

# Maine Real Estate Managers Association

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



Summer, 2008

## Next MREMA Quarterly Meeting - July 10, 2008 by Sheila Malynowski

While we all get ready to enjoy our summer, let's not forget to register for the July 10, 2008 Quarterly MREMA Members meeting. This meeting will be held in Portland at the Holiday Inn West and will begin at 9:00 for coffee and networking with the opening of our business meeting at 9:30. Topics for the meeting include the Tri State Housing Conference scheduled for this fall and the up-coming nominations for the MREMA Board of Directors.

In addition to our business meeting, we hope to hear from our Agency Partners who are so important to our success as Property Managers and affiliates, Department of Housing & Urban Development, Maine Housing and Rural Development. There continue to be changes to procedures from our Partners and much to discuss as we all battle the rising costs of utilities and supplies.

Bill Burney from the Bangor office of HUD will present a short program in the afternoon discussing a topic we all think will happen to the next property, Emergency Responses, and we hope to have a preliminary discussion involving staff from Maine Housing on how to prepare the perfect operating budget.

Registrations will be out soon so please watch for them and respond with the number of folks attending. Who knows we may even be able to sit by the pool!



## MREMA-Sponsored COS Training Well Attended

Forty-nine people, all from MREMA member organizations, took advantage of the three-day COS training offered by MREMA and NCHM and taught by our favorite instructor, Mark Alper. If you've never had the opportunity to take a class with Mark Alper, you've missed out. He brings many years of experience and stories from both the property management and regulatory sides of the business.

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We are no longer mailing the newsletter except upon request. If you have comments, ideas, or suggestions, please email [WWard@midmaine.com](mailto:WWard@midmaine.com).

## From the President's Corner by Susan Michaud-Bosse

As I write this article, I reflect on the valuable training MREMA has offered in the past few years while the current board has been in place. The maintenance training has been resurrected with over 150 attendees each year, and we had our first ever county training in Presque Isle. We offered Tax Credit and Certified Occupancy Specialist training and are now joining New Hampshire and Vermont for the Third Tri-State Conference in October. Our goal was to offer affordable training to our members and we have been very successful.

We now know a lot more a lot more about the goings on in the legislature than we ever did before thanks to frequent updates from Rosemary Moeykens, Legislative Chair.

We are looking forward to another successful Toys for Tots fundraiser in December. Diane is already exploring the possibility of a cruise to raffle. If you want to help out with this event, please let me know.

This year is an election year for the board and we will be proposing an increase in the number of board members that are allowed, therefore requesting a change in the by-laws. This change will be sent to the membership very soon and will need to be voted on at the next meeting in July. Currently all of the board members chair a committee, which means a bigger commitment of time. With the addition of more board members, not everyone would have to make the extra commitment. If you have any interest in serving on the board, please give me a call or send me an e-mail. Your name will be added to the ballot. The voting will occur at the annual meeting at the Lake Morey Resort in Vermont in October.

See you in July at the quarterly meeting.

Susan Michaud-Bosse, [smbosse@midmaine.com](mailto:smbosse@midmaine.com), 207-784-0142



## MREMA Board Members and Committee Chairs

Susan Michaud-Bosse - President, Convention Chair ([smbosse@midmaine.com](mailto:smbosse@midmaine.com))

Sheila Malynowski - Vice-President ([smalynowski@presmgmt.com](mailto:smalynowski@presmgmt.com))

Margaret O'Connell - Secretary ([mjoconnell@presmgmt.com](mailto:mjoconnell@presmgmt.com))

Suzanne Raymond - Treasurer ([sraymond72@roadrunner.com](mailto:sraymond72@roadrunner.com))

John Desjardins - Ex-officio ([fedmgt1@maine.rr.com](mailto:fedmgt1@maine.rr.com))

Cathie Whitney - Membership Chair ([cwhitney@ccrealtymanagement.com](mailto:cwhitney@ccrealtymanagement.com))

Diane MacDonald - Education Chair ([macdonaldd@emeraldmanagement.biz](mailto:macdonaldd@emeraldmanagement.biz))

