

# Maine Real Estate Managers Association

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



Fall, 2008



## Housing...Are the odds in your favor? 2008 Tri-State Conference October 27, 28, and 29

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



You've been hearing about the Tri-State Conference for several months: reminders to get your rooms reserved early, enticing tidbits about the facility and the training line-up, and everyone should have received their registration packet. Well, the registration deadline for the conference is October 9<sup>th</sup> so if you haven't sent in your registration, now is the time.

There will be something for everyone at this year's conference: Fair Housing, Maintenance for Managers, Locks and Rekeying, Mold & Coverage Conditions, Current Drugs of Abuse, Understanding REAC Inspections, Bostonpost Property Manager, Dollars and Sense in Property Management, Utilizing Software Technology to Benefit Your Property, Resident Services in These Changing Times, Energy Conservation, Feng Shui, Sexual Harassment and Domestic Violence, and Walk in My Shoes.

If you want to check out the features of this year's location, Lake Morey Resort in Fairlee, Vermont, you can go to their website, [www.lakemoreyresort.com](http://www.lakemoreyresort.com).

Don't miss out on this year's conference!



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

Do you know someone with an old or inefficient heating system in their home? USDA Rural Development's Repair and Rehabilitation Program may be able to help. Please check the link on our website for the brochure,

<http://www.mrema.org/library.cfm>

or go to

<http://www.rurdev.usda.gov/me/>.

Please pass this information on to anyone who may benefit from it.

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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

My two-year term as President of the Maine Real Estate Managers Association has quickly flown by. It has been a great experience that I will not soon forget.

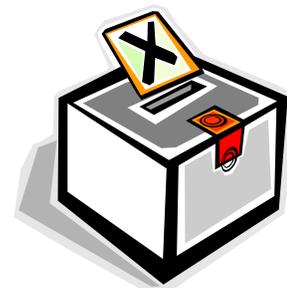
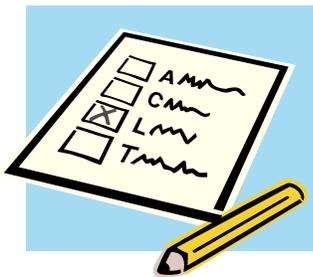
We are only four weeks away from our Third Tri-Annual Tri-State Conference. This partnership with Granite State Managers Association and Vermont Housing Managers Association began in 2002 in North Conway, New Hampshire. After the first Tri-State Conference was over, all three states wanted it to continue every three years. So here we are, getting ready for another successful event where we have the opportunity to network and share ideas with attendees and vendors from New Hampshire and Vermont.

Our annual business meeting will be held on Wednesday, October 29<sup>th</sup> at 8:30 AM at the Lake Morey Resort. Since this is a voting year, the Proxy and Ballot are included in this newsletter. If you cannot attend the meeting, one representative from each company (members only) can cast a vote to elect 11 board members who will serve for the next two years. We appreciate all of the people who allowed us to include their names on the ballot. Please attend this meeting to help select the new Board of Directors and find out what we are working on next.

We also want to thank all of the members who took the time to send in the absentee ballots to approve the changes to the MREMA by-laws. The board worked diligently to update the by-laws to define the officers and board member positions, and further explain the required standing committees. The dues structure was updated and best of all, we increased our board members from 8 to 11. One of them will be an associate member, which we feel will diversify the group and bring a different perspective on training.

As my term draws to a close, I would like to extend my heart felt thanks to those members who gave of themselves so willingly to make MREMA a stronger and more successful organization.

Sincerely,  
Susan



### MREMA Membership News by Cathie Whitney

MREMA Membership totals 97 member organizations, including 73 regular members and 24 associate members. This year, we have welcomed 5 new regular member and 2 associate member organizations.

## Bulk Purchasing and Appliance Replacement Programs

Submitted by Diana Huot

At the request of the Maine Energy Group, MaineHousing has generously agreed to administer a **Bulk Purchasing Program** for the purchase of Energy Star refrigerators. MaineHousing will make available their "bid" price to owners of multifamily housing. As an example of how much you might save under the program, a 15 cubic foot Energy Star refrigerator cost \$410 plus a \$50 fee. This covers delivery and disposal.

Other features:

- ◆ Available state-wide
- ◆ Vendor is Sears; Kenmore Brand
- ◆ Several models (sizes) from which to choose - at least 5
- ◆ No minimum order
- ◆ No income limits for residents
- ◆ Approximately 3 weeks from application to delivery
- ◆ No delivery to islands at this time



The **Appliance Replacement Program** helps low-income people to reduce their energy costs by replacing older refrigerators that are inefficient and expensive to operate. If your residents are low income (LIHEAP eligible), pay their own electric bill, and are using an inefficient,\* owner-provided refrigerator, they may be eligible to receive a FREE Energy Star replacement refrigerator. A recent change in program guidelines allows the owner of the refrigerator to retain the appliance when the resident moves.

