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CAPITAL AREA HOUSING ASSOCIATION

“Landlords Working Together”

Post Office Box 2901 • Augusta, ME 04338-2901

APRIL 2006 - NEWSLETTER

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THE PRESIDENT'S MESSAGE ...

We are glad to welcome Eric S. Dick, Esq who will be writing the "Ask The Lawyer" column in our monthly newsletter. We feel it will be a benefit to all landlords and appreciate Eric taking the time to answer our questions.

We will have an update on how well our booth was received at the Home and Garden Show this weekend. We are seeking new members a little more actively now than we have in the recent past, and welcome any ideas for consideration on how to add to our membership.

There is an all day seminar put on by Shankman & Associates for Landlords coming up on May 5, 2006, at The Ramada Inn Conference Center in Lewiston. The regular cost is \$150, (excluding lunch). The discounted price is \$120 for CAHA members. Each participant receives a 200+ page manual. FMI call Ramona Venskus at 622-4312.

A member has suggested discussing a change in dues structure. The Board feels this would create a logistical nightmare, among other things, and is not appropriate at this time. Our current dues structure is in line with other flat fee clubs, organizations, etc. Anyone interested may speak on it at this meeting. We do listen to our members and will discuss different ideas on this or other Landlord related subjects.

NOTICE TO LANDLORDS:

Forcible entry and Detainer Hearings for Augusta District Court have been changed to Tuesdays at 8:30 a.m. Currently the dates are:

April 4 - 18 - 25 and May 2 - 16- 23- 30

APRIL 11TH MEETING - 7:00 P.M.

KV Federal Credit Union

316 Northern Avenue - Augusta, Maine

Guest Speaker:

George Soucy, Code Officer, City of Augusta

Next Meeting: MAY 9th - 7:00 p.m. - KV Federal Credit Union

DUES REMINDER

If your 2006 dues are not paid by now, you will no longer be eligible for CAHA benefits.

Contact the Treasurer for a renewal application and remit a check for \$ 55.00

**Minutes of Regular Meeting
Capital Area Housing Association (CAHA)
Held at Kennebec Valley Federal Credit Union, Augusta
March 14, 2006**

President Ernie Clark called the meeting to order at 7:05 P.M. with approximately 16 members present.

Treasurer's report was presented and approved by all except one member. The Gardiner Savings and KV accounts consist of \$30,342 and \$10,000 bonds with 6.75% interest rate, callable on 06-15-07 at 100% value. Current membership stands at 620 members.

Secretary's report was presented as written in the Newsletter and approved by all except one member.

Guest Speaker – Rick Hefferman of Winslow Aluminum has provided detail instruction how to replace a window. Rick has answered all questions raised by the members.

These are some highlights that we learned from the speaker:

- Measure correctly before ordering replacement windows.
- Don't forget to insulate but not over stuff.
- Seal 3 places.

Rick Hefferman is in Augusta area every Mondays and Wednesdays. Winslow Aluminum can be reached at 1-800-924-0412.

Old Business

President informed members that CAHA and the CMAOA (Central Maine Apartment Owners Association) getting quotes from several oil companies for the 2006-2007 winter season. These quotes to be 3 ways as follows:

1. Price for oil and service contracts for CAHA members.
2. Price for oil and service contracts for CMAOA members.
3. Price for oil and service contracts for CAHA members and CMAOA members together.

A member asked about the propane pricing for the 2006-2007 winter season.

Non-profit postage rate and mailing of the CAHA Newsletter were discussed.

Members' suggestions were:

Email Newsletter instead of mailing using US postal service, except who requested to receive the Newsletter by US postal service.

Put the Newsletter in the CAHA website and send email to the members to notify the members about availability of the Newsletter in the website.

Put the Newsletter in the website so everyone has access to it without sending any email since some members change their email addresses without notifying the CAHA.

