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CAHA

JANUARY 2011 NEWSLETTER

CAPITAL AREA HOUSING ASSOCIATION “LANDLORDS WORKING TOGETHER”

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CAHA Website
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PRESIDENT'S MESSAGE

Last One for 2010!

We had an awesome turnout of members from both CAHA and CMAOA (Central Maine Apartment Owners Association) at our December meeting to discuss the negative legislation and negative business climate that landlords face, with issues ranging from bad debt collections & eviction dreams to bedbug nightmares.

We have been approaching members in the new legislature in the hopes of changing the climate of land-lording in Maine. We had additional opportunity to testify to the Augusta Chamber of Commerce who heard some of us give them an earful and a reality check at their meeting on December 15th.

Our boards are continuing to discuss these matters and we intend to be heavily involved in the upcoming Legislative Session. However, we will need many members to participate in the process in order to help make a big impact.

Because we're just getting started in this effort, it is important that we have your attentive, thoughtful consideration of the issues, plus your feedback and opinions, as this effort evolves.

So I hope that you can come to our next meeting on January 11, 2011 (another new year!) to get your thoughts and ideas heard and to get updated on our progress in this effort.

Happy New Year!

Charlie

Regular Meeting Minutes

Capital Area Housing Association (CAHA) Held at KV Federal Credit Union – 12/14/2010

The December 14, 2011 CAHA Meeting minutes consisted of testimony from landlords to legislators and the other attendees regarding LD 1790 and other laws perceived as burdensome for landlords to abide by. The full details of this testimony are not available for publication at this time. The membership voted on and passed the proposed by-law changes published in the December 2010 newsletter. (Another affirmative vote on these by-law changes by the membership is needed before the by-law changes are adopted.)

UPCOMING MEETING:

JANUARY 11, 2011 • 7 – 8:30 P.M.
K.V. FEDERAL CREDIT UNION
GENERAL BUSINESS WILL BE DISCUSSED.

NEXT MEETING:

FEBRUARY 8, 2011 • 7 – 8:30 P.M.
K.V. FEDERAL CREDIT UNION
GENERAL BUSINESS WILL BE DISCUSSED.

ASK THE LAWYER

THE COMMON NUISANCE AND HOUSE OF ILL FAME

Certain illegal activities conducted within a rented premises constitute a “common nuisance” under statute, and result in a forfeiture of the tenancy. With adequate evidence the landlord may promptly proceed with commencement of a forcible entry and detainer action, without necessity of serving a notice to quit.

Title 17 §2743 provides that a tenancy is forfeited if the rented premises, or any part of the building, is utilized by a tenant for certain activities declared to be a “common nuisance” under Title 17 §2741. Among other activities, proof by a preponderance of the evidence that a tenant has illegally trafficked in or furnished any scheduled drug from the rented premises on two or more occasions within a three year period establishes a common nuisance under the statute. The tenant forfeits all rights of tenancy and the landlord may initiate a forcible entry and detainer in court within 7 days of the forfeiture without necessity of serving a notice to quit.

Other common nuisances covered by these statutes include:

- A. All places used as houses of ill fame or for the illegal sale or keeping of intoxicating liquors or scheduled drugs or resorted to for lewdness or gambling;
- B. All houses, shops or places where intoxicating liquors are sold for tipping purposes; and
- C. All places of resort where intoxicating liquors are kept, sold, given away, drunk or dispensed in any manner not provided for by law.”

The establishment of a common (public) nuisance as defined by statute not only results in forfeiture of tenancy rights, but constitutes a crime if prosecuted by the Attorney General’s Office or the District Attorney. As part of such action, or upon complaint of seven legal voters of the County, the Court may issue an injunction to eliminate the public nuisance based on its authority to halt activities which are harmful to the peace, safety, health and morals of the public.

These provisions are not frequently utilized as grounds for eviction because of the difficulty of proof and necessity for prompt action. Aside from the liberal provision that permits establishment of a common nuisance upon proof of trafficking or furnishing drugs on two or more occasions within a three year period, a landlord would have to prove that the apartment, or building, is commonly, customarily or habitually utilized for at least one of the prohibited purposes, although a single occurrence may support the inference of a custom or habit. For instance, the presence of a cash register, a bar and small dance floor in an apartment would support the inference the tenant is running an illegal bar or nightclub.

While rare today, these statutes were more frequently invoked in the late 1800s and early 1900s by the State, rather than landlords, to stem illegal gambling, saloons and houses of prostitution run by tenants or property owners. The nature of the proof and judicial sentiment starkly contrast with the norms of today. For example, in *State v. Mary Garing* (a/k/a “Madam Lopez”), (1884) the Court determined that a residence in Portland was being utilized as a house of ill fame for the purpose of prostitution upon mere proof that there were girls in the house and that men and women were taken there at all hours of the night, and that a sailor who had stopped at the house with a girl residing there, soon thereafter found himself diseased.

