



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



November 2013
Newsletter

CAPITOL AREA HOUSING ASSOCIATION

“LANDLORDS WORKING TOGETHER”

City Of Augusta wants to pass Rental Unit Inspection Ordinance!

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President's Message

Dear members,

Thank you for attending the informational City Council meeting on Thursday, October 24th. At this meeting the rental housing Life Safety Ordinance, AKA the proposed General Assistance Housing Ordinance, was discussed. There were only a few landlords that attended this meeting. We need to fill the City Council auditorium with landlords the next time this ordinance is on the agenda, which is on **Thursday, November 7, 2013 at 6:30 PM**. At that meeting, citizens will be able to testify in front of the City Council for or against the proposed General Assistance Housing Ordinance. Landlords need to talk to their City Councilors and attend the City Council meeting on November 7th. The City Staff has indicated that they would like to expand this ordinance to apply to all rental housing.

We need to make sure the final language of the ordinance is fair for the landlord as well as the tenants. We also need assurances that life safety changes imposed by the City and made by landlords are not needed to be redone as the Life Safety Code is updated periodically. The issue of Grandfathering needs to be discussed and we also need grant funds to help landlords with these requirements.

This is the proposed draft of the General Assistance Housing Ordinance:

“Any property owner, property manager, or agent receiving or wishing to receive rental payments from the city on behalf of any applicant must



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comply with the applicable state laws, NFPA Life Safety codes, Augusta land use regulations, and the Augusta safe and sanitary housing ordinance. The city reserves the right to inspect and certify any rental unit and lodging, rooming and licensed hotel unit for housing assistance prior to occupancy or as needed. The purpose of the inspection is to determine whether that unit or dwelling, in addition to all common spaces, are safe to occupy and in compliance with applicable state laws, the life safety codes, land use and safe and sanitary housing ordinance. The City Manager is authorized to promulgate policies detailing such inspection requirements."

At our October member meeting held on Tuesday, October 8th, two natural gas companies explained their programs and pricings.

This is the summary of the pricing comparison for the two companies.
Cost is based on Therm unit, which equals 100,000 BTU (British Thermal Units).
For example, 1 gallon of #2 heating oil generates 139,000 BTU.

	Maine Gas	Summit Gas
Monthly charge per each meter	\$24.34	\$20.00
Delivery rate per 1 Therm Unit	\$0.39	\$0.85
Natural gas price per 1 Therm Unit for year 2013	\$0.8344	\$0.70

Note that the natural gas price may vary year to year depending on market conditions.

Conversion incentive rebate	\$400.00	up to \$1,500.00
Free natural gas connection from the road	up to 100 feet	up to 300 feet

Ratna Don
CAHA President

Minutes of Board Meeting
Capital Area Housing Association (CAHA)
Held at Lucky Gardens Restaurant, Hallowell
September 10, 2013

President Ratna Don opened the meeting at 5:34 p.m. with the following present:

Secretary & Board Member Barbara A. Eckhardt
Board Member Ramona Venskus
Board Member Harrison Wolfington

Board Member Charles Anderson
Board Member Royce Watson

Minutes of Board Meeting - September 10, 2013
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Business: Motion was made by Charlie, and seconded by Barbara, to approve the September Treasurer's report as written. Motion passed unanimously. Clarification was given concerning payments to the administrative staff person, Lisa Montagna, Ratna Don's travel expenses, and legal filing expenses to the State as a non-profit organization.

Motion was made by Charlie, and seconded by Ramona, to approve the May 21, 2013 Board Meeting minutes with changes to amend the Legislative Update. Motion passed unanimously.

Legislative Committee Report: Charlie and Ratna have been attending the CMAOA group meetings on a regular basis. It was reported that the Bangor group had dropped out of NAOMA. Also, that our joint lobbyist with CMAOA, Dan Bernier, will follow up with the court administration rather than with the legislation, to find ways to streamline the eviction process.

Radon bill LD-328 can be found on line. The Department of Health and Human Services is to be contacted for radon testing before March 1, 2014.