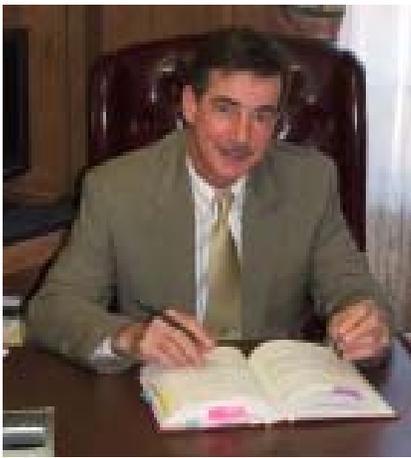
No decision was made about the non-profit postage machine or the mailing of the Newsletter.

New Business

- Bob Somes and Diana Parks were selected as auditors. Diana Parks questioned serving as an auditor with her non-member status. There were no objections from the members.
- Questions for the "Ask the Lawyer" page were taken from the members.
- Should the landlord pay interest on the security deposit? Eric Dick's answer was no to this question.
- How should the renewal of the lease after one year be conducted?
- Are the tenants responsible for the damages done by smoking?
- Member Harold Booth requested a debate about membership fee structure at a future regular meeting after notifying members about the debate through the Newsletter. He said that his request for the same issue at the September 2005 meeting was ignored. President agreed to look into this matter.

Meeting adjourned at 8:13 PM

Respectfully submitted,
Ratna Don, Secretary



“ASK THE LAWYER”

QUESTION:

I transferred my apartments to a Limited Liability Company (LLC). Can I still prosecute evictions in court without a lawyer?

ANSWER:

No, the representative of the LLC prosecuting the Forcible Entry and Detainer action (FED) in court must be a licensed attorney. Otherwise, the member, manager or employee attempting to represent the LLC in court is guilty of the “unauthorized practice of law” which is a Class E crime punishable by up to a \$1,000 fine and/or six months imprisonment. An authorized representative of the LLC can sign leases, notices to quit and many other documents for the entity. However, an attorney must sign the court pleadings and represent the entity in court for most purposes.

In general, landlords should consider conveying their apartment buildings to one or more Limited Liability Companies (LLC) because an LLC offers corporate type protection from claims while avoiding negative tax repercussions of a corporate entity. An LLC can elect to be taxed like a partnership where all income, as well as all expenses, including depreciation, pass through the entity to the owners of the LLC. At the same time, the owners of the LLC are shielded from personal liability in the event a substantial lawsuit or claim is asserted against the LLC which might exceed available insurance. The risk is limited to the assets of the LLC itself, while the personal assets of the owners of the LLC are not at risk. For this reason, owners of multiple properties may elect to establish a separate LLC for each building.

However, there are additional (tax deductible) expenses incurred in setting up and in maintaining the LLC, and the law limits the extent to which an owner of an LLC can represent the entity in court.

While often not prudent, the law allows any person to bring and defend that person’s own actions in court. Thus if the deed of the landlord’s apartment building is in the landlord’s individual name, the landlord can prosecute their own Forcible Entry and Detainer actions and any other action involving the building in court. However, entities such as a corporation, partnership or LLC are legal entities separate from their owners, and non-lawyer representatives may appear in court only in limited circumstances.

Under Title 4 §807, an officer or designated employee of a corporation or partnership, or a member, manager or designated employee of an LLC who is not an attorney may bring or defend a small claim action, or appear in court for the purpose of entering a plea and paying a fine for motor vehicle offenses or other limited circumstances on behalf of the entity. An officer of a small Maine corporation with five or fewer shareholders may also defend a civil action, but may not bring a civil action or assert a counterclaim without an attorney.

However, representatives of an LLC, corporation or partnership may not appear in court on behalf of the entity for any other purpose, including the prosecution of a Forcible Entry and Detainer action against a tenant of a building owned by the corporation, partnership or LLC, unless that person is a licensed attorney. Doing so constitutes the unauthorized practice of law which is a Class E crime punishable by up to a \$1,000 fine and/or six months imprisonment. In addition, the Forcible Entry and Detainer action or other court action sought to be brought by the non-attorney may be dismissed from court.

