

# Capital Area Housing Association

P.O. Box 2901 Augusta, ME 04338-2901

Newsletter

Tel 512-2180

December 2007

## President's Message

As we get closer to the beginning of a new year for CAHA [the new year starts with the election of a new board and officers at the banquet on February 12, 2008], I hope a number of members have given a thought about being on a committee or running for office. It's always good to have new blood and new ideas. I'm sure CAHA will have a lot of issues to work on as the laws currently do not seem to favor landlords. Anyone who is interested in running for office should make that interest known to the board, or at one of the regular monthly meetings.

Don't forget the Annual banquet is February 12, 2008 at the Calumet Club. There will be a registration form with this Newsletter & also as part of your membership renewal, which will be going out soon. The banquet is free for members. One guest will be \$8.00; any additional guests will be \$15.00 each.

In closing I wish everyone a Merry Christmas. Remember to give thanks for all your blessings.

Drive safely this winter and stay warm & cozy. I hope that we all have good tenants for the winter.

*Tiny Bechard*

President

*President*

**Gerard Bechard, Jr**

*Secretary*

**Louise Hinkley**

*telhink7@roadrunner.com*

*Treasurer*

**Ratna Don**

*ratnadon44@yahoo.com*

### Board of Directors

**Gerard Bechard, Jr**

**Harold Booth**

*halbooth@verizon.net*

**Ratna Don**

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**Don Gilbert**

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**Lewie Manter**

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**Ramona Venskus**

*ramona@NewcomerReocation.com*

622-4312

**CAHA Website**

**[www.caha4u.org](http://www.caha4u.org)**

**Meeting: December 11th, 2007 – 7.00 PM**

at KV Federal Credit Union, 316, Rt 104, West River Rd, Augusta

**GUEST SPEAKER: BILL LEAVITT – LEAVITT ACCOUNTING AGENCY**

**Next Meeting: January 8<sup>th</sup>, 2008 – 7.00 PM at KV Federal Credit Union**

**Annual Meeting/Banquet: February 12, 2008 at the Calumet Club**

# ASK THE LAWYER

**Q. My tenant signed a one year lease. Two months later the tenant's employer transferred the tenant to an out-of-state job site for six months. Without my knowledge or consent, the tenant moved in a friend to live in the apartment and pay the rent until the tenant returns. The tenant is decent enough, but I would never rent to his creepy friend. Can I terminate the tenancy and evict the friend?**

**A. Subletting and Assignment.**

Maybe. If the lease expressly prohibits subletting of the apartment by the tenant, **and** permits the landlord to terminate the tenancy due to violation of that lease provision, then the landlord can serve a notice to quit upon the tenant (not the friend) and evict them both. In this situation, the landlord's legal action is against the original tenant based on violation of the lease contract. The sub-tenant friend does not have a contract with the landlord, but only with the tenant who has become a "sub-landlord".

A lease of an apartment is considered an interest in land, and since the law strongly favors unrestricted transferability of land, any restrictions against assignment and subleasing are not favored by law and are strictly construed. Therefore, a tenant may sublet or assign his interest in a leased apartment to someone else, without the landlord's consent, unless the lease clearly prohibits the tenant's assignment or subleasing. If there is no lease prohibition in the question presented, then the tenant can sublet the apartment to his friend for six months without the landlord's consent, and the landlord can terminate the tenancy only if the tenant or the sub-tenant friend violate other terms of the lease which permit the landlord to terminate the lease and evict the tenant. Eviction of the tenant and "all other occupants" would have the effect of also evicting the sub-tenant friend.

As background, a **sublease** is created when a tenant transfers his interest in the leased premises for a period of time that is less than the remainder of the lease term. The tenant reacquires the leased premises for the remainder of the term (a reversion) after the sublease ends. The tenant becomes a "sub-lessor" or a "sub-landlord" relative to the sub-tenant, but the sublease does not change the original lease contract between the landlord and the original tenant.

Under a sublease, the sub-tenant is not directly responsible to the landlord for the payment of rent or other obligations under the lease; rather, the original tenant remains directly responsible to the landlord to insure these obligations are met, and the tenant remains responsible for any damage to the premises caused by the sub-tenant. Even though there is no contract between the landlord and the sub-tenant, the sub-tenant is still bound by the terms and conditions of the original lease, because the tenant cannot convey any greater rights than the tenant possesses under the lease.

An **assignment** by a tenant transfers the tenant's entire interest in the leased premises to the assignee, and the assignee (the new tenant) steps into the shoes of the assignor tenant. In this situation, the landlord has direct rights against the assignee to require payment of rent and compliance with all other obligations of the lease. The original tenant also remains responsible to the landlord under contractual terms of the original lease, notwithstanding the assignment.

