

# Maine Real Estate Managers Association



[WWW.MREMA.ORG](http://WWW.MREMA.ORG)

Winter, 2011

## 2011 Toys for Tots and Teens Campaign

On Friday, December 2<sup>nd</sup>, more than 130 people gathered for MREMA's annual Toys for Tots and Teens Fundraising Auction. Kelly Campbell reports that the fundraising total for MREMA's 2011 Toys for Tots and Teens campaign - thanks to the generosity of our sponsors, our membership, the MREMA organization and invited guests to the annual event this year - is \$29,365!!

We were told, as of December 7<sup>th</sup>, that MREMA was the TOP fundraiser in the state. Our donation to the Marines' Toys for Tots campaign will help make Christmas memorable for more than 1,000 children in Maine. In addition, participation in MREMA's giving tree provides Christmas presents to 11 group homes throughout the state.

We'd like to recognize Hays Companies, our primary sponsor for the event, and our corporate sponsors: Avesta, Emerald Management, Curtis Thaxter, Otis Atwell, Preservation Managements, PropSys, Spectrum, and Westbrook Housing.

Special thanks go to all the Toys for Tots & Teens committee members who helped make this year's campaign such a huge success: Kelly Campbell, Bob Chandler, Amy Dwyer, Tami Exchange, Sara LaBrecque, Diane MacDonald, George McCrillis, Susan Michaud-Bosse, Don Bosse, Mike Myatt, Joe Murphy, Sharon Pray, Deb Shangraw, Mike Sprague, Melinda Whittaker, and Honorary member Brenda Cole.

## Seasons Greetings



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If you have comments, ideas, or suggestions, please email [WWard@midmaine.com](mailto:WWard@midmaine.com).

## MREMA Membership News by Cathie Whitney

MREMA is 133 member organizations strong! We have 92 regular members and 40 associate members. This year, we welcomed 6 new regular members and 9 new associate members.

Remember that every member is listed online at [www.mrema.org](http://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](mailto:cwhitney@ccrealtymanagement.com).

## MREMA is Updating Advertising Opportunities for Partners, Vendors & Contractors

MREMA's website is located at [www.mrema.org](http://www.mrema.org). A vendors page is being developed for advertising and will be located at [www.mrema.org/vendors](http://www.mrema.org/vendors). A drop-down box will provide a list showing various vendor categories including accounting/auditing, banking/financial services, building services/construction, consultants/general, energy/fuel, grounds services, housing industry partners, laundry/vending, legal resources, pest control, software, tenant screening. When visitors to the site select a category, the page will refresh to show those organizations advertising under the selected category.

Ads include space for organization information including name, address, telephone/fax, email and/or website link. Across from the general organization information you'll be able to show a 300x250 pixel sized image that would show across approximately one-quarter of the screen (actual size will depend on viewer's screen resolution). The space will accommodate images provided by the advertiser, including business card formats. MREMA can assist an advertiser with creating an image for their ad on the website. Images can be accepted in formats: .jpg .pdf .gif .png .bmp .tif. MREMA can arrange assistance with creating an image; there will be charge of \$60.00 for a basic graphic.

Associate Members benefits already includes a listing on MREMA's Membership <http://www.mrema.org/listing.cfm>. For an additional \$50/year, Associate Members may also arrange to have their ad on the MREMA Vendors page. These ads will show January - December.

Annual Conference Exhibitors or Sponsors at the \$500 or greater level may arrange an ad on the MREMA Website at no additional cost. These ads will show from fall conference to fall conference.

All other partners, vendors and contractors may arrange an ad at a cost of \$250/year, with ads running from January to December.

For more information about advertising on MREMA.org, please contact [info@mrema.org](mailto:info@mrema.org) or [membership@mrema.org](mailto:membership@mrema.org)

## MREMA Board Members and Committee Chairs 2010-2012 Term

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

([mmyatt@bangorhousingauthority.org](mailto:mmyatt@bangorhousingauthority.org))

Sara LaBrecque - Vice-President ([lp375@myfairpoint.net](mailto:lp375@myfairpoint.net))

Sherrin Vail - Secretary ([svail@avestahousing.org](mailto:svail@avestahousing.org))

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

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

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

Sheila Malynowski - Education Chair ([smalynowski@presmgmt.com](mailto:smalynowski@presmgmt.com))

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

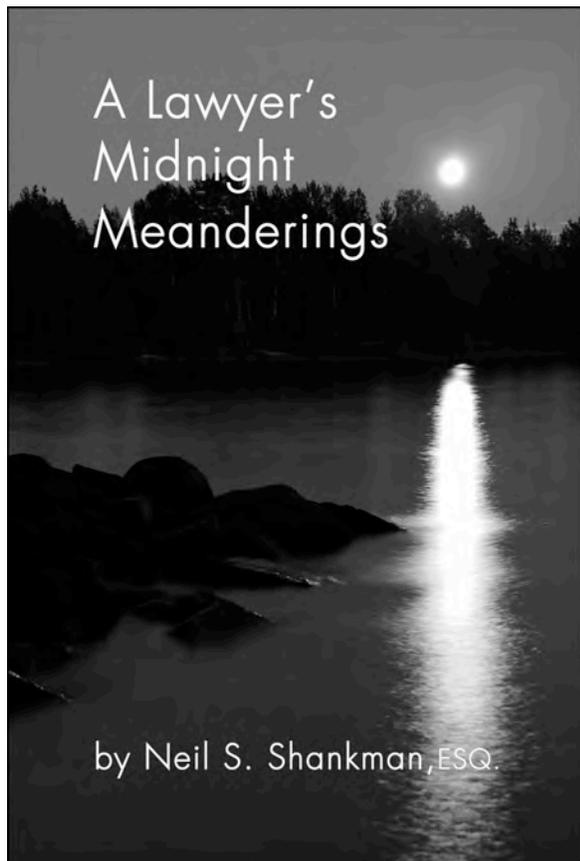
Gary Crowell ([gcrowell@porthouse.org](mailto:gcrowell@porthouse.org))

