



P.O. Box 2901, Augusta, ME 04338-2901 \* (207) 512-2180



# October 2012

## Newsletter

### CAPITOL AREA HOUSING ASSOCIATION

### “LANDLORDS WORKING TOGETHER”

### Oil Purchasing - PLEASE NOTE:

Dear CAHA Members,

A new committee has been appointed by the Board to begin the discussion about the **purchasing of heating fuels for our Members for the 2013-14 Heating season.** Current Members of that committee are Board members Peter Allen, Charlie Anderson, Ratna Don and Harrison Wolfington, and regular member Wayne Niles.

There will be an **"In Depth" discussion of the needs of the members** in this area at the upcoming members **meeting on October 9th!** Please try to attend this meeting, as this is the beginning of the policy discussions that will lead to the criteria for selecting a vendor for next year . . . . .

Already there have been some items mentioned, such as going to only one vendor, and creative ways to arrive at a pricing structure that will be easy for our members to understand. Also, whether there is a need to include only vendors that can supply a burner/system servicing contract, or not? Many members mention the Oil pricing as one of their most important reasons for membership, so we need your input in this area!

**PLEASE BE HERE FOR THE IMPORTANT BEGINNING OF THIS DISCUSSION!**

Welcome Aboard!

Welcome to new board members Harrison Wolfington and Peter Allen. Thank you so much for taking your valuable time to support the efforts of CAHA. We are looking forward working with you to support and protect local landlords.

Thank you, Ratna Don, for assuming the role of CAHA President through the end of January 2013!

### Officers

**President**

**Ratna Don**

ratnadon44@yahoo.com

**Secretary**

**Barbara Eckhardt**

eckhardtb@roadrunner.com

**Treasurer**

**Emmy Swanton**

joanemmy@roadrunner.com

### Board of Directors

**Peter Allen**

peter71053@live.com

**Charlie Anderson**

speakez99@yahoo.com

**Ratna Don**

ratnadon44@yahoo.com

**Barbara Eckhardt**

eckhardtb@roadrunner.com

**John McNaughton**

mcn1@roadrunner.com

**Ramona Venskus**

ramona@NewcomerRelocation.com

**Harrison Wolfington**

harrison@lafinwolfingtonrealty.com

### UPCOMING MEETINGS

OCTOBER 9 • NOVEMBER 13 • DECEMBER 11

7:00 – 8:30 p.m.

KV FEDERAL CREDIT UNION

Northern Avenue, Augusta, ME

\*meeting dates are subject to change or elimination as determined by the Board\*



**Ask The Lawyer**

**IS BACK!!!**

**See Page 3**

**Member Meeting Minutes**  
**Capital Area Housing Association (CAHA)**  
**Held at KV Federal Credit Union**  
**June 12, 2012**

CAHA Officer Barbara Eckhardt, Secretary, opened the meeting at 7:05 p.m.

**Business:** Motion was made by Charlie Anderson, and seconded by Ratna Don, to approve the May 8, 2012 Member Meeting minutes. Motion was unanimous.

**Guest Speaker from J & S Oil, Inc.** Bob Weymouth, Sales, Fuel & Service, gave us many energy saving tips. Some of the topics covered were drafty windows, air flow problems and how they could be corrected, alternative ways to heat a specific area, automatic set-back thermostats, and annual chimney inspections.

J & S was offering a 10% discount for its furnace cleaning services. All those members who attended the meeting were offered the \$99 cleaning special, if booked no later than August 31, 2012.

Motion was made by Ramona Venskus, and seconded by Jeffrey Lauder, to adjourn the meeting at 8:30 p.m.

Respectfully submitted,

Barbara A. Eckhardt

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**Minutes of Board Meeting**  
**Capital Area Housing Authority (CAHA)**  
**Held at the Senator Inn, Augusta**  
**May 15, 2012**

CAHA Officer Barbara Eckhardt, Secretary, opened the meeting at 5:50 p.m. with the following present:

Treasurer Emmy Swanton  
Board Member Ratna Don  
Board Member Ramona Venskus  
Board Member Charlie Anderson  
Board Member John McNaughton  
Staff Person, Lisa Montagna

**Business:** Motion was made by Charlie, and seconded by Ratna, to approve Treasurer's report. A short discussion followed concerning the insurance that covers the liability for the directors and officers. Motion passed unanimously.

