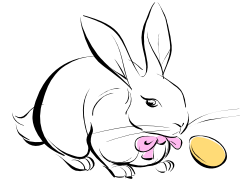


JALA NEWS

Jackson Area Landlords Association



Volume 18/Number 4

April, 2012

EVERY YEAR THE MARCHERS GO BY

By Robert F. Tulloch

Every year as we approach the 4th of July, my mind wanders back to the celebration of our independence from Great Britain and the oppressive nature of our relationship to the King. The Revolutionary War, lasting some eight years, from 1775 through 1783, was significant in the annals of modern history. The militias of the various states comprised of farmers and merchants armed individually with their own weapons, contributed significantly to the ultimate victory. A British General was heard to say that were it not for the individual patriots each with his own weapon, the Brits would have won the war. He was appalled that individuals could possess and own weapons used to protect themselves. Thus is the origin of the 2nd Amendment of the as yet undeveloped U.S. Constitution.

It has been many long years since we cast off the yoke of tyranny in the world's only successful revolution that guaranteed the freedoms and liberty we enjoy today. Our Constitution, the Bill of Rights, and a unique legal system has preserved these rights and liberties that facilitate our ownership of private property and that protect us against the excesses of petty tyrants whether at the federal, state, or municipal level. Which brings us to what it was all about. Europe was ruled by monarchs who possessed ultimate power derived from "God" over all the citizens. The elite aristocrats in these societies possessed all the power and land and "the people" were as slaves, beholdng to the "landlords" for their everyday existence. The colonists who came to America knew they wanted something else, both the educated elite, and the indentured servants as well as free men. When the oppression of the crown became unbearable, they rose up and declared a new form of government that the world had never seen before. Today we enjoy those freedoms bought by our forefathers with their blood and treasure. And thus, we arrive at a little non-descript berg in the middle of southern lower Michigan where an elected government appears to not be acting in the best interest of the citizenry.

The 1st Amendment to the U.S. Constitution guarantees to the citizens not only freedom of speech, but the freedom to assemble and petition our government to redress our grievances. The 14th Amendment made those rights available to all citizens through the various states and thence to local governments (such as that here in Jackson Michigan). The supreme court (one of the three branches of government designed by the founding fathers to protect us from the tyranny of either of the other two branches of government) has assured us that the right to political assembly and association along with the right to petition our government are guaranteed by the 1st Amendment, and that impediments thrown up in the way of the citizens in-pursuit of these rights are unconstitutional.

Every Year.....Continued On Page 6

IMPORTANT REMINDER:

Please pay your membership and credit reporting dues in a timely manner!
JALA depends on your dues to pay its monthly expenses, so please pay on time, just as you would expect your tenants to do!

We look forward to receiving former members back!!!

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ATTENTION!!!

THE NEXT JALA GENERAL MEETING WILL BE HELD ON MONDAY, APRIL 23, 2012.

THE MEETINGS ARE HELD AT STEAK'S EATERY AND BEGIN AT 5:15 P.M. FOR DINNER; THE SPEAKE WILL BEGIN AT APPROXIMATELY 6:30 P.M.

PRESIDENT'S MESSAGE

Robert Tulloch

Wow, what a setback! My garden is now rototilled, and I was getting ready for some painting thinking spring had sprung and wham...cold weather returns!!! It was the warmest March on record, but we are still in Michigan!

On page 8, we are trying to give you a rundown on where the City of Jackson is going with all the additional costs and fees and what we are attempting to do in response to that as an association. We all want a cleaner, more dynamic Jackson with no blight, no run down residences, a place where folks would like to move (if there were jobs), etc. It will take lots of money that the City of Jackson does not have to accomplish all the things the new Jackson management has in mind. Reallocation of existing funding/grants and filling the void left with funds from additional sources is the game plan. Unfortunately, we as landlords, are the targets.

JALA formed a "steering committee" to decide on what course of action we should take. We are working on a list of questions to be presented to the Community Development Coordinator (Patrick Burtch) in advance of the May 21, 2012 JALA General Meeting and presentation of the updated "Economic Stabilization Plan".