Natural Gas: The manager of Summit Natural Gas recently approached CAHA. As there are two natural gas companies within the area, Summit Natural Gas and Maine Natural Gas, it was the consensus of the Board to have each company's representative meet with the Board within the next two weeks before inviting them to speak at the October Member meeting.

Code Enforcement in the City of Augusta: Board Member John McNaughton was called into the meeting by cell phone to report to us on what the City of Augusta, along with the State Fire Marshal

and the Augusta Housing Authority's proposal, which only affects the General Assistance Housing Ordinance at this time, but might be extended to all Augusta landlords. This would mean monthly inspections paid by the landlords, along with being in compliance with all Federal regulations, State regulations, current building codes, land use codes, and life safety codes.

Recruiting New Members: Ratna reported that he had created a list of non-members in the Augusta area that he will contact. He already has the post cards to mail out. Ramona will do the same for the Gardiner area.

CAHA Facebook Page: Harrison informed us that he would pull everything from the CAHA web site to put on Facebook, but he would not maintain it. He will have this done by the October Board meeting.

CAHA Annual Banquet: The Annual Banquet will be held on Tuesday, February 11, 2014 at the Elk's Club. Ratna distributed the menu for the banquet buffet to the Board. They will report back their choices of dinners at the October Board meeting.

Year-End Membership Renewal: The Administrative Assistant will not be processing CAHA's membership renewals.

New Business: Emmy Swanton is resigning as Treasurer. The consensus was to announce the vacancy of the Treasurer's seat in the CAHA newsletter. The Board will further discuss the vacancy at the October Board meeting.

The Board took a 35-minute dinner break.

Motion was made by Ramona, and seconded by Charlie, to adjourn at 7:43 p.m.

Respectfully submitted,
Barbara A. Eckhardt, Secretary

**Minutes of Special CAHA Board Meeting
Capital Area Housing Association (CAHA)
Held at KV Federal Credit Union
September 17, 2013**

President Ratna Don opened the meeting at 7:00 p.m. with the following present:

Secretary & Board Member Barbara A. Eckhardt
Board Member Charles Anderson
Board Member John McNaughton

The purpose of the meeting was to interview representatives of Maine Natural Gas, Peter Bottomley, Manager of Marketing and Sales, and

Roy Lane from Commercial Conversion Division, before inviting them to speak at the CAHA Member meeting in October.

Business Meeting Held at 8:00 p.m.: Motion was made by Charlie, and seconded by John, to hire Brian Winchester, Esq., for up to \$500 for one or two consultations, to represent CAHA at the September 26, 2013 City Council meeting with the City Manager and staff at Augusta City Hall. Motion passed unanimously.

Meeting adjourned at 8:20 p.m.

Respectfully submitted,
Barbara A. Eckhardt, Secretary

ASK THE LAWYER

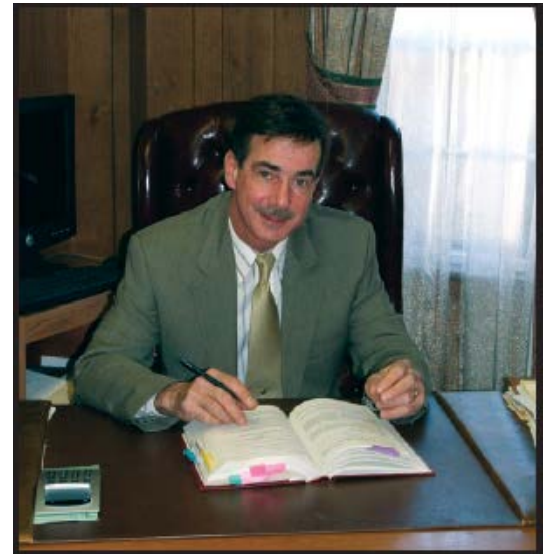
Guests or Tenants?

Q. A tenant told me her boyfriend would be staying with her as a guest for a week. Three weeks later he is still in the apartment. She made up an extra key for him, and he chipped in toward the recent rent payment. Is the boyfriend now a tenant?

A. Yes. In this case, it is clear the boyfriend is a tenant because the landlord has accepted payment of rent from him and has otherwise accepted his ongoing possession of the apartment by acquiescence. Other cases are not so clear.

