



# Maine Real Estate Managers Association

*In an effort to save a few trees and reduce costs, we have changed the format of the MREMA newsletter.*

*We hope you appreciate and enjoy the Spring 2006 MREMA Newsletter.*



## MREMA Website

We are pleased to announce that the Maine Real Estate Managers Association website is now available. Please visit [www.mrema.org](http://www.mrema.org) to access our website for more information about MREMA and for housing management and service related news, events, information and education. Our website also offers access to useful web-links for more information on industry-related topics.

It is our hope that our website will serve as an effective tool to promote our mission and improve communication within our membership and throughout the industry.

Please feel free to share your ideas and recommendations to make this the most useful and user-friendly website possible.

## President's Corner by John Desjardins

*With spring just around the corner, did we really have a winter; there are a couple of things coming that are exciting. The new MREMA website is coming on line and looks great. I hope everyone finds the site to be informative and relevant. Remember the address is [www.mrema.org](http://www.mrema.org). This web site will be updated constantly with the help of our members, if you have any item or information that you would like to see on the site please take the time to submit the info to one of the board members. This site is the result of a lot of work by members of the board and especially by Mike Morrissey. Thanks for all the hard work.*

The conference committee met for the first time and is hard at work putting together what looks to be another great conference. This year's conference is again at Sunday River but will be at the newer facility called the Jordan Resort. From all accounts the facility sounds great. If any member has any topic or speaker that they would like to see on the agenda, please let one of the board members know.

Several of our board members are working on seeing what the interest is regarding having some future training courses to be offered by MREMA. The hope is to have maybe as many as two training sessions this year, stay tuned.

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## Dial 7-1-1 For Telecommunications Relay Service

The Federal Communications Commission (FCC) has implemented 7-1-1 for access to all Telecommunications Relay Services (TRS). TRS permits persons with a hearing or speech disability to use the telephone system via a text telephone (TTY) or other device. A TTY (also known as a "telecommunications device for the deaf" (TDD)) user calls a voice telephone user through a TRS provider (or relay center), where a Communications Assistant (CA) places the call to the voice user, and then relays the conversation by transcribing spoken content for the TTY user and reading text aloud for the voice user. TRS works in reverse for a voice user calling a person with a hearing disability.

<http://www.fcc.gov/cgb/consumerfacts/711.html>



## IS IT LEGAL TO COLLECT ATTORNEY'S FEES FROM A TENANT?

by David J. Van Baars, Esq.  
Shankman & Associates

Maine, like many states, follows the “American Rule” with regard to the award of attorney’s fees in court actions. That rule provides that unless there is a statutory provision, or a contractual provision that provides for an award of fees to the prevailing party, the litigants are responsible for their own attorney’s fees. As with most rules, there is an exception in the event of abuse of the litigation process by one of the parties, but this is a very rare occurrence.

There are several statutory sections that provide a tenant with an award of attorney’s fees if they are successful in litigation pursuant to those sections. Some examples:

Title 14 Maine Revised Statutes Annotated (M.R.S.A.) § 6014, Remedies for Illegal Evictions;

Title 14 M.R.S.A. § 6015 and 6016, Improper Rent Increase;

Title 14 M.R.S.A. § 6024, Electric Metering in Common Areas;

Title 14 M.R.S.A. § 6025, Access to Premises; and

Title 14 M.R.S.A. § 6034, Wrongful Retention of Security Deposit.

For the most part, these statutes do not provide for an award of attorney’s fees to the landlord if the landlord prevails. Therefore, it is imperative that you have a provision in your lease that provides for such an award.

Many owners and managers are confused by the section of Maine law that addresses such clauses. Title 14 M.R.S.A. § 6030 states in subsection 2.B. that:

**2. Unenforceable Provisions.** The following rental agreement or rule provisions for a dwelling unit, as defined in § 6021, are specifically declared to be unenforceable and in violation of Title 5, Section 207 (The Unfair and Deceptive Trade Practices Act):

**B.** Any provision that requires the tenant to pay the landlord’s legal fees in enforcing the rental agreement;

This statute does not mean that you cannot have a clause in your lease or house or park rules that provides for an award of attorney’s fees to the prevailing party in a lawsuit. It simply provides that you cannot have a clause that requires the tenant to pay the attorney’s fees, no matter what happens in that litigation. This is reinforced by subsection 3 of § 6030 which states:

**3. Exception.** Notwithstanding subsection 2, paragraph B, a rental agreement or rule provision that provides for the award of attorney’s fees to the prevailing party after a contested hearing to enforce the rental agreement in cases of wanton disregard of the terms of the rental agreement is not in violation of Title 5, Section 207 and is enforceable.