Rosemary Moeykens - Legislative Updates ([rmoeykens@avestahousing.org](mailto:rmoeykens@avestahousing.org))

Wendy Ward - Newsletter/Web-Site Chair ([wward@midmaine.com](mailto:wward@midmaine.com))



## From the State House

### 123<sup>rd</sup> Maine Legislature - Second Regular Session

by Rosemary Moeykens

“No man's life, liberty, or property are safe while the legislature is in session.” In spite of this old saying, it is amazing to me the very large number of bad or questionable bills that do not become law. There is something to be said for many heads being better than one in an open democracy. Bills filter through the collective experience and perspective of 186 members (35 Senators and 151 Representatives) and citizens and bureaucrats who rise to speak, and hair-brained, overreaching, and hold-your-breath ideas are (nearly) always rooted out. This happens in large part because everyday citizens make their views known and because legislators are truly anxious to know what those views are.

The most important thing that happened for MREMA this Legislative session was that MREMA added its voice and physical presence to mix. We were lucky to recruit Sue Crawford of Crawford Consulting to be our legislative liaison. Known by many legislators, legislative leaders, and (often most important) legislative staff, Sue helped reintroduce MREMA to the Legislature. Our goal was not only to be heard on specific bills impacting our members, but also to become a known voice so when issues affecting property management or affordable housing arise, Legislators would look around the room or the hallways for Sue to see if MREMA had a comment. We took a significant step toward accomplishing that goal this year.

In addition it was extremely helpful to have someone near the process to ask questions about why a specific bill or amendment was being proposed and who was behind the measure.

This year the Legislature passed a tax credit for personal or small business windmills; set up a study group to review PILOT payments for tax-exempt property; provided a rebate for small business geothermal heating units; shifted money from the critical MaineHousing HOME fund to the State Historic Rehab Tax Credit; required the Secretary of State to post notices of all proposed agency rules on a public website; required DEP to maintain a voluntary registry of lead-safe residential dwellings (did not pass lease-safe requirements under a warranty of habitability...yet); established a State-wide building and energy code; and clarified the definition of “service animal.”

What will happen next year - renewed raids on State HOME funds, revisions to the sex offender registry, energy programs to benefit multi-family housing, things we haven't yet imagined? It's actually time now for MREMA members to think about legislation that we would like to see enacted next session. We can be proactive! Any ideas out there? Write to me. *Rosemary Moeykens, MREMA Legislative Chair, [rmoykens@avestahousing.org](mailto:rmoykens@avestahousing.org)*

### Spotlight on [MREMA.ORG](http://www.mrema.org)

If you're looking for a vendor to provide a service or product, why not check out the Partners, Vendors & Contractors page on our web-site? These vendors all generously helped sponsor our 2007 Annual Conference, so why not give one of them a call? Go to [http://www.mrema.org/partners\\_vendors\\_contractors.cfm](http://www.mrema.org/partners_vendors_contractors.cfm) for more information.

## MaineHousing Update by Daniel Drost, Asset Operations Manager

### Retirement of Donna Baker

After 20 years of dedicated service to MaineHousing, Donna Baker has announced her retirement from the position of Director of Asset Management effective May 15, 2008. Although we at MaineHousing are very happy for Donna and wish her all the best in her retirement, we are at the same time saddened by her departure.

Robert Conroy, Portfolio Manager, has been named as the new Director of Asset Management. Bob has been with MaineHousing for 19 years and brings with him a great deal of experience and knowledge related to the plethora of state and federal housing programs. Bob will assume the duties of his new role on May 16, 2008. We at MaineHousing are pleased to announce this appointment and wish Bob success in his new role.

### Multifamily Home Energy Loan Program (Multifamily HELP)

MaineHousing recently announced the availability to owners of MaineHousing-financed multifamily properties the multifamily "*Home Energy Loan Program*" (Multifamily HELP). This program offers 4.75% fixed-rate financing intended to assist owners in addressing critical energy-related improvements at their properties while at the same time reducing escalating energy-related operating expenses. Information provided through the energy audit process required by the program will enable owners to prioritize their energy needs and maximize savings.