Tami Exchange ([texchange@westbrookhousing.org](mailto:texchange@westbrookhousing.org))

Sharon Pray ([spray@shpmanagement.com](mailto:spray@shpmanagement.com))

Mike Sprague ([msprague@spectrumlihtc.com](mailto:msprague@spectrumlihtc.com))





## **Enforcing the Law**

So many issues; so little time. There are too many challenges facing landlords and property managers and too much frustration just trying to get the law enforced. Even when the statutes are on your side, you still need to jump through the proper hoops in order to get your rights protected and the law enforced. Here are three of the issues that are driving my clients crazy.

### **ENFORCING CRIMINAL TRESPASS NOTICES**

Like it or not, some tenants are going to have “problem guests”. Title 17-A M.R.S.A. §402 defines criminal trespass as the act where someone enters a place in defiance of a lawful order not to enter that location ... so long as the person being charged had been directly informed that they had no right to be there. The process is relatively straight forward. The landlord has the right to issue a Notice of Criminal Trespass. It can be served by either an owner, agent, deputy sheriff or constable.

The notice advises the individual that they are no longer welcome on the premises and if they are observed on the property again, you will have them arrested for trespassing. Copies of the notice should be given to the local law enforcement agency. While the tenant may have exclusive use and occupancy rights to an apartment or mobile home lot, they do not exercise control over common areas. Therefore the landlord or property manager has the right to bar from those areas any individual that they wish.

The law is clear. The problem is that even if you get a police officer or deputy sheriff to serve the notice, they will not necessarily enforce it. In fact, enforcement varies from town to town and county to county. While some agencies accept the fact that the landlord or property manager has the right to exclude certain individuals from the premises, others view the issue as a “civil matter” that should be resolved through a lawsuit. While you continue to have the right to evict the tenant who has a “problem guest”, both the time and expense are sometimes greater than the more logical and expedient solution of issuing a Notice of Criminal Trespass.

One way to increase the likelihood of enforcement is to include a provision in your lease by which the landlord or property manager has the specific right to bar from the premises any visitor who is causing a nuisance or other problem.

## **ENFORCING THE EVICTION JUDGMENT**

When evicting a tenant, even after the proper notices have been given, the complaint and summons have been served, the hearing has been held, and a judgment has been issued, there are still more challenges (depending on which county your property is located in). Seven days after the judgment is entered, a Writ of Possession is required to be issued by the court upon request. This document then has to be served on the tenant in order to facilitate their removal. The writ is served by a deputy sheriff or constable and the tenant then has 48 hours from the time of service to vacate the unit. If they fail to vacate, they are deemed a trespasser without right. At that point, the tenant can be arrested for criminal trespass. Constables lack the authority to make an arrest, but deputies and police officers can and should enforce the law.

While some officers claim that the removal of a tenant after service of a Writ of Possession is a civil matter, a number of judges have been responsive to requests for supplemental orders requiring “arrest for criminal trespass” if a tenant is uncooperative. As soon as the Writ of Possession has been served and the 48 hours has elapsed, the tenant has no greater right to be sitting in that unit than I do to be sitting in your living room without an invitation.

## **ENFORCING THE BEDBUG LAW**

Let us start with some basics about the Bedbug Law. In 2010 the Legislature enacted a statute. The following year they “fixed it”. We have written a number of articles addressing both the law, and a recommended disclosure form. The articles can be located in prior issues of your newsletters and at our website @ [www.shankmanlegal.com](http://www.shankmanlegal.com).

The question to be considered today is how do we address enforcement of the law? When the landlord or property manager complies with the law, brings in a pest control agent, and recommendations/instructions are made as to exactly what needs to be done, what do you do when the tenant refuses/fails to cooperate? While an eviction is sometimes a possibility, many Lease Agreements do not include appropriate provisions to address this particular issue. Furthermore, as everyone knows, the eviction process usually takes anywhere from 3 to 6 weeks. During that duration, the bedbug infestation can spread substantially and remedies become far more expensive.

If a tenant fails to provide reasonable access, or fails to comply with reasonable requests for inspection or treatment, or if the tenant otherwise unreasonably fails to comply with the requirements of the law, the landlord or property manager can seek a Protective Order pursuant to Title 14 M.R.S.A. §6030-A. Maine law provides that if a court finds that the tenant unreasonably failed to comply with the bedbug law, the court is authorized to issue a temporary order, or an interim order, pursuant to Title 5 M.R.S.A. §4654, the Protection from Harassment statute. Under that law, the court is authorized to grant the landlord or property manager access to the premises, allow him to engage in bedbug control measures, and require the tenant to comply with specific measures, or if the tenant fails to comply, assess him with costs and damages related to the tenant’s noncompliance.

Any emergency order granting the landlord or property manager access to the premises must be served upon the tenant at least 24 hours before the landlord or property manager enters the premises.



Neil S. Shankman. ESQ.

Note that as of this time, there are no reported cases that would establish an effective protocol, procedure or precedent. There is a learning curve for the judges and the clerks. At this point there appears that at least some courts are requiring affidavits to be submitted along with the underlying complaint. All of these issues need to be discussed with your lawyer.

**For more information about any of the issues discussed in this article, please log onto our website at [www.shankmanlegal.com](http://www.shankmanlegal.com) or call us at 786-0311.**



Landlord/Tenant Law can be confusing.  
We can help, we wrote the book. Call us today.



**Shankman  
& Associates**  
LEGAL CENTER

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