

Maine Real Estate Managers Association



WWW.MREMA.ORG

Summer, 2011

MREMA Update - Mark Your Calendars

August 9 - 10, 2011

AJ Johnson will be in Portland for 2 days of training. Day one will cover HUD Project-Based Section 8 and Rural Development 515 program requirements. The session will detail changes created by Change 3 to the HUD 4350.3 with explanations when HUD and RD requirements differ. Topics will include rent rules, resident eligibility, income restrictions, and recertification requirements with an expanded discussion on the Affirmative Fair Housing Marketing Plan, civil rights and no discrimination requirements, waiting list and tenant selection, occupancy and lease requirements.

Day 2 will cover LIHTC management requirements and is designed for more experienced managers, supervisory personnel, investment asset managers, and compliance specialists. Topics will include an in-depth discussion of income and asset verification as well as discussion of minimum set-aside requirements, optional fees and use of common area, the Available Unit Rule, and units occupied by students.

October 17 - 19, 2011

Crossing the Line, a combined conference of the Maine, Vermont, and New Hampshire Housing Managers Associations, will be held at The Balsams Grand Resort Hotel in New Hampshire's scenic White Mountains. Keynote speaker Meagan Johnson, with The Johnson Training Group, will help us "Zap the Gap" in navigating the challenging multi-generational workplace and marketplace that we deal with every day. Training sessions throughout the three day conference will include:

- + Employment Law for Managers
- + Building Harmony with Elderly & Disabled Residents in Your Affordable Housing Community
- + Stop Me Before I Strangle Someone
- + A Roadmap for Multi-Family Housing Energy Affordability
- + How to Manage Multiple Subsidies
- + The New Affirmative Housing Marketing Plan

Watch www.MREMA.org and your e-mail for registration information.



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If you have comments, ideas, or suggestions, please email WWard@midmaine.com.

MREMA Membership News by Cathie Whitney

MREMA is 125 member organizations strong! We have 90 Regular Members and 35 Associate Members. So far this year, we brought in 5 new Regular Members and 5 new Associate Members. *Welcome to our new Regular Members The Pines, Sweetser and Bangor Housing Authority as well as our new Associate Members Bath Fitter and Sherwin-Williams.*

Remember that every member is listed online at www.mrema.org and that you can include a brief business statement about your organization as well as contact information and a link to your website. As Membership Chair, I also try to keep the MREMA email distribution list up to date.

If you have any changes just let me know and we'll circulate the updated information to the board and committee members responsible for quarterly meeting registrations, membership newsletters, legislative updates, training opportunities and general announcements. If you have any edits, feel free to email the information to cwhitney@ccrealtymanagement.com.

Affirmative Fair Housing Marketing Community Contacts

Diana Huot, Senior Project Manager, U.S Dept of Housing & Urban Development will be providing training at the 2011 Tri-state Conference on the updated AFHMP. In conjunction with this, she would like to update the spreadsheet of community contacts for those demographic groups that are least likely to apply. If you haven't made use of this spreadsheet, you can find it on MREMA's website, http://www.mrema.org/documents/AFM_ListSortCounty.xls. If you have changes to existing contact information, or new contacts you've made, please e-mail this information to mailto:Diana_Huot@HUD.GOV.

MREMA Board Members and Committee Chairs 2010-2012 Term

Mike Myatt - President, Web-site Chair, Toys for Tots Auction Co-Chair

(mmyatt@bangorhousingauthority.org)

Sara LaBrecque - Vice-President (lp375@myfairpoint.net)

Sherrin Vail - Secretary (svail@avestahousing.org)

Diane MacDonald - Treasurer (macdonaldd@emeraldmanagement.biz)

Susan Michaud-Bosse - Ex-Officio, Convention Chair (smbosse@midmaine.com)

Cathie Whitney - Membership Chair (cwhitney@ccrealtymanagement.com)

Sheila Malynowski - Education Chair (smalynowski@presgmt.com)

Kelly Campbell - Toys for Tots Auction Co-Chair (kcampbell@housinginvestmentfund.org)

Gary Crowell (gcrowell@hmrproperties.com)

Tami Exchange (texchange@westbrookhousing.org)

Sharon Pray (spray@shpmanagement.com)

Mike Sprague (island@hmrproperties.com)

MaineHousing Update

By Robert Conroy, Director of Asset Management

EIV-Beyond the Theory to the Practical Training - May 24, 2011

MaineHousing is pleased to announce the tremendous success of the EIV training which was co-sponsored by MREMA, MaineHousing and NEAHMA. There were approximately 140 owners, managers, and MaineHousing staff present for this one day training. The presenters from Mahoney Properties: Debbie Piltch; Michelle Prunier; Melissa Rodrigues; and Nicole Scott; were excellent and the training materials provided were very valuable. The evaluations from the event were extremely positive. Many thanks to all who made this event such a resounding success!