The Program Guide, Program Summary and Program Application are made available on the MaineHousing website at [www.MaineHousing.org](http://www.MaineHousing.org). Questions regarding this new loan program may be referred to the Asset Manager assigned to a particular property or management company.

### 10<sup>th</sup> Annual Conference New England Resident Services Coordinators, North Conway, NH

Several Maine Resident Service Coordinators and others from New England participated in the 10<sup>th</sup> Annual Conference of New England Resident Service Coordinators (NERSC) from May 6-9 in North Conway, New Hampshire. Among the attendees were Dale McCormick, MaineHousing Executive Director; Kathleen Poulin, former NERSC President; and Daniel Drost, current NERSC Board Member.

Each year this event provides Resident Services Coordinators (RSCs) from New England and other states to gather for wide variety of extremely valuable workshops related to services in senior and family housing. The conference also provides opportunities for Maine RSCs to network with their counterparts from other areas and share resources, experiences and "tips of the trade".

MaineHousing wishes to thank all of the property owners and managers who have supported resident services over the years and who continue to provide these needed services, and to those who provided the resources for their staff to attend the NERSC Conference. MaineHousing is a financial and programmatic supporter of both NERSC and the Maine Resident Services Coordinator Association (MRSCA). For more information regarding these two organizations, please go to either [www.nerscinc.org](http://www.nerscinc.org) or contact Daniel Drost, Asset Operations Manager, at MaineHousing as [ddrost@mainehousing.org](mailto:ddrost@mainehousing.org), or the President of MRSCA, Shari Letourneau at [sletourneau@lewistonhousing.org](mailto:sletourneau@lewistonhousing.org).

## Rural Development Update by Robert Nadeau

### Multi-Family Preservation and Revitalization Program (MPR)

The application deadline for this program closed on May 12<sup>th</sup>. The MPR program is now in its third year and is for rehab and rehabilitation of existing Rural Development MFH properties. The MPR program is the access point for all rehab/repair funding. Maine Rural Development received 43 pre-applications this year. Nationwide there were 1,630 pre-applications submitted, thus an average of 33 per state. Pre-applications are scored and ranked based on the scoring criteria identified in the program Notice of Funding Availability (NOFA). The RD national office will notify the states of their highest ranking applications within the next couple of weeks. Each state will be given 5 simple deals consisting of stay in owners looking to do standard rehab. Each state will also be given two complex deals. Complex deals consist of transfers of ownership. Once selected, the deals will then be underwritten to determine the best mix of MPR tools, including debt deferral, new loan funds, etc.

### IPIA Survey

Recently Rural Development completed its annual Improper Payment Information Act survey. This is a survey that we are required to complete based on findings from a General Accounting Office (GAO) audit several years ago. The purpose of the survey is to determine how much unauthorized Rental Assistance was paid due to incorrect net tenant contribution calculations during initial and annual recerts. The error rate has almost tripled from prior years and this has become a serious concern. The RD national office has contacted the Council for Affordable Rural Housing (CARH), a nationwide management industry trade organization similar to MREMA. The goal is to coordinate our efforts before the problem gets out of control. The concern is if we do not address the problem adequately now, GAO will mandate severe and costly restrictions. The findings also show that most management companies are doing a pretty good job, but it only takes a few bad apples.

### Management Fees

The Rural Development national office has determined that we will not review management fees this year but hold them at current levels. Partially as a result of the findings of the IPIA survey, the Agency cannot advocate an increase in management fees at this time. RD has advised CARH of this, and they are agreeable to working with RD to find ways to address this issue through analysis of the root causes to the IPIA problem and then developing and implementing training on this issue. Maine Rural Development has also recommended that industry trainers, such as Spectrum, be made aware so that their training agendas can be revised to address this concern. Maine Rural Development also recommends re-employing a performance based management fee so that we reward well performing management companies, while holding poor performing companies accountable.