Please try to bear with us and hold off on your own personal questions until all the issues presented by the steering committee are completed. We would rather not have that effort diluted by random questions from the floor diverting the topics of discussion.

ANNOUNCEMENTS!

JALA Web Site:

www.jala-mi.org

Credit Reports are available through the JALA Office or directly using software for the members that have met the current criteria set forth by TransUnion, LLC and JALA.

A credit report is your first line of defense! Arm yourself wisely!!

JALA OFFICE HOURS

Monday
9:00 a.m. to 5:00 p.m.

Wednesday
9:00 a.m. to 2:00 p.m.

Friday
9:00 a.m. to 2:00 p.m.

Welcome New Members:

Bob Bruton
Bill Kistka
William/Tanya Padgett

If you have questions about landlording, you may call/email JALA Attorney, Adam Howard (788-9055/ aeh@aehlaw.com) for assistance.

You may also contact JALA President Robert Tulloch (596-2592/ contact@jala-mi.org) for answers to your questions.

FOR YOUR INFORMATION:

Editorials and/or articles in this newsletter are the opinion of the author and do not necessarily reflect the policies or positions of JALA.



Equal Housing Opportunity



CALENDAR OF EVENTS

JALA General Meeting
Steak's Eatery
Monday, April 23, 2012
5:00 PM (Dinner)
6:30 PM (Speaker)

JALA General Meeting
Steak's Eatery
Monday, May 21, 2012
5:00 PM (Dinner)
6:30 PM (Speaker)

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Senator Mike Nofs (19th Dist.)
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PO Box 30036
Lansing, MI 48909

Sen. Randy Richardville (17th Dist.)
P.O. Box 1631
Monroe, MI 48161
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MEMBER SUPPORT

If you need advice regarding any of your rental properties, please feel free to contact **Robert Tulloch (JALA Board President)**. Bob is generally available to answer your questions in a quick manner (517-596-2592) or you may email him at the following address: contact@jala-mi.org.

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**THE LANDLORDS
 FIFTH SENSE**

By Robert L. Cain, Copyright 2010, Cain Publications, Inc.

I was just reading parts of Attorney Tom Moorhead’s excellent book, *Owner’s Manual for Landlords and Property Managers*, when I came across this great point. “With all the valuable information that you will be receiving on your rental application, why would you ever not give someone a rental application?” Many landlords dismiss applicants out of hand because the landlords have a “fifth sense” about the quality of applicants due to these landlord’s lengthy experience in the business.

It’s a fifth sense because it doesn’t quite make the grade of a sixth sense and is wrong at least one out of six times. Attorney Moorhead points out that many landlords decide on the spot, for example, that someone is “too young,” that is, under 18, and thus unable to enter into a contract, so never offer an application. That is in spite of the fact that someone being underage would become immediately apparent in the screening process such as when the landlord looks at the picture identification of the applicant. Here’s my point. We can’t tell by looking, only by screening. Bad tenants are past masters at appearing to be outstanding, upstanding citizens because they rely on landlords assuming that appearance is everything, and are masters of finding new places to live since they have to do it so often. But, we can cut their evil plans off at the knees; the best way to get rid of a bad tenant is to hand him or her a rental application that contains the language “We carefully screen all applicants.”

Landlords may dismiss some truly outstanding applicants out of hand simply because they don’t meet some preconceived landlord prejudice.

Suppose, for example, that a construction worker is on his way home from work and sees a for-rent sign, drives by the property, notices the landlord is there, and knocks on the door? This man doesn’t do too well dealing with the public, but is great at construction work. He doesn’t even talk a good line and stammers when he says why he stopped.

Mr. “knows-instantly-the quality-of-an-applicant” landlord takes one look at his clothes and outside at his work truck that could use some washing, and immediately acts as if this prospective tenant is imposing on him. This prospective tenant has worked for the same company for five years, was just promoted to supervisor, earns in excess of \$50,000 a year, and drives a late-model, paid-for Toyota Camry on weekends.

In addition, he has lived in his current home for seven years and never been late with the rent. But the landlord could tell just by looking that this prospective tenant was unqualified. He never offers an application.