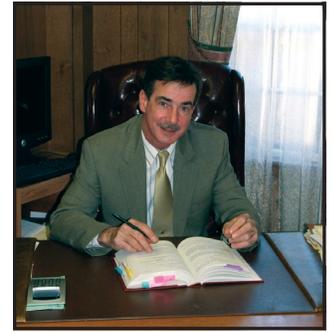
Other cases reflect the statute is broad enough to encompass places utilized for the illegal sale of intoxicating liquor (including hard cider), or that are frequented by minors for underage drinking, or by adults for illegal gambling, including places effectively utilized as private clubs. A landlord can be guilty of aiding in the maintenance of a common nuisance if the landlord both permits and has knowledge of the illegal use.

As an aside, I was struck by how drastically societal norms have changed in a relatively short period. In 1945 the Court found three men guilty of running private lotteries in Waterville known as “Old Reliable” and “Paycheck”. In the course of finding the men guilty and imposing both fines and a period of incarceration for “wickedly” conducting lotteries injurious to the morals and welfare of the people of this State, the Court commented:

“...there is now practical unanimity of legislative and judicial thought as expressed in statutes and decisions, that lotteries are public nuisances, subversive of morals, and contrary to the interests of society and of the State and Nation. This is but the expression of the public conscience as formulated into law.”

The Court cited an 1849 U.S. Supreme Court decision denouncing lotteries as a widespread pestilence that infects the whole community. “It enters every dwelling; it reaches every class; it preys upon the hard earnings of the poor, it plunders the ignorant and simple.”

Today, many feel the result is the same, but the promotion of lotteries and other types of gambling are acceptable to the public conscience, particularly if the State has a stake in the activity. Nonetheless, illegal lotteries, other gambling activities or use of a premises for the illegal keeping, use or sale of liquor or scheduled drugs remain grounds for criminal prosecution, and for expedited eviction of a tenant whose tenancy is forfeited as a result in engaging in such activities within a rented premises.



Disclaimer: For general information of CAHA members; not intended as legal advice. Consult a lawyer for your specific situation © 2011 Eric S. Dick, Esq., Augusta, Maine (207) 622-5872.

Minutes of Board Meeting – Capital Area Housing Authority (CAHA) • Held at the Senator Inn, Augusta – 11/16/2010

After a social time, President Charlie Anderson called the meeting to order at 5:46 P.M. with the following present:

Past President & Board Member Harold Booth, Vice-President & Board Member Stefanie Barley, Treasurer & Board Member Emmy Swanton, Board Member Ratna Don, Board Member Venita Barley, Board Member Ramona Venskus, and Board Member Gerard (Tiny) Bechard, Jr.

At the request of Ratna, the members reviewed the income and expenses of the Treasurer's report in order to cut back on expenditures, which resulted in prompting two motions. Motion was made by Stefanie, and seconded by Ramona, to do away with the \$25 door prize at regular meetings. Motion passed unanimously. Venita felt that a Net10 phone would be less expensive to maintain per month than the cell phone CAHA now possesses. Motion was made by Ramona, and seconded by Venita, to have Ratna look into buying a Net10 phone. Motion passed unanimously. Tiny suggested that CAHA's cell phone be donated to the military.

The next agenda item discussed was the newsletter and the difficulty the Copy Center is having in mailing it to the members on time. Ratna stated that Carla at the Copy Center suggested that if they have CAHA's material by two Fridays before the regular meeting, the Copy center will mail the newsletter by the Friday before the regular meeting.

Venita suggested that CAHA look into having Staples do the printing, as all our printing needs would be done right there. However, Stefanie further suggested to get all CAHA materials to the Copy Center before Thanksgiving. The Copy Center should then have the printing done the first week of December.

President Anderson moved on to the next agenda item concerning the verbiage of the By-law changes in the member meeting notice. A lengthy discussion ensued. Hal felt a time frame should be specified as to when the members would receive notice of a meeting, as he doesn't want the members to feel the By-law changes are being "railroaded" through. He suggested a two-week notice should be posted prior to the meeting date. However, Ratna felt having a time frame in place would pose an unnecessary burden to the President and the Board, which would diminish the whole purpose of the By-law change. Charlie suggested that the two-week notice be kept, but it would be posted by electronic means as opposed to actually mailing it. Stefanie suggested the two-week notice could be posted in the KJ for the members who do not receive their newsletters electronically. It is free and would be posted before the event under Calendar of Events.

Consensus was that announcing an upcoming meeting a month in advance would be too much time prior to the actual meeting. Motion was made by Ratna, and seconded by Ramona, that written notice of the meeting of members shall be published in the newsletter prior to the meeting stating the date, time and place of the meeting. Motion passed with one opposition.

Hal brought up the next agenda item: upcoming elections of officers and Board members. Running for new two-year terms are Venita Barley, Ramona Venskus, and Gerard (Tiny) Bechard, Jr.

The next agenda item was the oil questionnaire. Stefanie suggested e-mailing the oil questionnaire along with the renewal letter and banquet form to the members, but this suggestion was rejected in favor of postal mailing.