### Flood Insurance

Recent flooding in Fort Kent and other areas in Maine have reminded all of us of the need to carefully review all properties to ensure that proper flood insurance is in force. We would encourage you to carefully review any property that you manage that you believe might be located in or near a flood plain. If you determine that the property is in fact located in a flood plain, you should immediately contact your local servicing office to discuss the flood insurance needs of the property. Specific flood insurance guidelines can be found in Handbook 2, Chapter 4, Section 3.10. The bottom line is, if located within a flood plain, flood insurance is mandatory.

## Crossing the Line - 2008 Tri-State Conference

*A combined conference of the Maine, Vermont,  
and New Hampshire Housing Managers Associations*

Have you heard about the Tri-State Conference, October 27, 28, and 29 at Lake Morey Resort in Fairlee, Vermont? Now is the time to start thinking about making hotel reservations.

The entire facility has been reserved for the conference and attendees will have full access to the resort's amenities which include free wireless high speed internet in meeting spaces, a business center offering fax, copy and computer resources, rooms for games, billiards, ping pong and cards, a Jacuzzi, an indoor pool and a health club. The Strong House Spa offers wraps, massages, facials, pedicures and manicures, available by appointment only. There is an 18-hole championship golf course, tennis, volleyball, horseshoes, biking, hiking, canoes, kayaks, rowboats, paddleboats, a lighted putting green, and more. If you want to know more about the facility, check out their website at [www.lakemoreyresort.com](http://www.lakemoreyresort.com).

You won't want to miss the training opportunities on this year's agenda. Key note speaker Toni Blake will get us started with her "laugh while you learn" approach that is informative, deeply inspiring, and sometimes all-out hilarious. Session options include Fair Housing Training, Maintenance for Managers, BostonPost Property Manager Software, Real Page, Resident Services in These Changing Times, Feng Shui, and many more.

We expect all the rooms at the resort will be booked so make your reservations now!

### Guest Room Rates

Sunday (no meals included)	Single: \$97. per night	Double: \$97. per night
The above rate does not include the 9% Vermont tax.		

Monday Night package (meals included)	Single: \$181. per night	Double: \$146. per night
Tuesday Night Package (meals included)	Single: \$172. per night	Double: \$137. per night
Two Night Package (meals included for Monday, Tuesday, & Wednesday)	Single: \$323. 2 nights	Double: \$253. 2 nights

The above rates do not include the 19% service charge and 9% Vermont tax.

### One Day Commuter Packages

Single - Breakfast and Lunch only	\$39. per day
Single - Dinner only	\$40. per day
Single - All meals	\$76. per day

The above rates do include the 19% service fee and 9% Vermont tax.

We anticipate the full conference registration fee to be approximately \$150.

The last day to reserve a room at the discounted rate is 10/12/08. Contact Lake Morey Resort:  
Phone: (800) 423-1211, Fax: (802) 333-4553

## \$TOP LO\$ING MONEY: PO\$T YOUR VACANCIE\$ ON THE WEB!

by Diana Huot

You can post vacancies in your HUD-assisted, HUD-insured, USDA-RD, LIHTC, RHL P or other MSHA-financed properties on the HUD Maine web page

(<http://www.hud.gov/local/index.cfm?state=me&topic=renting>).

In addition, you can identify properties that currently do not have a waiting list. This site will be publicized to Congressional Field Representatives, General Assistance Directors, rehab hospitals, CAP Agencies, transitional housing residences, and to other individuals/organizations/facilities that may have clients in need of affordable housing. To obtain the electronic, fillable, easy-to-complete form:

For HUD-assisted and HUD-insured: [Kevin\\_Pillsbury@hud.gov](mailto:Kevin_Pillsbury@hud.gov)

For USDA Rural Development, LIHTC, RHL P, or other MSHA: [Diana\\_Huot@hud.gov](mailto:Diana_Huot@hud.gov)

We'll then combine the two lists to provide a complete inventory.

IT'S EASY AND IT'S FREE!

