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CAHA

MARCH 2009 NEWSLETTER

CAPITAL AREA HOUSING ASSOCIATION “LANDLORDS WORKING TOGETHER”

OFFICERS & BOARD OF DIRECTORS LISTING

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Secretary

Barbara Eckhardt

Treasurer

Emmy Swanton

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Board of Directors

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Harold Booth

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Venita Barley

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CAHA Website

www.caha4u.org

PRESIDENT'S MESSAGE



Harold Booth
President

What a fine banquet! What awesome door prizes! Thank-you are certainly in order to the banquet committee, captained, as always, by our own very capable Ramona, who seems to have the magical ability to persuade even the most unlikely businesses to contribute door prizes, making the event even more fun for all of us. This year she also organized the entertainment. The bingo game made a new and interesting way to distribute the door prizes.

One of my own shortcomings is that I often neglect to thank people for the work they do. Some of the thank-yous that I should have made, and didn't are: Herb Mann, who served on the board despite declining health; Louise Hinkley, who served as our secretary for number of years and retired mid-year, but not before providing us with a very capable replacement; Barbara Eckhardt, who stepped into Louise's very large shoes as secretary, and helped the board through a trying time; Emmy Swanton, our new treasurer as well as emergency temporary secretary due to Barbara's serious injury in a fall; Stefanie Barley, who took over the database job under trying circumstances; Ratna Don, who served ably as our treasurer and database manager for a number of years; Ramona Venskus, who does so many things for CAHA that if I were to list them all, I'd run out of space. There are also others - the Oil Committee comes immediately to mind - who contribute to CAHA's continued success.

We're also moving to improve the lines of communication between the oil committee, which is currently gearing up, and the board. We hope that the changes improve the oil-bid process - including getting information out to the membership in a more timely manner. This year the oil committee has the benefit of the experience

Tim Dennett has just submitted his resignation due to changed personal circumstances. The board will be electing an interim replacement shortly. Interim replacements serve until the next annual meeting.

PRESIDENT'S MESSAGE, continued on next page

NEXT MEETING:

MARCH 10, 2009 • 7 – 8:30 P.M.

K.V. FEDERAL CREDIT UNION

FEATURED SPEAKER: DARREN MATTHEWS,

ENERGY EQUIPMENT CONSULTANT

UPCOMING MEETING:

APRIL 14, 2009 • 7 – 8:30 P.M.

K.V. FEDERAL CREDIT UNION

OIL COMMITTEE Q&A SESSION

(TENTATIVELY SCHEDULED)

ASK THE LAWYER

“Payment in full is Payment in full – if you deposit it.”



Disclaimer: For general information of CAHA members; not intended as legal advice. Consult a lawyer for your specific situation © 2009 Eric S. Dick, Esq., Augusta, Maine (207) 622-5872.

Q. I rented a single family house to a tenant. This month the tenant sent me a rent check that was \$100 short, along with a letter claiming a \$100 deduction for work she did on the house. On the back of the check above the line for my endorsement she wrote that the check is “payment in full” of the month’s rent. I did not request, or approve in advance, the unnecessary work done by the tenant. If I endorse and deposit the check, can I still demand payment of the \$100 balance or evict the tenant for non-payment of rent?

A. Accord and Satisfaction.

No, the landlord’s acceptance of the check with a clear understanding of the tenant’s intent that it be in full payment of the month’s rent will result in an accord and satisfaction and prevent the landlord from seeking recovery of the \$100, or the prosecution of an eviction for non-payment of the \$100 in rent. The landlord’s endorsement and deposit of the check confirms the landlord’s acceptance of the tenant’s partial tender as “payment in full” of the month’s rent.

An accord and satisfaction occurs where parties to a disputed or controverted claim agree to give or accept something other than, or different from the original claim. The “accord” is a modified agreement and “satisfaction” is the execution or performance of that modified agreement. Where a tenant makes an offer of part payment with the express condition that it must be accepted, if at all, in satisfaction of the entire month’s rent, the landlord must either accept that part payment, subject to the condition as payment in full, or reject the part payment and return the check to the tenant.

An accord and satisfaction generally requires there to be a bona fide good faith dispute or controversy about the amount owed. However, a genuine though tenuously reasonable belief on the part of the tenant alone, may be sufficient to create the dispute or controversy.

The landlord cannot defeat the conditional tender by sim-

ply crossing out the “payment in full” language on the back of the check

before endorsing and depositing the check into the landlord’s account, nor can the landlord nullify the condition by placing additional language on the check such as “without prejudice”, “under protest”, or “all rights reserved”. Further, even if there are two or more tenants splitting the rent for the house, the landlord cannot accept part payment from one tenant under these circumstances, and pursue the other tenant for the remaining \$100 because acceptance of the conditional tender from the first tenant confirms the landlord’s agreement that the rent for the month is paid in full.

The landlord cannot legally justify acceptance of the conditional part payment, in hopes of pursuing the balance owed, based on fear of losing the entire month’s rent. However, the landlord can avoid an accord and satisfaction by returning the check to the tenant, and demanding full payment of the month’s rent, plus any applicable late fee.

In these circumstances I would recommend service of a notice to quit for non-payment of rent to start the eviction process. The important point to remember is that generally a check remitted as “payment in full” must be accepted as such, or be returned to the tenant, in order to avoid an accord and satisfaction.

PRESIDENT’S MESSAGE, continued from front

they have acquired over the past few last years, which should help them obtain an even better contract this year. Helping in their negotiations are those members who support our selected vendor with their business.