Disclaimer: For general information of CAHA members; not intended as legal advice. Consult a lawyer for your specific situation © 2006 Eric S. Dick, Esq., Augusta, Maine.

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| <p>CERTA PROPAINTERS * Painting (Exterior & Interior) * Pressure Washing * Plaster / Drywall repair Andy Mann - 622-6065 10% off for CAHA Members</p> | <p>Aubuchon Hardware 623-9844 20% off Glidden Paint - 10% off all other regular price items Aaron Seldmus</p> | <p>SHOP FROM HOME FLOORING 626-3100 10% off any regular price Sales & Installations Sam MacMadden</p> | <p>Sherwin Williams 622-6818 Paint, Wallcovering and Accessories 10-20% off all products Aaron Smith</p> |
| <p>Central Maine Wall to Wall 582-1526 - email: info@cleaningmainescarpets.com Carpet and upholstery cleaning Rick Bonenfant</p> | <p>Hammond Lumber Co. 495-3303 Full Service Lumber & Building Materials 10% off Retail and Free Delivery Dale Tobey</p> | <p>Major Appliance 622-5859 Free Delivery Farmingdale, Maine Ken Martin</p> | <p>Steve's Appliance Service & Sales, Inc. 621-0520 - Fax:547-4083 Heaters - Mattresses New & used appliance sales / service</p> |
| <p>Farris, Foley & Dick, P.A. Eric Dick, Esq. 88 Winthrop Street, Augusta LEGAL SERVICES • 622-5872 \$ 25.00 off standard hourly rate on landlord/tenant matters</p> | <p>DOWNEAST ENERGY. Oil • Propane Equipment Sales & Service 191 Water Street - Hallowell 622-7521</p> | <p>Central Maine Property Management Property Mgmt - Maintenance Lawn care - Bookkeeping - Snow removal 20% discount to CAHA members Devon L. Dobbins • 622-7691</p> | <p>D.R. Struck Landscape Nursery 395-4112 15% discount on your purchase Robin Struck</p> |
| <p>Rick's Downeast Building & Property Maintenance 923-4054 & 623-7535 10% discount on property maintenance excluding the new Depo-section. Ricky Bradstreet</p> | <p>SEARS • Appliance packages • Maintenance Equipment packages Discounts based on brand SGM Tess Zardus or ASM Peter Sullivan 621-2088</p> | <p>Moody & Company Office Supplies, Inc. 622-6616 25% off list and Free Delivery</p> | <p>TC & Company Cellular: 242-8499 or Phone: 621-8090 Handyman jobs at a 10% discount No jobs too small Tim Dennett</p> |
| <p>POULIN PROPANE Propane Appliance Installation & Service Edward Poulin 441-1574 Discount on Labor</p> | <p>Kents Hill Lumber Company 685-3510 1-800-660-2027</p> | <p>O&P Glass (the clear choice) 622-3652 Fax: 622-3268 Auto, residential commercial, stained glass</p> | <p>Winslow Aluminum 873-0412 • 1-800-924-0412 Windows, Doors, Siding, etc. 35% off Replacement Windows Rick Heffernan Sales Representative</p> |
| <p>Big Daddy's Handyman Service Painting & Lawn maintenance Apartment clean-ups - Odd jobs big or small Discounted rates for CAHA members Sean Fritz 441-2490 93 Green Street - Augusta, ME</p> | <p>R&R Property Management Rob Jordan (207) 485-1237 Tenant Relations - Handyman service Landscaping & Odd Jobs Discount on Labor for CAHA members</p> | <p>AUGUSTA AREA NEWCOMERS & Relocation Services by ramona "Upscale Rentals" Phone/Fax 622-4312 - Cell: 446-4312 email: aan-newcomers@juno.com www.aan-newcomers.com</p> | <p>Dave Labbe Plumbing 622-2566 DISCOUNT ON LABOR</p> |

ADDRESS SERVICE REQUESTED

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