It does not appear that this is the only acceptable language that could be used in a lease or rule, but this specific language would certainly pass muster. I am unaware of any court decision deciding whether this is the only acceptable language. Specifically, I question whether it is necessary to include the language about wanton disregard of the terms of the rental agreement. It has been my position that this is simply one version of acceptable language.

Finally, it should be noted that if a landlord has commenced an eviction as a result of a tenant’s violation of their lease, or simply expiration of the lease, the landlord can negotiate with the tenant to settle the eviction action, and as part of any settlement, provide for the tenant to pay some or all of the attorney’s fees incurred by the landlord, as a condition of the tenant remaining in the unit. This is not a lease provision, but a separate agreement (which should be reduced to writing) settling a contested lawsuit. Lawsuits are settled every day, and sometimes one party agrees to pay some or all of the other party’s legal fees. This is perfectly legal, and I encourage it.

As always, you should consult your legal counsel.

\*\*\*\*\*

*Maine Landlord-Tenant Statutes & Commentaries*

*MREMA takes pride in offering the 2004 new and revised edition of the Maine Landlord-Tenant Statutes and Commentaries by Shankman & Associates Legal Center. For information on how to order visit [www.mrema.org](http://www.mrema.org)*

## Replacement Reserve Requests Reminder

When submitting requests for big repair items, i.e., window replacement, roofing, siding, etc., be sure to include a copy of the specifications sheet you provided to each prospective bidder. **Before** submitting your request to Rural Development, make sure that the bids are “apples to apples”. If they are not, the contractor should be contacted to re-submit his/her bid so that it agrees with the spec sheet you provided them in order to prepare their bid. When a contract is signed with the contractor, please provide a copy of that to your servicing office so we can see the details of what they will be doing under the contract. This will assist Rural Development when we make the inspection of the work when it is complete. A borrower representative must inspect the work to make sure that it is complete and satisfactory to them **prior** to Rural Development staff making an inspection.

## Rural Development Update by Bob Nadeau, Multi-Family Housing Coordinator

### Asset Management Handbook (HB-2-3560)

If you haven't already done so, please make sure that your property managers and site managers have an asset management handbook available to them. They should be referencing the handbook regularly when they have questions about Rural Development regulations and procedures. There are many changes as a result of the re-writing of the Multi-Family Housing regulations. If there is a discrepancy between the handbook and the actual regulation (7 CFR Part 3560), remember that the Code of Federal Regulations (CFR) is the ruling document. Certainly if there are questions about situations that are not clear in the handbook, we are happy to answer questions. The handbook can be accessed through our website, which is: <http://www.rurdev.usda.gov/regs/hblist.html>.

Please be aware that 7 CFR 3560 states in many places that situations will be handled in accordance with 24 CFR with a specific reference. For example, it states that annual income will be calculated in accordance with 24 CFR 5.609 and adjusted income will be calculated in accordance with 24 CFR 5.611. 24 CFR is a HUD regulation, which can be found at [http://www.hudclips.org/sub\\_nonhud/cgi/hudclips.cgi?hudclips](http://www.hudclips.org/sub_nonhud/cgi/hudclips.cgi?hudclips). Once you are on the website, click on the following, and then click Browse. This will bring up the entire CFR and you can go to the section referenced in Rural Developments regulations.

### Help Lines

THE 211 SYSTEM – this system is a fairly comprehensive database of formal non-profit and government resources in the state of Maine. Currently, this database can be accessed at <http://211maine.org>, and is available for public use. This 211 phone system is still being staffed and implemented. Currently this system is being piloted in Washington County.

THE DISABILITY AND AGING SERVICE HOTLINE (D.A.S.H.) – is an informational and referral service for seniors, adults with disabilities and their caregivers. The goal of this hotline is to provide “one-stop shopping” experience for people looking for assistance, information and services. Consumers can access the D.A.S.H. network by calling Eastern Area Agency on Aging at 1-800-432-7812 and asking for the D.A.S.H. network.

Both 211 and D.A.S.H. provide information to the community. Calling 211 would be like calling into a number where you could listen to the yellow pages, or some other directory. The D.A.S.H. network seeks to help people navigate the system of social services in a more personalized way. They can help consumers with filling out forms; call other agencies on the behalf of consumers, they can research for consumers who might be looking for a difficult-to-find service, and will clearly inform consumers if there isn't a service available for them.

In short, 211 is an information service, and the D.A.S.H. network is an informational AND referral service. The D.A.S.H. network uses the 211 system as a research tool.