Later that same day, another prospective tenant is driving down the same street on his way back from some nefarious activity and sees the same for-rent sign.

This man is well-dressed and is driving a new Lexus that is about to be repossessed by the finance company because he hasn’t made a payment for three months. He has

to park several blocks away from his current home so the tow truck driver can’t find the car. He also has to sneak into his apartment because he hasn’t paid any rent lately. He has been too busy trying to impress people with his free drinks and meals while he tries to suck them into his latest scheme. He strides into the property full of self-confidence, wearing his \$1,000 suit and Hugo Boss shoes, smiles, introduces himself, and compliments the landlord on a “beautiful property.” He adds that he “could really feel at home in a place like this that is maintained so well”, since he wouldn’t live in just any rental home. After all, his home has to be one that fits his carefully crafted public facade. With his fifth sense, Mr. “knows-instantly-the quality-of-an-applicant” landlord takes one look at the prospective tenant and knows that this would be a wonderful person to have living in his property.

He thinks about offering an application, but decides against it for fear of driving off a potential, platinum-quality tenant by doubting his quality. In fact, he asks this applicant, “when can you move in?”

As I pointed out above, the best way to get rid of a bad tenant and to entice a good tenant is to offer an application with the words “we screen applicants carefully” somewhere toward the top.

The most successful landlords do screen every applicant carefully, no matter how “good” or “bad” they first appear and offer each person who looks at the property an application!



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**USE CAUTION WHEN
 TRANSFERRING SERVICES AND REQUESTING A
 "FINAL READ" FROM
 CONSUMER'S ENERGY**

By Mike Naegele, Saginaw, Michigan Landlords Association Member

Just recently, I rented a unit that had been vacant for eight months. Two days prior to the tenant's (her) move in date of January 6, 2011, I called Consumer's Energy to give them the new tenant information along with the request to have the utilities start in her name on January 6, 2011. They complied with my request, telling me I would get a final bill that would be an "estimate" for the utility usage for the final month. Up until now, I always thought it was an estimate based on the gas and electric I was using to maintain the "vacant" house which was plus or minus \$40 per month. When receiving a final bill for over \$220, and choking on my morning coffee, I did some investigating and found out that when Consumer's does a final, they do not go and read the meter if it is not their scheduled time to do so, and the estimate is based not on the "vacant" month(s) prior, but the month a "YEAR" prior. In other words, they gave me a bill "estimated" on the utilities used while it was occupied by the previous tenants during December 11, 2009 to January 5, 2010 and the "amount they used"! To avoid this, make sure that very day or shortly thereafter, you do your own meter read on electric and gas. This means to write down starting from left to right on each meter where the dials are, and what numbers they are between or closest to. Make sure to have this information ready when you call Consumer's and let them know you have it. On the very day I discovered this (which was about a week after the unit was occupied), I went to the unit that day and called Consumer's from my cell phone and gave them the current meter reads as of that day, and on the spot they gave me a major adjustment. I will never forget to do my own meter reads when stopping, starting, or transferring utilities again!

Reprinted from the SLA NL,
 MI, March, 2011



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**ONLINE COMMENT
 SPARKS LAWSUIT**

The Internet can seem like an open forum for people to rant and rave. But more and more, individuals are being held to account for what they write. A Chicago realty company sued a tenant this summer for \$50,000 after she wrote online that her apartment was moldy.

Another blogger was ordered to pay \$1.8 million after calling someone a "failed lawyer."

A suit filed by a chiropractor who received a negative review online was settled out of court.

Many of us rely on Web reviews for honest feedback about everything from restaurants to electronics to doctors. But when does opinion cross the line into libel?

"People have the right to free speech," explains Matt Zimmerman, senior staff attorney at the Electronic Frontier Foundation, which defends digital rights. "But they've never had the right to defame someone. They still don't."

The general rule is that you CAN be held responsible for providing false statements that hurt someone's reputation, whether you post them online, publish them in a newspaper, or whisper them at a cocktail party.