In a broad sense, a person that has temporary use and occupation of real estate owned by the landlord under any kind of right is a tenant. The right of occupation usually arises by contractual agreement either in writing under a lease, or verbally as a tenant at will. The agreement itself can establish the tenancy where payment of rent and security has been made, although the agreement is usually accompanied by delivery of the keys and actual possession. However, a tenancy can also arise by mere acceptance of rent or other conduct of the landlord that implies acceptance of the person as a tenant.

Under Title 14 §6001(1), a landlord's complaint for forcible entry and detainer (eviction) must name "...all adult individuals whose names appear on the lease or rental agreement for the premises, **or whose tenancy the plaintiff has acknowledged by acceptance of rent or otherwise**". In this case, the landlord knowingly accepted part-payment of rent from the boyfriend thereby acquiescing to his ongoing occupancy of



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ASK THE LAWYER - Guests or Tenants?

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the apartment as a tenant. Even if he had not paid rent, the landlord's knowledge that the boyfriend had a separate key and was still living in the apartment long after the first week could otherwise "acknowledge" the tenancy.

The landlord could have avoided this result by refusing payment from the boyfriend and insisting upon full payment from the tenant. The landlord could also have served the tenant with notice that her guest has overstayed the one week for which permission was granted, in breach of the original agreement for sole occupancy. The notice could have provided that the tenancy is terminated unless the boyfriend leaves by a date certain. In sum, the landlord could have sought to evict the tenant, and the eviction would be effective against "all other occupants" including the non-tenant boyfriend. Alternatively, the landlord could have required that a new tenancy be confirmed under a new lease or agreement between the landlord and both tenants (presumably at a higher rent), and should still seek to do so to clarify the boyfriend's status, and terms of the tenancy.

Unfortunately, aside from acceptance of rent, there are no guidelines as to when the landlord has "otherwise" acknowledged a guest has become a tenant. Much depends on the subjective knowledge of the landlord. For example, if the landlord knows the person has been living in the apartment for weeks without approval of the landlord, parks his vehicle there every night, and gets his mail at the apartment, that person is likely a tenant. On the other hand, if the landlord has no knowledge the person has been living in the apartment, and doesn't even know their name, that person is not a tenant.

A reasonably drawn lease provision or house rule can define who is a "tenant" and who is a "guest". For example, the CAHA lease requires the identification and signature of all adult tenants. A reasonably drawn lease provision or rule could also define guests by limiting the number of overnight stays, for instance, to no more than two nights per week. However, the issue of proof of a violation of the agreement or rule becomes problematic unless the landlord requires the tenant to provide notice of overnight guests, which is burdensome for both parties. Further, the limits and notice requirements could implicate privacy issues.

The best course of action for a landlord is to pay attention to who is using the property, and to make inquiry of tenants and their neighbors. The landlord can also make periodic inspection of the apartment after giving at least 24 hours advance notice to determine how many people are living in the apartment, so long as such inspections are done in a reasonable way, and not so frequently as to constitute harassment of the tenant, a constructive eviction or a violation of the tenancy agreement.

Disclaimer: For general information of CAHA members; not intended as legal advice. Consult a lawyer for your specific situation © 2013 Eric S. Dick, Esq., Augusta, Maine (207) 622-5872.




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<p>Newcomer Relocation Services "Upscale Rentals" Phone/Fax: 622-4312 Cell: 446-4312 <i>ramona@NewcomerRelocation.com</i> www.NewcomerRelocation.com No application fee for CAHA members</p>	<p>Liberty Mutual (207) 622-0518 Darryl Arnold (x-52909) 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>Gosline's Hardware (207) 582-1900 563 Maine Ave. Farmingdale, ME Paint, paint supplies, plumbing, heating, electrical, lawn & garden, hand & power tools.</p>	<p>Northeast Bank (207) 623-0303 Cell: (207) 446-0990 Mortgage loans for residential and investment properties <i>ssachs@northeastbank.com</i> \$250.00 discount on already low closing costs.</p>
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