Motion was made by Ramona, and seconded by Ratna, to approve the April 17, 2012 board meeting minutes. Motion passed unanimously.

**Officers and Board Members:** Discussion regarding filling the President, Vice-President, and three board members' vacant seats.

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## Minutes of Board Meeting - Capital Area Housing Authority (CAHA)

Held at the Senator Inn, Augusta - May 15, 2012

*Continued from page 2*

**Legislature:** Discussed getting ready to work with CMAOA in the fall in preparation to meet with the legislature. Charlie will contact CMAOA. The consensus of the board was to focus on LD #1198 at its next meeting, June 18, 2012.

**Membership Building:** Motion was made by Ratna, and seconded by Charlie, to have Lisa call former members and waive the \$15 late fee. Motion passed unanimously.

**Web Site:** Motion was made by John, and seconded by Ramona, for Lisa to submit a proposal to update the web site and pay pal.

Guest Speaker for the June 12, 2012 Member Meeting: The consensus was for Lisa to call J & S Oil, Inc., for a technician to come and talk about oil burner maintenance and energy saving tips. As an incentive for our members to attend the meeting, Lisa would also ask the oil company to give CAHA half price for an oil burner cleaning special to raffle off at the meeting.

Meeting adjourned at 7:37 p.m.

Respectfully submitted,

Barbara A. Eckhardt

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## Cultivation of Medical Marijuana

### ASK THE LAWYER

**Q. If a tenant is authorized to use medical marijuana, or is a licensed caregiver, can the tenant grow marijuana in the apartment?**

A. Maine and more than a dozen other states now permit certain qualified persons to use marijuana as part of their medical treatment. Under Maine law, medical marijuana patients can cultivate marijuana for their own personal use, or designate primary caregivers who are permitted to cultivate medical marijuana for up to five persons for a fee.

There are no reported cases in Maine yet, but in my view, landlords can prohibit a caregiver from growing marijuana in the apartment for others, and can also prohibit a licensed user from growing marijuana for their own personal use.

As mentioned in this column in the February 2011 Newsletter, state law prohibits a landlord from refusing to rent to or otherwise penalizing a person solely because that person is a registered patient or primary caregiver. However, that does not mean that the landlord has to permit the smoking or growing of marijuana in the apartment.



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**ASK THE LAWYER**

**Cultivation of Medical Marijuana**

**Continued from page 3**

State law specifically provides that the smoking of medical marijuana may be prohibited if all smoking is prohibited on the rented premises and notices are posted to that effect. In my view, the inclusion of a lease clause prohibiting the cultivation of medical marijuana on the rented premises is enforceable because cultivation is inconsistent with the general use of the premises as a residence. This is particularly so for caregivers, since their conduct is more akin to a commercial use of the premises as a limited private pharmacy. The landlord can likely evict a tenant even without such a clause, since cultivation of medical marijuana is a violation of federal law regarding the tenancy.

The possession, cultivation, use and sale of marijuana remain illegal under federal law. The federal Controlled Substance Act does not have an exception for the medical use of marijuana, although the current position of the Department of Justice is not to prosecute medical marijuana patients or caregivers who are in clear compliance with state law.

Nonetheless, when federal law and state law are in conflict, federal law generally controls. In fact, the U. S. Supreme Court has ruled that federal law has supremacy over state law concerning cultivation of medical marijuana, even if such activities are not for commercial purposes and the product is not transported across state lines. Therefore, even cultivation for personal use within the limits of state law remains illegal under federal law.

The use, possession, sale or cultivation of medical marijuana remains prohibited in all public housing sponsored or subsidized by HUD. In fact, HUD has issued a memo stating that landlords of private housing who accept Section 8 subsidy vouchers are not required to accommodate the use of medical marijuana by a disabled tenant. This is not a "reasonable" accommodation since it would facilitate a violation of federal law.

Landlords are not required to evict subsidized tenants who use, possess or cultivate medical marijuana. Rather, this is left to the landlord's election, although it seems clear that eviction would be permitted since medical marijuana authorized under state law is still illegal under federal law, and in violation of HUD regulations and the HAP Contract for public housing subsidies.

Unless and until the Congress modifies the Controlled Substances Act, the same principals should apply in strictly private rental housing. It seems highly unlikely a court would require a landlord to facilitate violation of federal law in their rental property as a "reasonable accommodation" to a disabled tenant, even though the possession, use and cultivation of medical marijuana by such tenant is permitted under state law.