If you want to write a negative review online, your best bet is to stick to the facts of your experience without drawing conclusions about a person's character. "If you say you didn't like someone, that's fine," says David Miranda, an intellectual property attorney. If you say you think he's an embezzler and he's not, you've gone too far."

Reprinted From The REIA NL, MI
 October, 2009

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Every Year.....Continued From Page 1

As landlords and property owners in the City of Jackson, we have a vested interest in what actions the City takes to provide for the common welfare. If someone isn't a Jackson City resident, we are denied the vote on issues directly affecting us, our businesses, and the taxes levied against us. Unfair as this may seem, "one man, one vote" is the rule nationwide and is designed to prevent undue influence and power from accumulating in the hands of a few. However, the constitution does guarantee us a voice. We can collect signatures and place measures on the ballot to overturn ordinances we feel treat us unfairly and in a discriminatory manner. All we need do is collect sufficient signatures and convince voters that the changes are for the good of the city. Through this process we can take control! The elected city council cannot void or override ordinances or city charter amendments passed on by the electors of the city. The only impediment to this process reared its ugly head in the recent referendum effort meant to stay the implementation of the "Rental Registry" Ordinance and put it to a vote of the people. The City Charter Section declaring the "right to initiative/referendum" contains restrictions which interfere with the ability of the citizens of Michigan to exercise their political rights guaranteed by the 1st Amendment. These unconstitutional provisions are being challenged and the City of Jackson will be stopped from applying them. Many of us can't vote in the city, but we will certainly have a voice in the political process. And that folks, is what the revolution was about and why we celebrate the 4th of July every year. Unfortunately, most of us don't know why!

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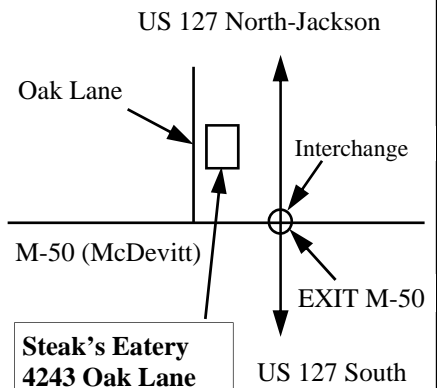
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The next general meeting will be held Monday, April 23, 2012. The speaker will be Jenny Rivera, a CPA that works for the Lally Group here in Jackson. Tax season may be over for now, but now is the time to be asking questions in preparation for next year!!!





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MARCH GENERAL MEETING UPDATE: 12TH DISTRICT COURT JUDGE JOE FILIP

The speaker at the March JALA General meeting was our own 12th District Court Judge, Joe Filip. Judge Filip started the meeting making three important points that every landlord must follow:

1. Everything in a written lease.
2. Everything in a written lease and,
3. Everything in a written lease.

That said, everything should be in a written lease! The lease is a legal contract. Only those items spelled out on the lease will be considered. Adding stuff verbally later onto the lease is unacceptable. How can a court make a finding when there is a dispute based on "he said/she said"?

One of the areas that came to light is occupancy. Who did you actually rent the apartment to? Frank? Frank and his girlfriend? Frank and Bertha and her eight kids and three cousins?

Three months after the new tenant moves in and the water bill comes in at four times what it is normal, you go to make an inspection and find all these people "living" there. They really are not living there, they are just "visiting". The lease should have a provision which states:

The Unit Will Be Occupied By:
Name SSN Relationship Age

- 1.
- 2.
- 3.
- 4.
- 5.

These are the folks that you accepted as tenants. No one else. The problem is distinguishing between "visitors" and "move ins". If a person not on the list of tenants is receiving mail there, order them to leave/evict them and anyone "with" them. Keep a record of how long you see them "around" the place. Add a provision to your lease:

Occupancy of the unit for significant periods of time (more than five consecutive days or repeated occupancy for lesser periods) or if the address of the rental unit is given in any legal action or to legal authorities during an

