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CAHA

DECEMBER 2010 NEWSLETTER

CAPITAL AREA HOUSING ASSOCIATION

“LANDLORDS WORKING TOGETHER”

OFFICERS & BOARD OF DIRECTORS LISTING

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CAHA Website

www.caha4u.org

PRESIDENT'S MESSAGE

• LD 1790: “Bedbugs: Stop the Madness”

CAHA is working hard to get some needed support from our legislators to try and **turn around the most damaging parts of LD 1790**. The bedbug part of this bill is unclear and very detrimental to landlords. **One bedbug incident could wipe out a landlord financially** and it is not something where we can limit our risk through insurance that we carry. The legislature has failed to recognize the matter as a public health issue and has instead made this a landlord responsibility. Landlords have to change the climate of our business through legislative change and **stop the madness**. Accordingly, the **next CAHA meeting** will feature some of the **area legislators** to discuss the need to **turn around LD 1790**. Your presence and involvement are needed to help make them realize that this law is way over the top.

Discussed at our last Board of Directors meeting was the upcoming election of members to the Board. Running for new terms on the board are Venita Barley, Ramona Venskus, and Gerard “Tiny” Bechard, Jr. – all for two year terms. CAHA welcomes others interested in running for the Board.

Also discussed was the possibility of a dues increase for those members receiving paper newsletters rather than by email. Due to costs of printing and mailing, it seems that the paper method of newsletter production and distribution will always be more costly and inefficient. We now must make sure that the newsletter is prepared at least a week earlier than had been done so as to avoid late paper delivery. Converting to email newsletters saves money and time as well as gives CAHA the ability to alert members quickly, so as to be able to better serve you. The electronic version of the newsletter is also available monthly on the CAHA website, www.CAHA4u.org.

We hope that you will be able to attend our next meeting to be held on Tuesday, December 14, 2010 at 7 P.M. at the KV Federal Credit Union on Northern Avenue in Augusta.

Thank you,

Charlie Anderson

UPCOMING MEETING:

DECEMBER 14, 2010 • 7 – 8:30 P.M.
K.V. FEDERAL CREDIT UNION
AREA LEGISLATORS WILL BE ON HAND TO
DISCUSS LD 1790: “BEDBUGS”

NEXT MEETING:

JANUARY 11, 2010 • 7 – 8:30 P.M.
K.V. FEDERAL CREDIT UNION
GENERAL BUSINESS WILL BE DISCUSSED.

ASK THE LAWYER

RENTAL AGENTS / PERSONAL LIABILITY OF AGENTS

Q. I act as a rental agent for owners who hold their properties in an LLC or an “S” Corporation. Sometimes I engage services for the owners under my own company name and pay for the work from funds I control for the owner. Other times, the owner directs me to sign documents in the name of the owner’s company. Am I required to use the full legal name when I sign leases and contracts for the owners?

A. Personal Liability of Agents. Yes, the agent should always disclose the full legal name, and the agency relationship, or personal liability of the agent and/or the owner may occur.

Many rental properties are now owned by an LLC, or some form of corporation in order to avoid personal liability of the individual owner of the legal entity which holds actual legal title to the rental property. Even an owner of a single rental property may utilize a separate legal entity as a shield against personal liability. Owners of numerous rental properties almost always exercise control through one or more such entities, and often employ agents to rent and manage the rental units.

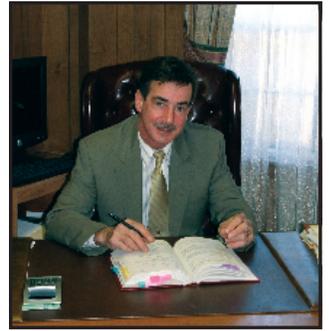
In the course of entering into written leases and contracts on behalf of the legal entity, care must be taken to disclose both the identity of the underlying owner, (the principal) as well as the agency relationship itself. A third party dealing with the agent must have actual knowledge of the true identity of the principal and does not have a duty to investigate.

Further, the mere fact that a contract is negotiated and signed by an agent under a trade name is not by itself a sufficient disclosure of the agency and may result in personal liability. An agent who signs a snow-plowing contract for “Parkside Apartments” may become personally liable for the bill if the snowplow provider is unaware that the person has signed as an agent for Parkside Realty, LLC, the actual owner of Parkside Apartments.