The two concepts of subleasing and assignment are legally distinct; a lease that prohibits subletting is not violated by an assignment, and vice-versa. Furthermore, a lease provision that prohibits subleasing the **entire** premises is not breached if a tenant sublets only a portion of the premises. Since the law disfavors these restrictions, the tenant will have a right to assign or sublet his leasehold interest, unless expressly prohibited by the lease terms. Therefore, carefully drawn lease provisions will prohibit both an assignment of the lease, as well as subleasing of "all or any part of the rented premises".

These principals only apply to leasehold interests, not a tenancy at will. A tenancy at will is typically created by a verbal agreement to rent for an unspecified period of time, and the tenancy may be terminated by either party at any time, typically upon 30 days advance notice. A tenancy at will does not constitute an interest in land as does a leasehold interest, and cannot be conveyed or assigned. In fact, a tenancy at will is automatically terminated upon a conveyance or assignment by either party, including a sale of the building by the landlord, or the landlord's entry into a written lease with another tenant.

The waters are further muddied by a tenant who moves in a roommate to contribute toward rent. The taking of a roommate by a tenant is not considered a violation of a prohibition against subletting or assignment because there is no transfer of a "leasehold interest". Therefore, a lease should also specifically identify all occupants of the rented apartment, and prohibit occupancy by others, including roommates or lodgers.

**Disclaimer:** For general information of CAHA members; not intended as legal advice. Consult a lawyer for your specific situation © 2007 Eric S. Dick, Esq., Augusta, Maine (207) 622-5872.

Minutes of Regular Meeting  
Capital Area Housing Association (CAHA)  
Held at KV Federal Credit Union  
November 13, 2007

President Tiny Bechard opened the meeting at 7:00. There was no guest speaker.

General issues were discussed, including continuing confusion about oil vendor and pricing. It was agreed that the Oil Committee should meet soon to begin work on requesting bids for oil for the 2008-09 year. Tiny pointed out the information in the latest Ask the Lawyer column about new laws affecting landlords. On we need to find out more about is Title 14 section 6004-A, which requires Court-sponsored mediation prior to a contested hearing on landlord/tenant disputes, including evictions. This law is now on the books, but Rules of Procedure and a Schedule of Fees must be adopted before it actually goes into effect.

Duke Dulac also brought up the issue of developers in Augusta requesting TIFs to build housing developments, which will allow them to offer rentals at lower, subsidized rates. The most current is Cony Village, which is scheduled to be discussed by the City Council on Monday, November 19<sup>th</sup>. It was decided to ask Eric Dick, the CAHA attorney, to represent CAHA at the City Council, opposing the TIF request, and to send an e-mail out to members with e-mail addresses on record to encourage them to call their city councilors and/or attend the City Council meeting.

The recommended Bylaws amendments were discussed briefly. The proposed revisions would add membership requirements (now in the Articles of Incorporation, but not in the Bylaws), would allow Past Presidents to remain members, even if they do not meet the eligibility requirements, plus some other clarifications and language clean-up. It was agreed that we should have Eric Dick review them, and then publish them with the next newsletter, so that they can be voted on at the December and January meetings. A suggestion to possibly pro-rate CAHA dues was referred to the Board for further discussion.

It was stressed again that CAHA needs more members to get involved. Members are needed to run for the Board, with three vacancies to be filled at the February Annual Meeting, as well as Secretary and other officers. We also need to line up entertainment, menu and door prizes for the Annual Banquet. Ramona Venskus, Ernie Clark and Don Gilbert offered to work on the Banquet. Anyone else interested, please contact Ramona.

The wrong month's minutes were printed in the newsletter, so Louise gave a brief overview from the minutes of the October meeting. John Gwazdosky moved, Don Gilbert seconded, to accept the minutes as presented. Motion carried. Ratna distributed the Treasurer's report, which showed income and expenses from October 12th to November 13th, 2007, and indicated a total balance of \$ 26,471.42 (\$12,158.61 of which is in a CD). In addition CAHA has a \$10,000 bond. There are currently 581 CAHA members. Treasurer's report was accepted as presented.

Sign in sheet indicated 9 members attending (some must not have signed in!), with 65 units, and 2 vacancies.

Meeting adjourned at 7:45 pm.

Respectfully submitted,

Louise Hinkley,  
Secretary

Minutes of Executive Committee Meeting  
Capital Area Housing Association (CAHA)  
Held at KV Federal Credit Union  
October 23, 2007

President Tiny Bechard called the meeting to order at 6:00pm with the following Officers and Board members present:

Vice President & Board Member, Harold Booth; Secretary, Louise Hinkley; Board Member, Ramona Venskus; Board Member, John Gwazdosky; Board Member, Don Gilbert

(Board members Ratna Don and Lewie Manter were both excused.)