**THE CITY OF JACKSON:
OUR OBLIGATION AS A
WATCHDOG**

By Robert F. Tulloch

Many of you, the members of JALA, wonder where all this “back-and-forth” with the City of Jackson will lead and why some of us are so concerned with the direction the new city leadership is taking. First of all, we must recognize that the City of Jackson not only is the most prominent urban area in our county, but a major player in the area. The City provides jobs, shopping, and a limited amount of what passes for culture here. We have suffered under falling tax revenues which gutted the fire and police departments and resulted in a new management team searching out for new sources of income to keep the city afloat. These sources include the Storm Water Tax, the Rental Registry Ordinance, and increased inspection fees, just to name a few. Through what the City considers clever reallocation of tax revenues being replaced by “fees” which don’t need voter approval, they hope to re-invent Jackson. The “Economic Stabilization Program” or “Neighborhood Stabilization Plan” or the “Seven Pronged Plan” or whatever name conveniently slips out today, is designed to re-invent the city by demolishing 675 currently identified abandoned/vacant/foreclosed structures and reducing the percentage of rentals from 52% (or 48% or 45% or whatever number they choose to use today) to 20%. The land which becomes “vacant” due to these changes will somehow be consolidated into large redevelopment areas on which developers will choose to build large condominium complexes providing the needed dwelling units for the thousands of doctors and engineers scrambling to move to Jackson (sarcasm). This influx of folks who can afford these modern, up-to-date units with all the amenities will support rents that the previous residents of the redeveloped areas could never afford. Their broken-down, obsolete

homes are gone and they will have moved to Albion or somewhere else down the road. These new 21st Century residents will drive up the property values and in-turn drive up the tax revenues for the city and the sun will rise and the bluebirds will sing. It is difficult to envision this scenario coming to pass, even if the national economy AND the Michigan economy recover sometime after 2013. There are many facets to what is going on with the City and Jackson County to facilitate the clearing of land in Jackson. The County offers a right of first refusal to the City of all the tax reverted properties within. The City declines the offer, but can still end up owning the properties free of any encumbrances. The City can then tear down the properties producing the vast wasteland of overgrown, weed-filled lots we see as we drive around the city (Source: Motion To Refuse To Accept Tax Reverted Properties City Council Meeting, 11/29/2011). Never mind that some enterprising individuals, if offered these properties with no back taxes owing, would find the necessary resources to rehab these “homes”. The City itself had the resources to rehab many homes, but instead left the federally supplied funds unspent:

Rehabilitation CDBG Funding:

Year	Original Award	Balance
2005	\$80,000	\$3,728
2008	\$58,980	\$23,096
2009	\$88,000	\$88,000
2010	\$60,000	\$60,000
2011	\$50,027	\$50,027

Total from Rehab \$234,851
(Source - Draft Action Plan 2011-2012)

The city now wants HUD approval to use these funds to tear down the same homes they refused to rehabilitate (Source: Draft Action Plan, 2011-2012). The City is allocating \$225,000 to demolish 15 dwellings. This comes to about \$15,000 per dwelling. For the 675 buildings that the City has identified, the total cost would be over \$10

million. The City does not have \$10 million. The City is facing unfunded obligations of over \$77 million for health and retirement benefits due employees. The success of the “Economic Stabilization Program” depends on demolishing buildings (the cost of which will be a non-existent \$10 million). The program also depends on these blocks of vacant land magically becoming contiguous, thus forming large parcels that a phantom developer would choose over a Blackman Township location, as has so often been the case in the past. Once developed, these new complexes would attract highly paid doctors and engineers who will rush to Jackson because of the abundance of high paying technical jobs. Naturally, high income and high tax revenues will follow.

When I asked through a Freedom of Information Act request for copies of the planning documents which support this program, the City Attorney responded that there were none.

I started this article with the opening: *Many of you, the members of JALA, wonder where all this back and forth with the City will lead and why some of us are so concerned with the direction the new city leadership is taking.*

I would hope that this article gives you a glimpse of what makes many of us concerned about the future. We had hoped that the new council makeup would usher in a fresh but realistic vision for the future of Jackson. We were wrong! The council appears to be composed of folks wholly unqualified to critically analyze the dire situation and come up with realistic solutions to these problems. The City Manager form of local government does not absolve the elected council of any responsibility to oversee these “out of area hired managers”. If anything, the councilpersons need to be even more vigilant, since it is a well-known fact that resume building is one of the key objectives of the “roving manager” class.