Staffing Changes in MaineHousing's Asset Management Department

After 32 years of dedicated service, Joyce Achramowicz retired from the position of Senior Financial Officer on May 30, 2011. Over her many years at MaineHousing, Joyce served in a variety of capacities. In recent years she worked directly with owners, managers and developers regarding insurance coverage, audited financial statements, annual operating budgets, and other finance related activities. Joyce will be greatly missed.



Rural Development Update

By Robert Nadeau, Multi-Family Housing Specialist

Multi-Family NOFAs

The Notices of Funding Availability (NOFA) will be out "soon" according to the Rural Development national office. As many of you know, the NOFAs are significantly behind schedule this year due to the extraordinary budget negotiations that took place with respect to the fiscal year 2011 budget. Soon RD will be publishing NOFAs for the Multi-Family Preservation and Revitalization (MPR) program, Section 515 new construction, Housing Preservation Grant, and section 514/516 Farm Labor Housing new construction. Earlier in the year the Preservation Revolving Loan Fund was published and Maine was pleased to receive funding for one of the four applications selected nationwide in the amount of \$700,000. Once the NOFAs are published program notices will be sent out.

New Income Guidelines

HUD has released the new income guidelines. Typically there is some time lag between HUD's announcement and RD's adoption of the income guidelines as Rural Development must go through an administrative review process before adopting them. We have been advised by the Rural Development national office that the new income guidelines will be announced effective July 1, 2011. Once the new income guidelines are available they will be posted to the MINC webpage. To access the new guidelines, visit the MINC webpage at:

<https://usdaminc.sc.egov.usda.gov/>

We will also send out a program notice once they are posted to remind everyone.

RA Funding for 2012 and Implications on the Program

There are many budget proposals pending that indicate there is a strong possibility there will be some form of cut in rental assistance funding for fiscal year 2012. While we do not know what the final budget numbers will be, and if and how much the reductions would thus be, the Rural Development national office is developing contingency plans to address any reductions in RA funding. Examples include altering the timing of RA renewals to stretch funds further, and permanently retiring RA from liquidations and prepayments rather than transferring them to other properties as we have in the past. We will keep you posted as these policies are implemented.

Rural Development Issues Unnumbered Letter (UL) dated 5/18/11

The subject UL provides an overview of Rural Development guidelines to focus on the growing number of defaulted/troubled properties within the nationwide portfolio. Rural Development uses a loan classification system to identify non-performing, aka, troubled properties. The classification system ranks project on an A, B, C, D basis with A properties being the strongest and D properties deemed "troubled".

In Maine the breakdown of the portfolio as of 6/15/11 is:

Class A	Class B	Class C	Class D
172 projects	17 projects	147 projects	7 projects
50.15 %	4.96%	42.86%	2.04%

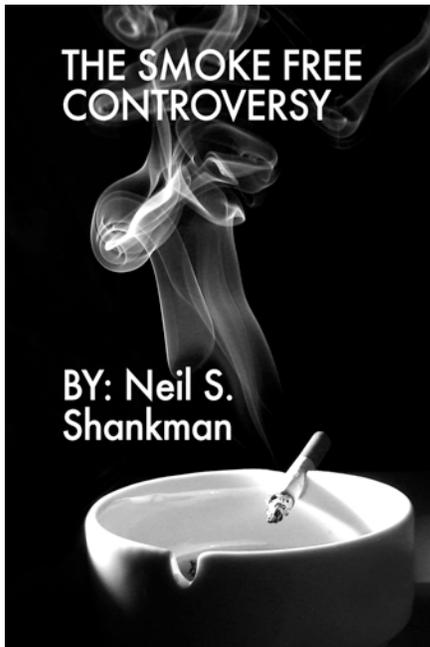
While Maine presently does not have a large number of properties in the D classification, there are a growing number of C classified properties that are in jeopardy of becoming D properties. Maine Rural Development will be looking at utilizing the servicing authorities described in the subject Unnumbered Letter. For a full copy of the Unnumbered Letter please visit the Rural Development website at:

<http://www.rurdev.usda.gov/SupportDocuments/ulmay11.pdf>

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 Apartments for Rent, then the state and county you wish to look at.