After some discussion about ads in the newsletter and links to vendor sites on the website, Harold Booth moved, Don Gilbert seconded, that CAHA provide free vendor ad space in the newsletter with the stipulation that vendors must provide a discount to CAHA members, and provide a door prize for the Annual Banquet. In addition, CAHA will charge \$50 per vendor per year to provide the link on the CAHA website. Motion passed, 4 in favor, 1 abstention. Louise will draft a letter to vendors re the new policy (noting increased postage and website maintenance costs), and Ramona will send it out with an updated ad form. If there is no response from a vendor, their ad will be pulled.

Ramona asked about the reasons for the vote at last Executive Committee meeting to not re-join the Chamber of Commerce. Tiny announced that he did reserve the Calumet Club for the Annual Meeting on February 12<sup>th</sup>.

The Board went into executive session to discuss the proposed contract for 2008 database management. Louise Hinkley moved, John G. seconded, to approve the contract with Ratna Don as presented at \$400 per month. Motion passed, 4 in favor, 1 abstention.

Proposed CAHA By-Laws amendments were discussed. Wording was changed to add two more Board members, that Board members must be CAHA members in good standing, and to select the Officers from within the Board. Other changes were suggested to clarify and update. Harold moved, Ramona seconded, to present the proposed By-Laws amendments to the membership (they must be mailed out, then voted on at two successive meetings). Motion approved unanimously. It was noted that we should have Eric Dick review the proposed amendments before distributing to the membership.

Annual Meeting on February 12<sup>th</sup> at the Calumet Club. We need entertainment, door prizes, and a slate of candidates for the Board. John Gwazdosky, Ramona Venskus, Lewie Manter and Don Gilbert (who was appointed to fill Cheryl Dostie's seat) have another year on the Board. Those whose Board terms are up in February are Tiny Bechard, Harold Booth, and Ratna Don.

Meeting adjourned at 7:45 PM.

Respectfully submitted,  
Louise Hinkley  
Secretary

Minutes of Executive Committee Meeting  
Capital Area Housing Association (CAHA)  
Held at KV Federal Credit Union  
November 13, 2007

President Tiny Bechard called the meeting to order at 7:50 pm, after the regular CAHA meeting, with the following Officers and Board members present:

Vice President & Board Member, Harold Booth  
Treasurer & Board Member, Ratna Don; Secretary, Louise Hinkley;  
Board Member, Ramona Venskus; Board Member, John Gwazdosky;  
Board Member, Don Gilbert; (Board member Lewie Manter arrived later.)

Guest: David Jackson

The primary purpose of this meeting was to discuss the CAHA website and how it is being handled. Per the contract approved at the May Executive Committee meeting, David Jackson took over maintaining the website. Board members had understood this to mean that it would no longer be under Network Solutions' control. However, when trying to renew the domain name, Ratna discovered that it was still locked and "owned" by Network Solutions. David is paying a monthly fee to Network Solutions for a "forwarding package," so Network Solutions still controls the domain name. Per Tiny's authorization, Norman Veilleux paid \$39.95 TODAY after receiving notice that the domain name expired 11/12. David agreed to fax a form to Ratna to remove the site from Network Solutions, but it was also pointed out that David has not been responsive to input. After further discussion, David agreed to host the site for the remainder of November. John G., with Ratna's assistance, will take over maintaining the website.

It was agreed to reimburse Norman Veilleux the \$39.95 he paid to Network Solutions, but not to pay any interest or service fee.

Ratna asked permission to close out the unused checking account at KVFCU (\$270), and to keep at least \$25 in the KVFCU savings account. The CD is also at KVFCU. Harold moved, Don G. seconded, to grant this permission, and transfer the funds to Gardiner Savings Bank. Motion carried.

Meeting adjourned at 8:50 PM.

Respectfully submitted  
Louise Hinkley  
Secretary

## Annual CAHA Banquet Reservation Form

Date: Tuesday, February 12, 2008, Place: Calumet Club

Time: Social 5:30 PM - Dinner 6:30 PM – Price: Free to CAHA members

(Must write membership number in the Card # space)

Guests: 1<sup>st</sup> guest – \$8.00 – All additional guests - \$15.00

(Please no children under the age 16)

A check must accompany this reservation form and received by January 31, 2008

Member: \_\_\_\_\_ Card # \_\_\_\_\_ Free

1<sup>st</sup> Guest: \_\_\_\_\_ Price \$8.00

2<sup>nd</sup> Guest: \_\_\_\_\_ Price \$15.00

3<sup>rd</sup> Guest: \_\_\_\_\_ Price \$15.00

4<sup>th</sup> Guest: \_\_\_\_\_ Price \$15.00

5<sup>th</sup> Guest: \_\_\_\_\_ Price \$15.00

Total number attending \_\_\_\_\_ Total enclosed \$ \_\_\_\_\_ (non refundable)

Deadline: Thursday, January 31, 2008 (No tickets sold at the door)

Mail to: CAHA P.O. Box 2901, Augusta, ME 04338-2901

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