### Section 538 MFH Guaranteed Program

The Notice of Funding Availability (NOFA) for the MFH Guaranteed program was just released. You can find it at: <http://www.rurdev.usda.gov/rd/nofas/2006/grrhp012706.pdf>. A new feature this year is that the program is now available to existing Section 515 properties for subsequent loans for rehab. If you are interested, please give your Servicing Official a call to discuss the program .

### Did You Know.....

Rural Development now has all its  
properties (photos included)  
Listed on our website?

Check this out at  
<http://www.rurdev.usda.gov/>.  
On the left hand side under links click  
on Apartment for Rent, then the state  
and county you wish to look at.



**Dirigo Housing Terminates Administration of the Section 8 Voucher Program**

*Dirigo Housing Associates, the agency that delivers MSHA's Section 8 Voucher Program closed their doors for administration of this program effective February 3, 2006. MSHA will be the contact agency for all voucher administration and checks to landlords and tenants will continue to be processed by MSHA. The Asset Management Division will administer approximately 450 vouchers from our office for Kennebec, Lincoln, and Sagadahoc Counties.*

**MSHA Notice Process and Policy**

In order to significantly reduce the consumption of paper, notices are now sent via email to those who have e-mail addresses and, for the time being, via conventional mail for those who do not have e-mail capability. A great deal of information pertaining to the affordable housing industry can be found on-line and can be disseminated via e-mail. We strongly encourage all of our partners to acquire e-mail capability so as to make the sharing of information timely and efficient. It is also imperative that owners and managers who do have e-mail capability inform MSHA of any changes in the name of the contact person or e-mail address. Changes in contact information may be sent to the Asset Manager assigned to the property.

Each notice identifies the date issued and is assigned a notice number for future reference. The notices are posted on MSHA's website at [www.mainehousing.org](http://www.mainehousing.org) and can be located by notice number. To access this section, select the "partner information" tab at the left of the screen and then select "Asset Management Department Notices" at the right of the screen. The notice number is followed by a list of subjects addressed in the particular notice and a listing of attachments which can be accessed through the website. Each notice is sent to all owners and managers of record. Although not all of the content of each notice affects all property and program types, MSHA believes it is most efficient to send the information to all partners. The notices are divided into sections based on subject matter and each section identifies the intended audience. We strongly encourage recipients of the notices to review each section to determine if the information provided is pertinent to their type of property or program. If a recipient is unsure of how or if the information provided affects their particular property type, they should consult the Asset Manager assigned to their particular property or management company for clarification.

**Restructure of the Asset Management Division and New Assignments**

The MSHA Asset Management Division is very pleased to announce a new organizational structure that is intended to streamline processes, provide enhanced customer service, and to ensure more efficient delivery of oversight and monitoring functions. The reorganization of the division is based on a team model. Teams are comprised of three Asset Managers, a HUD Program Officer with expertise in the area of Section 8 Vouchers, a Financial Officer with skills in rental subsidy processing responsibilities, the Manager of Resident Services to lend guidance in matters pertaining to resident services, a Program Analyst who will provide programmatic support, and various members of the Resources Group to provide technical and administrative support for banking and data management functions.

Although each Asset Manager will continue to be the principle contact and have primary responsibility for a specific group of properties, all the members of the team will share information about the properties and management companies with the other team members in order to better serve the needs of the properties. Although many of the changes that accompany this reorganization will not visibly affect owner's and manager's responsibilities, the number of MSHA staff with whom they have contact will change.

During the reorganization, Asset Manager assignments for a number of properties will be changed. In the next few days, those owners and managers of properties for whom new Asset Managers are assigned will be receiving letters of introduction and a more detailed explanation of how the team model will be implemented.

**Tickle Your Funnybone**



**ZIGGY**

Today, there are many immigrants and refugees entering our borders. We have many in our State and local cities or towns. In fact, many live within our very own communities and in our managed properties. Do we even know who they are, or understand what they've experienced along their typically long and arduous journey to their new destination? I'd like to share with you a narrative written by a refugee who has not only settled within our borders and resides within our community, but also is employed by our membership and serves our people. Please read the narrative below by Budagu Georges, a refugee immigrant from Rwanda, Africa and consider what we can do as an association to provide hope and opportunity for a better life. - - Micheal Morrissey - -