One of the biggest controversies currently facing landlords and property managers is the balancing of the rights of smokers who smoke tobacco, and non-smokers who want to be protected from the effects of second hand smoke. Can you establish a "non-smoking" policy for a building when your tenants began their tenancy with the freedom to smoke? While there is an inherent risk in every decision for change, the fact is that you are more likely to be exposed to liability by permitting smoking.

Generally speaking, the common areas of buildings must be smoke free pursuant to Maine's Public Place Smoking Law, Title 22 M.R.S.A. §1542. There is nothing in the law that requires a landlord to forbid tenants from smoking in their apartments. But what happens when the smoke from one unit spreads into the hallway, or into the unit of another tenant?

The Americans with Disabilities Act and the Federal Fair Housing Act both enable individuals with disabilities to seek a "reasonable accommodation". A tenant who has a breathing disorder may use either law to bring legal action against a landlord for not making "reasonable accommodations" to protect them from secondhand smoke in common areas of the building. This would include the consequences of seepage between apartments.

The Maine Human Rights Act prohibits discrimination in housing on account of physical disability. The definition of discrimination includes "the refusal to make reasonable accommodations" in rules, policies, practices or services when those accommodations are necessary to give an individual equal opportunity to use and enjoy a rental unit.

While there have been no reported cases in the State of Maine, there have been lawsuits filed in other jurisdictions pursuing claims against landlords, who permit smoking. Areas of liability have included breach of the covenant of quiet enjoyment, negligence, nuisance, breach of the warranty of habitability, battery, intentional infliction of emotional distress, negligent infliction of emotional distress, trespass and constructive eviction.

In 2011 the Legislature enacted a law requiring landlords to disclose their policy pertaining to smoking on the premises to all tenants or potential tenants. Landlords are now required to provide notice as part of their lease agreement or through a separate written notice to those tenants or potential tenants entering into a tenancy at will agreement. The landlord is required to "obtain a written acknowledgment of the notification of the smoking policy" from the tenant or potential tenant. If you have a written lease, the tenant's signature on that document will be sufficient. If you are dealing

with a tenancy at will situation, then a separate acknowledgment must be signed. Title 14 M.R.S.A. § 6030-E. Note that failure of a landlord to provide the disclosure does not create a right of the tenant to sue the landlord. Furthermore, a violation of the smoking policy by another tenant cannot be the basis for suing one's landlord.

Your ability to change rules will be determined by the terms and conditions of your lease. If there is a provision authorizing you to change the rules upon thirty days' notice, then that is all you have to do. If the lease is written in such a way that it is nothing more than a month-to-month tenancy, then you must give a minimum of thirty days' notice of a "New Contract" which would essentially be your old lease with a new provision. If there is no written document, then you are dealing with a tenancy at will situation. Under those circumstances you would have the right to change the terms and conditions of the tenancy upon thirty days' notice (again, essentially creating a new tenancy).

In dealing with public housing, or other subsidized housing, you may add a non-smoking provision to the lease at any time it is renewed. If you are dealing with a Public Housing Authority, make sure the change is approved by them in advance.

For those landlords who want to get more creative, you have the option of establishing a non-smoking policy for new tenants, while allowing existing tenants to continue to smoke in their units. The key to all of this is making sure that any change in policy has been properly noticed to all affected individuals.

The law is quite clear at this point. Landlords in Maine have the right to prohibit smoking in their buildings. The only issue is whether the change in the lease terms or building rules has been done properly...with proper notice and in full compliance with the applicable contract and/or applicable Federal or State regulations. The right to smoke is not protected under the law. As long as the policy is not used to target a protected class or minority, smoking restrictions (or prohibitions) are legal and binding.



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