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## UPCOMING OIL DISCUSSIONS

**When:** OCTOBER 9 - 7:00 – 8:30 p.m.

**Where:** KV FEDERAL CREDIT UNION  
Northern Avenue, Augusta, ME

Please try to attend this meeting, as this is the beginning of the policy discussions that will lead to the criteria for selecting a vendor for next year . . . . .

**PLEASE BE HERE FOR THE IMPORTANT BEGINNING OF THIS DISCUSSION!**

The law remains murky because of the conflict between state and federal statutes. Notwithstanding my opinion, an affected tenant, or a public service legal entity could still argue that a landlord's refusal to permit even personal use and cultivation on the rented premises constitutes discrimination based on disability under state law. I doubt the argument would be successful, but the landlord would nonetheless incur out of pocket legal costs in the defense against such claims since they are not likely to be covered by the landlord's insurance.

*Disclaimer: For general information of CAHA members; not intended as legal advice. Consult a lawyer for your specific situation © 2012 Eric S. Dick, Esq., Augusta, Maine (207) 622-5872.*

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**Minutes of Board Meeting  
Capital Area Housing Authority (CAHA)  
Held at the Senator Inn, Augusta  
June 19, 2012**

CAHA Officer Barbara Eckhardt, Secretary, opened the meeting at 6:19 p.m. with the following present:

Board Member Ratna Don  
Board Member Ramona Venskus  
Board Member Charlie Anderson  
Staff Person, Lisa Montagna

**Business:** Motion was made by Ratna, and seconded by Barbara, to approve the Treasurer's report. A short discussion followed concerning a CD coming due on July 26, 2012.

Motion was made by Ramona, and seconded by Charlie, to reinvest the CD and add to the rest of it from savings until \$10,000 is met. Motion passed unanimously.

Motion was made by Ratna, and seconded by Charlie, to approve the May 15, 2012 Board meeting minutes. Motion passed unanimously.

Ramona informed us that the Chamber of Commerce one-year membership bill of \$195 is due. After a short discussion, the value for CAHA in maintain membership was its having exposure to other businesses. Motion was made by Charlie, and seconded by Barbara, to renew the Chamber of Commerce one-year membership for \$195.

Motion passed with three yeas, and one nay.

**Officers and Board Members:** Lisa was given instructions to write to two prospective gentlemen and invite them to become members of the Board. Ratna stated he would invite a former Board member back to fill one of the vacate seats.

**Legislature:** Discussed an upcoming legislative committee meeting with CMAOA group to be held in Waterville on July 17, 2012. The cost for the lobbyist is \$3,500. One of the issues would be for the committee to streamline the eviction process. Motion was made by Charlie, and seconded by Ramona, to pay for the lobbyist on a prorated basis with CAHA and CMAOA. Motion passed unanimously.

**Membership & Oil:** Lisa was given instructions to inform the members of Fielding's and J & S Oil Inc.'s daily pricing, prepay lock in and budget in pricings. It was also suggested for the Oil Committee to review the oil contract and inform the members that it is good for one more year.

**Website:** Motion was made by Ratna, and seconded by Charlie, to add a button for PayPal, and have Emmy connect CAHA's checking account to the PayPal account. Motion was unanimous.

**Member Meeting:** It was the consensus of the Board to not hold a Member meeting in September.

Meeting adjourned at 8:00 p.m.  
Respectfully submitted,  
Barbara A. Eckhardt, Secretary



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how dedicated we really are. (207) 623-3322

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<p><b>VANGUARD PROPERTY MANAGEMENT</b>          P.O. Box 405          Hallowell, ME 04347          (207) 620-7500          First Rate Tenant Placement and Property Management Services!          www.vpmmaine.com</p>	<p><b>Liberty Mutual – (207) 622-0518</b>  <b>Darryl Arnold (x-52909)</b>          New Auto and Home Insurance Benefit          CAHA member benefits include savings on auto and home insurance! Purchase high-quality auto, home, condo, and renters insurance at low group rates.</p>	<p><b>Eric S. Dick, Esq.</b>  <b>Farris, Foley &amp; Dick, P.A.</b>          (207) 622-5872  <i>ffdlaw@gwi.net</i>          Discount off regular hourly rate to CAHA member on landlord/tenant matters</p>	

Capital Area Housing Association  
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