\*Inefficient: replacement would save 750 kw per year. Calculate the savings **before** completing the applications (one application per resident!). A nifty, do-it-yourself calculator is available at:

<http://www.homeenergy.org/consumerinfo/refrigeration2/rsearch.php>

For more information(including spec sheets)/applications for both programs contact:

Brad Snell, Energy Specialist  
(207) 626-4639  
[bsnell@mainehousing.org](mailto:bsnell@mainehousing.org)

Thank you Jo-Ann and Brad!



## MaineHousing Update by Robert Conroy, Director of Asset Management

### Affordable Housing Conference

MaineHousing, in partnership with a number of lending institutions and housing related businesses, is organizing and presenting **The 2008 Maine Affordable Housing Conference** on September 29<sup>th</sup> at the Holiday Inn by the Bay, 88 Spring Street, Portland. There are excellent workshops planned, an address from the Honorable Governor John E. Baldacci, a key-note address from Congressman Barney Frank of Massachusetts, and several industry exhibitors. Registration information, the agenda, information about the speakers, carpooling opportunities, and accommodation details can be found at MaineHousing's website at [www.mainehousing.org](http://www.mainehousing.org).

### Electronic Budget Format

In order to make the budget preparation and reporting process easier for our partners who are required to submit budgets, a revised annual budget form has been created. The form was sent out to all owners and managers on August 27 via the Asset Management Notice procedure. The new form is a spreadsheet in Excel format and includes all addendums that must accompany the annual budget submissions. Each addendum can be accessed by a tab at the bottom of the worksheet and a tab has been added that provides narrative for budget variations and explanations.

The form can be found at MaineHousing's website by going to the "Housing Partners" tab in the lower right corner of the Home Page, then by selecting "Downloads" and "Forms". If there are any questions about this new form or the reporting process, please contact Lori Johnson, Financial Officer at [ljohnson@mainehousing.org](mailto:ljohnson@mainehousing.org) or the Asset Manager assigned to a particular property.

### MaineHousing Responds to Proposed Fair Market Rents

The Department of Housing and Urban Development (HUD) released the proposed Fair Market Rents (FMRs) earlier this year and provided a period for comment. The proposed rents allowed an increase of between \$5 and \$7. MaineHousing, in its response to the proposed rents, asked HUD to reconsider the levels due to high fuel costs property owners and managers are experiencing and facing for the coming winter. To view MaineHousing's comments and those of others Housing Partners, go to <http://www.regulations.gov>, click on the search box and search for FR-5223-N-01 under public submissions.



# BANKRUPTCY...

## The Twilight Zone REVISITED

By Neil S. Shankman



One of the most frustrating tasks facing a property manager is getting rid of a tenant. The eviction process is long, convoluted, and frustrating enough to get someone to reconsider their chosen profession.

Through training, experience and working with competent counsel it is usually not a problem to evict someone. However, today we are going to address the intersection of bankruptcy and eviction ...the True Twilight Zone.

When a tenant files a Bankruptcy Petition, he or she is immediately protected by the “automatic stay” of the United States Bankruptcy Code. This protection arises from an Order that is issued by the Court upon filing of the Petition. All entities (creditors, landlords, utility companies, etc.) are prohibited from engaging in any act to collect, assess, or recover pre-Petition claims against the debtor.

As a property manager, you can do absolutely nothing to collect

rent arrearages, surcharges or damages. You may not initiate a collection action through Small Claims or otherwise. You are not allowed to even send a letter or have a polite conversation about any money owing from the past.

Until October of 2005, property managers were even prohibited from proceeding with an eviction that had already been started. This is no longer true. The Bankruptcy Code now permits a landlord to continue to pursue the eviction of a debtor who is a residential tenant if the landlord has already obtained a Writ of Possession prior to filing of the Bankruptcy Petition.

If Judgment has been entered prior to the date the tenant filed his Bankruptcy Petition, but a Writ of Possession has not yet been issued, the process can still move ahead. Unless an appeal has been filed, the Writ of Possession will be issued by the Clerk as originally ordered by the Court.

As with all things related to evictions (and bankruptcy), the process can become more complicated. If the tenant/debtor either asserts a legitimate defense or a right to reinstate the lease under State law, the Writ of Possession can be held up if the tenant deposits with the Clerk of the Bankruptcy Court any rent that would become due within thirty (30) days after filing the Bankruptcy Petition. In order to pull this rabbit out of his hat, the tenant must file a Certificate indicating that “there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment for possession was entered ...and the debtor ...has deposited with the Clerk of Court, any rent that would become due during the thirty-day period after the filing of the Bankruptcy Petition.”

In addition to complying with the requirement to file a Certificate at the time the Bankruptcy Petition is filed, the debtor must also file a second Certificate within thirty (30) days stating that he has paid the money owed pursuant to the tenancy.