“Parkside Apartments” is not the same entity as a “Parkside Realty, LLC.” unless the LLC has filed notice with the Secretary of State of intention to do business under a d/b/a, or an assumed name. State case law reflects that an individual who signs a contract purportedly on behalf of a corporate or LLC entity that he knows does not exist, becomes personally responsible as a matter of law because the true identity of the principal has not been disclosed.

Other issues can arise as a result of incomplete or inaccurate disclosure. For instance, a purported lease executed as agent for “Bob Smith” (the sole member/owner of Parkside Realty, LLC) or “Parkside Apartments” could be problematic, or impossible to enforce by Parkside Realty, LLC, the true landlord.

The issue is particularly acute for rental agents, but also applies to owners where legal title is held in the name of a separate legal entity. Agents should always confirm the actual legal name of the entity and any assumed names that has been registered with the office of the State of Maine Secretary of State. Agents should also confirm that the entity has not been dissolved or suspended, and has current authority to conduct business. All documents signed by an agent should clearly identify the full legal name of the legal entity involved, and the agency relationship.



Disclaimer: For general information of CAHA members; not intended as legal advice. Consult a lawyer for your specific situation © 2010 Eric S. Dick, Esq., Augusta, Maine (207) 622-5872.

CAHA By-law changes proposed

The following CAHA By-law CHANGES are proposed (please refer to the current By-laws at www.CAHA4u.org).

Below are the proposed changed By-laws:

“5. MEMBER MEETINGS. Member meetings will be held, when called by the President or the President’s designee, on the second Tuesday of the month.”

“6. NOTICE OF MEETING OF MEMBERS. Written notice of the next scheduled meeting of members shall be published in the newsletter stating the date, time and place of the meeting. Every effort will be made to deliver the newsletter to members entitled to vote at such meeting reasonably in advance of the meeting by personal delivery, mail at the address of record provided by the member to the Secretary of the Association, or by e-mail at request of the member. Notice of any special meeting of members shall likewise be delivered to members entitled to vote at such special meeting reasonably in advance of the special meeting, and in addition to stating the place, time and date, shall also identify the purpose of the meeting.”

“AUDITING OF TREASURER’S RECORDS: The books and accounts of the CAHA Treasurer shall be audited during the month of January of each year by a person or persons designated by the Board. A written report of the audit findings shall be provided to the Executive Committee prior to the February meeting of members.”

“NOMINATING COMMITTEE: It shall be the duty of this committee to present to the Association members each year a slate of candidates to run for the Board of Directors. The slate of candidates shall be included in at least two of the Association newsletters published in advance of the annual meeting.”

**Minutes of Board Meeting
Capital Area Housing Authority (CAHA)
Held at the Lucky Garden – 10/26/2010**

After a social time, President Charlie Anderson called the meeting to order at 5:47 p.m. with the following present:

**Past President & Board Member, Harold Booth
Vice-President & Board Member, Stefanie Barley
Secretary & Board Member, Barbara A. Eckhardt
Treasurer & Board Member, Emmy Swanton
Board Member, Ratna Don
Board Member, Venita Barley
Board Member, Ramona Venskus**

President Anderson called for approval of the previous Board minutes. Motion was made by Stefanie, and seconded by Ramona, to approve the September 28, 2010 Board meeting minutes with the deletion of the word “consecutive” in the second paragraph, second sentence. Motion passed unanimously.

The next order of business was the discussion of CAHA’s annual banquet to be held on the second Tuesday in February. President Anderson informed us of his discussion with Tiny prior to this meeting concerning this matter. Tiny had suggested the banquet be held at the Calumet Club. However, the members felt that the Elks Club gave CAHA a better rate for this function. Motion was made by Harold, and seconded by Venita, to hold the annual banquet at the Elks Club. Motion passed unanimously. Ramona stated she would explore the possibility of having the Marden’s Lady for the banquet’s entertainment.

Ratna distributed the proposed by-law changes to the Board. A long discussion followed concerning verbiage to the following: Proposal #5, which currently states, “REGULAR MEETINGS. Monthly meetings of the Members will be held on the second Tuesday of each month from September to June.” It was proposed to change this wording to read, “REGULAR MEETINGS. Periodic monthly meetings of the Members will be held on the second Tuesday of each month from September to June.”