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March General Mtg.....Continued From Page 7

investigation by any individual not listed as a resident above and without the express written permission of the Landlord will constitute a breach of the Lease Agreement and may result in eviction. In addition, rent will be charged for persons staying longer than five days or using the rental unit as a legal address in the amount of 20% of the base rent amount for each additional person prorated for the total number of days in the unit or if such duration of occupancy cannot be established, then the charge will be based on 20% of the monthly base rent per additional person.

Initial: _____

Judge Filip reported a recent incident where a tenant agreed to move out under a mutual consent agreement. The security deposit was retained and the landlord thought that was the end of it. The tenant sued for double the security deposit amount because the landlord did not send them a letter as required by statute. The landlord thought the consent agreement was the end of it. Wrong!

A few incidents have arisen where the tenant calls the city code enforcement to

make a complaint. The landlord receives the complaint form and inspection notice and waits for the inspector. The inspector finds nothing and goes on his/her way; the tenant then does it again, and again. The tenant then refuses to pay the rent, withholding it because of the violations cited in the inspection notices. The landlord defends by stating that the inspector did not find anything. How does the court know that? The city does not follow-up with a closure notice, so the landlord has no proof; however, the tenant has the notices resulting from their unfounded complaints. Perhaps this is the latest game in the professional tenant "bag of tricks"? Maybe. We have requested the city to provide closure letters for all tenant complaints.

Make sure everything is in-writing. The lease should spell out where requests for service must be sent IN-WRITING along with an emergency number. Keep records of every request AND your response. Failure to do so could cost you dearly.

And please, bring ALL your paperwork to court. We are sure you have all seen Judge Judy where the defendant says "I paid him the \$5000". Judge Judy says "Where is the receipt?" The defendant says he left it in his car. Yeah, yeah, yeah!

Pictures: Take move-in AND move-out time-stamped pictures preferably with the tenant in some of the shots. Take a witness with you to court to verify the authenticity.

It is amazing how some tenants come into court complaining about what a horrible place the landlord is providing for them. A simple question is "Then why are you fighting this eviction? Why do you want to continue living in such a horrible place?" You hear nothing but silence.

Judge Filip introduced to audience members at the meeting Jackson County Assistant Prosecutor Jerard (Jerry) Jarzynka (who is running in the primary for the open spot on the 12th District Court bench vacated by Judge Justin). Jerry has a varied background, including many years with the prosecutor's office and experience in landlord/tenant matters while in private practice.

Many members quickly grabbed nominating petitions to collect signatures to put Jerry on the primary ballot!

We wish the best of luck to Jerry in his pursuit of the judgeship, and would once again like to thank Judge Joe Filip for an outstandingly informative meeting!

Submitted By Robert F. Tulloch

JALA Newsletter/www.jala-mi.org

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April, 2012

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ADDRESS SERVICE REQUESTED

OFFICE HOURS

Monday: 9:00 a.m. to 5:00 p.m.

Wednesday: 9:00 a.m. to 2:00 p.m.

Friday: 9:00 a.m. to 2:00 p.m.



MEETING LOCATION

The next general meeting will be held
Monday, April 23, 2012
Time: 5:30 menu/6:30 speaker
Steak's Eatery

The speaker for the April 23, 2012 General Meeting will be CPA Jenny Rivera from the Lally Group. Jenny will be giving a short presentation and then will take questions. Make sure to bring your tax questions so you can be prepared for next year!

IN ORDER TO EXPEDITE THE MEETING, NO DINNER ORDERS WILL BE TAKEN AFTER 5:30 PM. THIS WILL ENHANCE THE EXPERIENCE FOR EVERYONE INVOLVED!

50/50
Winner:

Milo Fisher (\$43)
(Again)!



"This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is distributed with the understanding that the publisher is not engaged in rendering legal, accounting or other professional service. If legal advice is required, the services of a competent professional person should be sought." From a Declaration of principles jointly adopted by a Committee of the American Bar Association and a Committee of Publishers and Associations.