If the landlord/property manager disagrees with the claims of the tenant, he can file an objection with the Bankruptcy Court and a hearing must be held within ten (10) days after the objection is filed.

There is a second exception to the automatic stay dealing with evictions based on “endangerment” or “illegal use of controlled substances”. The Bankruptcy Code allows a property manager to proceed with an eviction if it was started before the filing of the bankruptcy case or if the endangerment or illegal use occurred within thirty (30) days before the bankruptcy filing. In either situation, the property manager would be required to file with the Court and serve on the debtor a Certificate setting out the facts giving rise to the exception.

Beyond all of these rules, and in addition to all of the exceptions, the property manager always has the ability to have his attorney file a Motion for Relief from Stay by which you ask the Court to allow you to proceed with an eviction, for good cause, despite the fact that a bankruptcy is pending.

“Good cause” for relief from the automatic stay exists when a property manager can prove that the debtor is significantly in default under a lease, or that the landlord lacks “adequate protection” to prevent future financial loss. Courts have ruled that non-payment of rent for an extended period of time fits within the definition of good cause. Failure to pay rent that is due after the filing date of the Bankruptcy Petition is a major factor the Courts will consider. Behavioral problems that disturb the peaceful and quiet enjoyment of other tenants or neighbors will also be a factor carefully considered by the Bankruptcy Court in determining whether an eviction should proceed or not.

Finally, it is important to keep in mind that the filing of a Bankruptcy Petition deals only with debt arising prior to filing date. Therefore, failure to pay rent subsequent to filing is not protected. Damage to the premises post-filing is not protected. These debts are non-dischargeable. They do not go away.

Log onto our website or blog for more information and articles about Landlord/Tenant issues and to order the updated versions of our “Landlord/Tenant” series of books.

**Shankman  
& Associates**

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**207-786-0311**

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

**Property Management Issues?**

**Evictions & Leases**

**Discrimination**

MAINE REAL ESTATE MANAGERS ASSOCIATION  
*"Promoting Professional Real Estate Management in Maine"*

PROXY

The undersigned representative of \_\_\_\_\_ (company name), which is a paid full member of MREMA, does hereby appoint:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Company

As the proxy with a full power of substitution to vote my interest in the October, 2008 elections for a new Board of Directors for the Maine Real Estate Managers Association. This proxy is for the Annual Meeting on October 29, 2008 and any adjournments, postponements or rescheduling thereof.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2008

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name

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

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone

The members shall vote their ballots, fold them, place in an envelope marked "Absentee Ballot", seal the inner envelope and place this inside the outer envelope and mail to the address below. The absentee ballots will be held until the annual meeting.

**Susan Michaud-Bosse**

c/o PropSys, P.O. Box 660, Lewiston, ME 04243

Phone: (207) 784-0142 Fax: (207) 777-1514 e-mail: [smbosse@midmaine.com](mailto:smbosse@midmaine.com)



**MREMA BALLOT  
BOARD OF DIRECTORS  
2008-2010**

Please cast your vote for eleven (11) Board of Directors for the two (2) year term beginning October, 2008 by placing an “X” on the line in front of the individuals of your choice from the list below.

**PLEASE CHOOSE 10 FROM THIS FULL MEMBERSHIP LIST:**



**NOMINEES:**

- \_\_\_\_\_ Diane MacDonald – Emerald Management
- \_\_\_\_\_ Cathie Whitney – C & C Realty Management
- \_\_\_\_\_ Rosemary Moeykens – Avesta Housing
- \_\_\_\_\_ Margaret O’Connell – Preservation Management
- \_\_\_\_\_ Sheila Malynowski – Preservation Management
- \_\_\_\_\_ Wendy Ward - PropSys
- \_\_\_\_\_ Sara LaBrecque – LaBrecque Property Management
- \_\_\_\_\_ Gary Crowell – Stanford Management
- \_\_\_\_\_ Sharon Pray – SHP Management
- \_\_\_\_\_ Denise Paradis – Hallkeen Management, Inc.
- \_\_\_\_\_ Sherrin Vail – Avesta Housing
- \_\_\_\_\_ Judy Smith – Coastal Enterprises
- \_\_\_\_\_ \_\_\_\_\_ (write in)

(over please)

**YOU MAY CHOOSE ONE FROM THIS ASSOCIATE MEMBERS LIST:**



**NOMINEES:**

- \_\_\_\_\_ Robert Conroy – MaineHousing
- \_\_\_\_\_ Kelly Campbell – Northern New England Housing Investment Fund
- \_\_\_\_\_ Joseph Calise – Calise Consulting
- \_\_\_\_\_ \_\_\_\_\_ (write in)

\_\_\_\_\_   
 print name (eligible voter)

\_\_\_\_\_   
 signature

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