## Frown in Puzzlement by Budagu Georges

Four years ago when a destiny forced me into the American environment, a complex environment that requires more energy and experiences that I did not have at that particular time, I felt like my mind was going to shut down. I was in a state of total puzzlement, a state of believing that I was betrayed by an evil spirit. My body was completely exhausted and my mind was set up to conclude on my life resignation. As someone from the Great Lake Region, which has been consecutively shaken by the earthquakes of death, I had in my mind enormous conflicting thoughts which unwillingly were pushing me to a last step of my life. My self-confidence was no longer there, my hope was disappearing gradually; and escaping to a delusion was not going to be an option to me. I desperately needed an ability of steering my life again; I needed the capacity of avoiding the risks of damaging my future. The biggest dreams that I had in my youngest age was declining instantly toward very small things. At that time, I realized that, I needed less but had nothing. Job, communication skills, little place to live in, community place to meet with friends and share experiences, these were my daily prayer request. I called upon the power of integration in the environment that I was placed in, a power of clear understanding of the function of an American system. Progressively my mind was released from the destructive thoughts. It is occurring to me that my mind is refreshing and there is hope again. But, there are thousands of other immigrant people who are still struggling with the similar situation as I did during the past four years. I can see them, and I can talk to them every day and hear their worries and concerns. They desperately need assistance from experienced people. They need to be empowered and strongly sustained in order for them to live a better life.

### MREMA Membership Registration Form

The Maine Real Estate managers Association (MREMA) has two classes of membership:

**FULL MEMBERSHIP** in the Association is limited to the dues-paying business entities professionally involved in real estate management, development or ownership in the State of Maine. Each member shall have only one vote regardless of the number of employees or units managed or owned by a particular entity. **Dues per calendar year: \$200 for companies managing 100 units or more; \$175 for companies managing 99 units or less**

**ASSOCIATE MEMBERSHIP** in the Association is offered to organizations who do not manage property, but who provide a resource or service to professionals within the property management industry. Associate members are not eligible to vote. **Dues per calendar year: \$100**

TYPE OF MEMBERSHIP		
<input type="checkbox"/> <b>Associate Membership \$100</b> Please give a brief description of the services your organization provides. <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/>		
<input type="checkbox"/> <b>Full Membership \$200</b> <input type="checkbox"/> <b>Full Membership \$175</b> Please indicate the total number of units currently under your management with the State of Maine.		
<input type="checkbox"/> MSHA <input type="checkbox"/> RD <input type="checkbox"/> HUD	<input type="checkbox"/> Condos <input type="checkbox"/> Congregate <input type="checkbox"/> Assisted Living	<input type="checkbox"/> Mobile Homes <input type="checkbox"/> Commercial <input type="checkbox"/> Market
Total number of units outside of Maine: _____		
Company Name _____		
Contact Person _____		
Company Address _____		
Telephone _____ Fax _____		
Email _____		
New Members Only: Who referred you to MREMA? _____		

Please make payable to MREMA and mail completed form & check to Rosemary Moeykens, RRM, 247 Commercial Street, Rockport, ME 04856

**ADDITIONAL MAILINGS** may be requested so that duplicate mailings of newsletters, meeting announcements, educational opportunities, etc. may be mailed to any of the sites you request. Please indicate address below and include **\$10 per location**.

**Second Mailing Location**

Company Name \_\_\_\_\_

Contact Person \_\_\_\_\_

Company Address \_\_\_\_\_

\_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_

Email \_\_\_\_\_

**Additional E-Mail Addresses.** MREMA sends a number of notices electronically at no additional charge. Please list the e-mail addresses of all that you would like to receive MREMA e-mails.

Name	E-Mail Address
_____	_____
_____	_____
_____	_____

## News & Events

### Reminder

MREMA Quarterly Meeting  
March 16, 2006  
Hilton Garden Inn, Auburn, ME  
8:30–3:00

### SAVE THE DATE!

New England Resident Service  
Coordinators Inc.  
8th Annual Conference  
Building Bridges In Housing  
May 1-3, 2006

For More Information visit their website at  
[www.nerscinc.org](http://www.nerscinc.org)

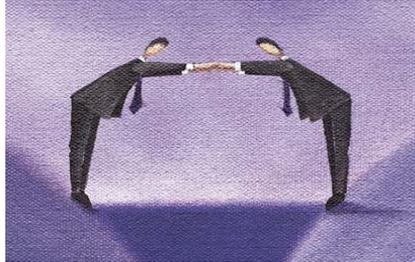
Annual Rural Development MFH Seminar  
April 12, 2006  
Ramada Inn, Lewiston, ME

MREMA Annual Conference  
September 18 -20, 2006  
Jordan Grand Hotel  
Sunday River, Bethel, ME

## Looking for New Ideas

We are looking for ways to improve our MREMA newsletter and website at [www.mrema.org](http://www.mrema.org) to better serve you.... Our members. All advertisements, ideas and recommendations are welcome.

Please make submissions to  
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[mmorrissey@avestahousing.org](mailto:mmorrissey@avestahousing.org)



Contact Us Toll Free

1-800-545-8504

[www.mrema.org](http://www.mrema.org)

*Newsletter Designed by Lori Doustou*

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