Proposal #6, which currently states, “NOTICE OF MEETING OF MEMBERS. Written notice of the next regularly scheduled meeting of members shall be published in each monthly newsletter stating the date, time and place of the meeting,” was proposed to be revised to read, “NOTICE OF MEETING OF MEMBERS. Written notice of the member meetings shall be provided to the membership at least two weeks prior to the meeting in the monthly newsletter, stating the date, time and place of the meeting.”

And, finally, regarding the Proposal of the Nominating Committee, which currently reads “Nominating Committee: It shall be the duty of this committee to present to the association at the December meeting each year a slate of candidates to run for the Board of Directors. The slate of candidates shall be published in the January and February newsletters.” It was proposed to delete the reference to being published “in a newsletter.” Ratna will review the new verbiage of the by-laws for the November Board meeting and email final version.

President Anderson informed the CAHA Secretary that the Microsoft Word product that was approved by the Board on February 16, 2010 to purchase was a moot point, as Stefanie has found a way to process the Work’s documents.

At this point, President Anderson called for a break in the business proceedings in order to allow the members to eat their meal.

The meeting reconvened at 6:52 p.m.

The next agenda item concerned the speakers for November and December. After a lengthy discussion, it was decided that President Anderson would invite Eric Dick, Esq., to the November meeting for a question and answer session regarding tenant-landlord issues. It was also decided that legislator(s) be invited to speak at the December meeting regarding LD 1790. Harold reminded President Anderson that the slate of officers will need to be presented at the December meeting, too.

Ratna distributed his draft of the questionnaire he would be including with the member renewals for the Board to review. He stated he would also email the questionnaire to them for any changes they might want to make.

Motion was made by Ramona Venskus, and seconded by Ratna Don, to adjourn the meeting at 7:22 p.m.

Respectfully submitted, Barbara A. Eckhardt, Secretary

**Regular Meeting Minutes
Capital Area Housing Association (CAHA)
Held at KV Federal Credit Union – 11/9/2010**

President Charlie Anderson opened the meeting at 7:04 p.m. After a quorum was established, the business portion of the meeting was conducted.

Stefanie Barley pointed out that the date of the September 14, 2010 Member Minutes was incorrectly printed in the October 2010 newsletter as September 24, 2010. And a motion went out to amend the minutes, which was unanimous. However, the Secretary would like to point out that the date of the September drafted minutes were correct and did not need to be amended.

Motion was made by Harold Booth, and seconded by Stefanie Barley, to approve the October 12, 2010 minutes as written in the November 2010 newsletter. Motion passed unanimously. Emmy Swanton distributed the November 9, 2010 Treasurer’s report, which showed income and expenses, and indicated a total balance of \$40,984.41 (\$24,504.14 of which is in four separate CDs). In addition, CAHA has a \$10,000 bond. Motion was made by Harold Booth, and seconded by Ramona Venskus, to approve the Treasurer’s report as presented. Motion passed unanimously. However, Wayne Niles questioned the value of the \$10,000 bond, stating that in the future the Treasurer would report the bond at its face value.

After the business portion of the meeting, President Anderson introduced the guest speaker, Eric Dick, Esq. Eric knew that the CAHA members were anxious to hear what he had to say about LD 1790 concerning the “bed bug” issue and gave a lengthy presentation on the subject. He spoke of how easy “bed bugs” become a potential for civil liability, as they are easily transported from place to place. Every question of precautionary measures a landlord presented to Eric was met with the law as being in favor of the tenant, not the landlord, who has the financial burden to eliminate the problem.

Hal stated that instead of landlords worrying about how they would protect themselves from a “bed bug” infestation, they need to get the law changed. They need to get legislation to fix it.

Eric touched upon other concerns the members had, such as Section Eight Housing. Eric stated that Pine Tree Legal is looking to sue landlords who refuse Section Eight Housing tenants.

Sign-in sheet indicated 10 members attended. Stefanie won the \$25 door prize.

Meeting adjourned at 8:31 p.m.

Respectfully submitted,
Barbara A. Eckhardt, Secretary



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Darren Matthews – (207) 749-5519

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