President Anderson wanted an update of the banquet proceedings. Ramona stated that the Marden's Lady has been secured for entertainment, and that the Elk's Club has been reserved to host the event. The Board members agreed with Ramona's suggestion to have the dinner menu the same as last year. A short discussion ensued, however, concerning the financial loss CAHA has every year when members who indicate they would be coming to the banquet do not show up. Motion was made by Harold, and seconded by Venita, to set a fee for the Annual Banquet of \$5 for the CAHA member, \$10 for a first guest, and \$25 for each additional guest. Motion passed unanimously. Ramona raised the question about guests the Board invites to the Annual Banquet. Motion was made by Harold, and seconded by Ramona, to set the fee for invited guests the same as that of the Annual Banquet of \$10 for the first guest and \$25 per other guests. Motion passed unanimously.

Meeting adjourned at 7:22 P.M.

Respectfully submitted, Barbara A. Eckhardt, Secretary

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."

REMINDER

2011 CAHA Banquet

Tuesday, Feb. 8, 2011

Augusta Elks Club

Social Hour at 5:30 p.m.

Dinner at 6:30 p.m.

Price:

CAHA Members: \$5.00

1st Guest: \$10.00

Add'l. Guests: \$25.00/each

(please do not bring children under the age of 16 to the banquet)

Payment in full and reservation form must be received by January 31, 2011.

No tickets will be sold at the door.

Please contact a CAHA Officer if you have additional questions.



Fielding's Oil & Propane is proud to serve the members of CAHA with all of their heating needs and looks forward to having a long relationship with the organization. Call us and you will see how dedicated we really are.

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<p>Sprague & Curtis Real Estate <i>Great People • Great Places</i> Jim Pepin 623-1123 ext 217 (w) • 626-0413 (h) Fax: 623-2071 • Cell: 242-3015 75 Western Avenue • Augusta, ME 04330-7288 email: jim@spragueandcurtis.com</p>	<p>Sherwin Williams Paint + Paint Supplies (207) 622-6818 <i>sw5736@sherwin.com</i> New property solutions paint – Flat and Eggshell from \$12.89/gal. + 20-40% discounts & free delivery!</p>	<p>A1 Affordable Home Inspection (207) 446-2945 – Gary Jackson Home inspections, annual preventive home inspections, energy evaluation. <i>mike@a1affordablehomeinspection.com</i> \$25.00 off home inspection. 10% off other services.</p>	<p>This advertising space could be yours!</p>
<p>R&R Property Management Home & Apartment Maintenance/Remodeling Snow Plowing & Sanding (207) 485-1237 <i>rjordan@rrpropertymanagement.biz</i> 10% discount on labor</p>	<p>This advertising space could be yours!</p>	<p>Newcomer Relocation Services "Upscale Rentals" Phone/Fax: 622-4312 – Cell: 446-4312 <i>ramona@NewcomerRelocation.com</i> <i>www.NewcomerRelocation.com</i> No application fee for CAHA members</p>	<p>J.C. Stone, Inc. (207) 549-4729 <i>stonecenter@jcstoneinc.com</i> 10% discount on landscape products. "We carry wallstones, flagstone, patio stones, garden accents & more!"</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>	<p>Liberty Mutual – (207) 622-0581 Nick Parker (X-52907) Darryl Arnold (X-52909) <i>New Auto and Home Insurance Benefit</i> 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>Bob Philbrick Well Drilling (207) 623-8603 <i>rephilbrick@yahoo.com</i> 10% off pumps & wells (contractor prices) "Maine's largest installer & designer of geothermal systems."</p>	<p>Downeast Energy (207) 622-7521 Heating oil, propane & service contracts <i>mboucher@downeastenergy.com</i> Please call for program details.</p>
<p>Rent Match LLC Venita Barley, Owner (207) 623-2580 • Fax (207) 623-3374 <i>vbarley@rentmatchonline.com</i> "Bringing Landlords and Tenants Together!" <i>www.RentMatchOnline.com</i></p>	<p>Eric S. Dick, Esq. Farris, Foley & Dick, P.A. (207) 622-5872 <i>ffdlaw@gwi.net</i> Discount off regular hourly rate to CAHA member on landlord/tenant matters</p>	<p>Winslow Aluminum Inc. Vassalboro, ME (800) 924-0412 <i>winslowaluminum@yahoo.com</i> 30% off list price of replacement windows</p>	<p>Vallee Property Management, LLC Rentals & Property Management <i>vpmmel@valleerealestate.com</i> <i>www.vpm.me</i> (207) 620-7500 Gently used Refrigerators \$175.00 and up.</p>
<p>Tim Dennett + Co. (207) 242-8499 <i>timdcco@aol.com</i> Home & apartment maintenance, both inside and out. Now offering snow-plowing!!! 10% discount on materials</p>	<p>This advertising space could be yours!</p>	<p>Kennebec Property Mngt., LLC Property Management, Residential & Commercial, Leasing/Portfolio Development, Full or Partial Service <i>kennebecpropertymanagement@yahoo.com</i> (207) 333-1855 25% off leasing</p>	<p>1800WaterDamage WATER, SEWER, MOLD, FIRE (207)-629-5339 <i>1800wdme@gmail.com</i> Free home inspection for any loss, and \$200 discount for CAHA members.</p>

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