**Alpha One Accessible Housing** is a free program that matches people with disabilities with vacant, accessible housing. The accessible housing search engine catalogs accessible and adaptable units throughout the state of Maine and tracks their availability. FMI:

<http://www.adaptedhome.com/>

### MREMA Membership News by Cathie Whitney

MREMA Membership now totals 97 member organizations, including 73 regular members and 24 associate members. To date, we have welcomed 5 new regular member and 2 associate member organizations. Since our last newsletter report:

#### *Joining as Regular Members*

Asset Real Estate Management of Augusta, ME  
Guerrette Properties of Augusta, ME  
Knox View Apartments of Bucksport, ME

#### *Joining as Associate Members*

Home Depot of North Bridge, MA

#### *Regular Member Renewals*

ALB Consultants  
Avesta Housing  
Elderly Housing Development & Operations  
Targeted Management Company  
Volunteers of America

# PREVENTION VERSUS CURE

By Neil S. Shankman

Over the course of the last 25 years, at least 3 or 4 times per year, I have made presentations to groups of landlords and property managers. One key element of every presentation has been the importance of reviewing and updating leases on a regular basis. Laws change. Federal regulations are amended. Courts reinterpret the meaning of words. The consequences of your failure to update your knowledge of the law and change your basic working documents can cost your company literally thousands of dollars.

Simple mistakes or even honest misinterpretations of the law can lead to substantial consequences.

A number of property management companies in the State of Maine have included provisions in their lease by which a tenant would have to pay a fee if they terminate their tenancy early. While State law has always been clear that “liquidated damages” clauses are looked at with disfavor by the Courts however they are permitted under limited circumstances. This basic rule applies to business contracts as well as to landlord/tenant situations.

Between 2005 and 2007, one Portland property management company routinely charged their tenants an early termination fee pursuant to the terms and conditions of their lease. The rationale was that even if the company was able to find a new tenant, there would be certain inevitable expenses for advertising, screening new tenants, cleaning the apartment (normal wear and tear) and extra staff time that warranted a \$600.00 flat fee. The basic position was that this was not an arbitrary “liquidated damages” clause, but rather a rational financial consequence that would be suffered by the landlord due to early termination.

The Attorney General concluded otherwise and in April of 2008 a Complaint was filed against the property management company. Ultimately, the company concluded that the cost of litigation was not worth arguing for the validity of the \$600.00 fee. A Consent Decree was entered whereby the landlord agreed to refund to the affected former tenants up to \$46,711.00 of “improper fees charged”. Additionally, the company was also ordered to pay a \$10,000.00 fine. Furthermore, the company agreed that it would not charge tenants for such fees in the future.

Title 14 § 6010-A of the Maine Revised Statutes Annotated provides that a landlord is under a duty to mitigate damages when a tenant wrongfully terminates his or her tenancy. The landlord cannot simply leave the apartment un-rented for months at a time and expect the tenant to provide full reimbursement. Essentially, the tenant is on the hook for the actual out of pocket expenses that the landlord expends to re-rent the unit. However, once the unit is re-rented, the tenant’s obligation is complete (so long as the landlord has been fully reimbursed for his or her losses).

Many of us in the property management industry have been aware of the inherent risk of liquidated damages clauses. However, the recent Consent Decree is the first time that the Attorney General has challenged such a provision with such vigor. If your lease contains a penalty for early termination, it is imperative that you amend your lease immediately. If you have a tenant currently subject to such a provision, it is your obligation to notify the tenant that the provision will not be imposed against them. At the same time, however, you can explain to your tenants that the consequences of early termination include personal liability for the full amount of actual damages incurred by the landlord.

All of this is simply another reminder that an ounce of prevention is worth a pound of cure, the early bird gets the worm, and an annual review of your leases and other basic forms is a wise business decision.



*Neil S. Shankman,  
founder of Shankman & Associates.*

*For more information log onto  
[www.shankmanlegal.com](http://www.shankmanlegal.com)*

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& Associates**

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*"we can help"*

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Landlords are complex,  
but clear. We can help you to  
save money by empowering you  
with knowledge and good counsel

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