' Benefits, Unemployment Compensation and certain tax credits cannot be reached at all unless they have been allowed to accrue as savings. The law also limits the extent to which other types of income such as alimony and retirement benefits can be reached to satisfy a judgment.

Furthermore, there are significant exemptions that protect physical assets such as \$5,000 equity in a motor vehicle, or tools used in trade or business, and all household personal property items are exempt to the extent of \$200 per item. There are numerous other exemptions including catch-all provisions which may render any judgment impossible to collect. Such persons are commonly referred to as being "judgment-proof", or more accurately "collection-proof".

In summary, the careful landlord will take steps to insure that the security deposit in particular is paid before surrendering possession so that the landlord is not left with the bleak prospects of seeking recovery of a bad check either through criminal prosecution or the potentially more dicey, and certainly more expensive, effort to make a recovery through a civil judgment.

**Minutes of Regular Meeting
Capital Area Housing Association (CAHA)
Held at KV Federal Credit Union
October 14, 2008**

President Harold Booth opened the meeting at 7:07 p.m. Vice-President Tim Dennett introduced the guest speaker, Fire Chief Charles "Charlie" Squires.

He spoke mainly on three topics: the Knox Box ordinance, smoke detectors, and carbon monoxide detectors.

Chief Squires stated he has been with the Augusta Fire Department 32 years and began his talk wanting to know how many members present owned multi-unit buildings. He defined a multi-unit building as being six units or more.

The new Knox Box ordinance was authorized especially for multi-unit buildings and buildings protected by automatic sprinklers and/or audible heat and smoke sensors (whether connected to an alarm company or not).

Chief Squires explained that the Knox Box is a wall safe for keys, and it is bolted onto the outside of the multi-unit building for holding the common keys of that building in the event the Fire Department personnel of the City of Augusta should need rapid access to the building in the event of a fire or medical emergency. At the same time, they would have normal access to the building while still protecting the integrity of the property. The one with the key to unlock the Knox Box would be the Fire Chief. All newly constructed buildings except one and two family homes, without 24-hour 7 days a week access, shall have a Knox Box building key security system installed on the exterior of said building. Building plans will not be approved by the Fire Chief if this provision is not included in the plans for construction. All the members who were present received a copy of the new ordinance.

Another ordinance in place is that all buildings having three units or more are required to have smoke detectors in place—one in each sleeping area and one in the hallway. The best smoke detector unit is one that is hard wired and inter-connected, so that if one should go off, the others would go off.

Smoke detectors should be replaced every five years. There was a discrepancy amongst a few members regarding the placement of smoke detectors, should they be inside the bedroom or outside the bedroom? Chief Squires stated he did not have the information with him as to the exact placement of bedroom smoke detectors, but he would get that information to President Booth, who would then place the information in the newsletter.

Another question Chief Squires asked, "How do you get a tenant from tampering with the smoke detector?" His suggestion was that landlords write in the lease that the apartment has a number of smoke detectors and they all work, and then have the tenant sign the lease.

Chief Squire touched briefly on carbon monoxide detectors, as they are not very reliable instruments in defining the problem of carbon monoxide detection. Most carbon monoxide found in a house may be caused by the incomplete burning of wood stoves, faulty furnaces, and gas fumes from attached garages. It is difficult to detect where the carbon monoxide is coming from, or what is causing it.

Chief Squires' topics were very informative, which lead to a great question and answer and discussion session for the members.

Tim Dennett moved and Ramona Venskus seconded to accept the July 8, 2008 minutes as printed in the newsletter.

Ramona Venskus moved and Gregory Wehrwein seconded to accept the September 9, 2008 minutes as printed in the newsletter.

Ratna Don distributed the Treasurer's report, which showed income and expenses from September 9, 2008 through October 13, 2008, and indicated a total balance of \$31,718.87, (\$22,131.47 of which is in a CD). In addition, CAHA has a \$10,000 bond.

Ramona Venskus moved and Tim Dennett seconded to accept the Treasurer's report as presented. Motion carried.

There was no sign-in sheet, but head count indicated 10 members attended.

Barbara Eckhardt won the \$25 door prize.

Meeting adjourned at 8:05 pm.

Respectfully submitted, Barbara A. Eckhardt, Secretary

PRESIDENT'S MESSAGE, continued from front

There will be five board positions to be filled at the annual meeting this year – although some of the incumbents may choose to run for re-election. The board must present the slate of candidates for those positions at the December meeting [December 9th], so if you have any interest in being on the board, please make that interest known soon.

It has come to my attention that some [all] of you who locked-in your oil price in the summer – when the price of oil was, in retrospect, at its peak – want to re-negotiate. Unfortunately, that locked-in price was also locked in by whatever oil vendor you contracted with. By law, an oil

company is required to contract with their supplier for any oil contracted by their customers at the same time. This means that the very expensive oil that the oil company is delivering to you is ALSO very expensive for the oil company. I have requested a letter that will spell out the details of these legalities from Webber.

I regret the rather business-like tone of this message, but it's work that needs to be done.

Stay warm.

Hal Booth

Hal



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