I’m tentatively planning to have the Oil Committee be the program for the April meeting – subject to their approval. That will allow you to express your concerns. I’m getting calls from Webber, expressing interest in our bidding process. My understanding is that they’re anticipating a number of changes in some of the provisions in their offer – including adding down-side protection.

As the new year for CAHA begins, there are a few changes in your executive committee: At the annual meeting you elected Charlie Anderson and Venita Barley to join reelected board members Tiny Bechard, Ramona Venskus, and Tim Dennett* for two-year terms. Stefanie Barley, Barbara Eckhardt, Ratna Don, and I continue for the second year of our two-year terms. Emmy Swanton has taken over the job of treasurer,

Barbara Eckhardt continues as secretary, with Venita Barley filling in while Barbara continues to recover from her injury, Charlie Anderson has been elected as vice-president, and I continue as president.

For the next meeting [March 10], we will be having a presentation by Darren Matthews. Darren was our contact at Webber Energy last year, but left Webber shortly after our contract was signed to start his own company providing consulting services to people interested in improving the efficiency of their heating systems, as well as advising them on which equipment would best meet their needs in any upgrade. It sounds like a very interesting subject.

My apologies for the late delivery of last month’s newsletter. Both Stefanie Barley, our editor, and I were involved in the Fairpoint Communications e-mail fiasco. That resulted in the late delivery of our mailing list, as well as problems getting the copy for proofing.

I wish you all a prosperous year and good tenants.

Hal Booth, President

Hal Booth

**Minutes of Board Meeting
Capital Area Housing Association (CAHA)
Held at Hatties Chowder House Restaurant, Hallowell
January 27, 2009**

President Harold Booth opened the meeting at 5:50 pm with the following present:

**Vice President & Board member, Tim Dennett
Treasurer & Board member, Ratna Don
Board Member, Ramona Venskus
Board member, Stefanie Barley
Emmy Swanton**

Ramona stated that there would be approximately 30 donated gifts for the annual banquet. After discussion Ramona moved and Stefanie seconded the motion that CAHA would give ten gifts in the amount of \$25.00 each. Motion carried, 3 in favor, 1 opposed.

Stefanie moved and Tim seconded the motion for Ramona to contact a person to facilitate the bingo game at the annual banquet. Motion passed unanimously.

Ramona moved and Stefanie seconded the motion to arrange and pay for meal on wheels for Barbara Eckhardt for 2 weeks due to her injury. Motion passed unanimously. Tim suggested that the oil committee begin work as soon as possible. Ramona moved and Stefanie seconded the motion. Motion passed unanimously. President Booth will alert members in the newsletter that volunteers are needed for the committee.

Tim moved and Ratna seconded the motion that the data base be made available to the Executive Committee (President, Vice President, Treasurer and Secretary) . Motion passed unanimously.

Stefanie gave a CD of the data base to President Booth. Webber Energy has requested a list of CAHA members which Stefanie will send with a disclaimer that it is to be used only to verify eligibility.

Ramona suggested that Eric Dick Esq. be invited to speak at the April meeting to answer landlord's questions regarding the Energy Efficiency notice which must be signed prior to a lease signing for the lease to be valid. There was also discussion about updating the lease and eviction notices.

President Booth will look into the possibility of creating more room on the newsletter for advertising.

Meeting adjourned at 7:50.

Respectfully submitted, Emmy Swanton, Secretary pro tem

**Minutes of Annual Meeting
Capital Area Housing Association (CAHA)
Held at August Elks Club – February 10, 2009**

After a social time and a buffet dinner at the Elks Club, President Harold Booth called the meeting to order at 7:30 pm. Rick Gilbert moved and Richard Breton seconded to approve the minutes of the January 13, 2009 meeting as printed in the newsletter. Motion passed.

Melody Main moved and Rick Gilbert seconded to approve the Treasurer's report as distributed. Motion passed.

President Booth presented those members who had been nominated for the Board for two year terms: Charles Anderson, Venita Barley, Gerard Bechard, Tim Dennett, and Ramona Venskus.

Stefanie Barley moved and Melody Main seconded the nominations.

Melody Main moved and Roger Badershall seconded a motion to accept the slate of nominees. The motion was approved by a show of hands.

Harold Booth, Ratna Don, Barbara Eckhardt and Stefanie Barley will continue to serve on the Board.

President Booth told members that Marshall Perry is the new CAHA contact at Webber Energy and that Agren Appliance now has a scratch and dent appliance section.

Eric Dick, Esq. swore in all newly approved Board members.

Rick Gilbert moved to adjourn the business portion of the meeting at 7:45pm.

Respectfully submitted, Emmy Swanton, Secretary pro tem

**Minutes of Board Meeting
Capital Area Housing Association (CAHA)
Held at Augusta Elks Club – February 10, 2009**

President Harold Booth opened the meeting at 8:45 pm with the following present:

**Treasurer & Board member, Ratna Don
Board Member, Ramona Venskus
Board member, Stefanie Barley
Board Member, Venita Barley
Board Member, Charles Anderson
Emmy Swanton**

Stefanie Barley nominated Harold Booth as President of CAHA, seconded by Ramona Venskus. Approved, 4 in favor, 1 opposed.

Ramona Venskus nominated Barbara Eckhardt as Secretary, seconded by Venita Barley. Approved unanimously. Ramona nominated Emmy Swanton as Treasurer, seconded by Charles Anderson. Approved unanimously.

Meeting adjourned at 8:55pm.

Respectfully submitted, Emmy Swanton, Secretary pro tem



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