



JALA NEWS

Jackson Area Landlords Association



Volume 18/Number 2

February, 2012

SEIZING THE WEALTH OF LANDLORDS, ONE DISTRICT AT A TIME

The real property of the landlord class is being liquidated, slowly but steadily in one odd corner of America, with the nation 'as a whole' blissfully unaware of the slow-motion seizure underway. In Washington, D.C., before the very eyes of the world's media, the rental property of landlords is being handed over to their tenants, step by careful step. After Congress granted the District home rule in 1973, its elected officials found thumbing their nose at the city's former overseers more rewarding than trying to run a competent and honest government. Since then, several city agencies and programs have been forced into court-ordered receiverships because of the District's utter ineptitude in managing them. But, that has barely made a dent in the psyche of local politicians. Although they often wax eloquent about how much they care about the District's most vulnerable residents, the receiverships, scandals, and multiple screw-ups that have continued to plague the city for decades have exposed the utter insincerity that lies behind these pronouncements. Although the District has been forced to clean up its act a bit, there remains a host of less publicized policy failures (destructive in their own right) that each year zap millions of dollars from the wallets of taxpayers, both local and nationwide. Keep in mind that Congress subsidizes D.C. operations each year and that that "fix" helps the city maintain policies which should have found their way to the circular file decades ago. In 1970, shortly before the District was granted home rule, the United States Court of Appeals for the District of Columbia got the ball rolling by making the District a crucible for the Court's own far-flung experiment in social engineering. Building on President Johnson's Great Society endeavor, which relied on the newly-enacted Civil Rights Act and federal taxing and spending authority to address the lingering effects of slavery on the nation's inner cities, the Court cast aside a centuries-old common law tenet and empowered D.C. tenants to simply stop paying rent if their landlords were derelict in correcting serious housing code violations in their units. Notwithstanding the fact that city officials had administrative mechanisms in place to enforce the local housing code, permitting tenants to withhold rent was, to the Court, a facile way of enriching tenants while casting local landlords as the villain.

Tenants soon started taking advantage of the Court's largesse by withholding rent, even when only minor violations, or none at all, existed. And, tenants also learned that when faced with bills they could not pay, they could simply stop paying rent, charge their landlords with failing to meet their obligations under the local housing code, and squeeze out a rent abatement, thus allowing them to make ends meet. All too often, tenants even manufactured their own code violations and called city housing inspectors to issue citations to their landlords. Despite the fact that these homemade code violations were obviously self-inflicted, housing inspectors were happy to go along with the gamesmanship. In fact, it became their job to do so. Before long, District tenants also realized that there was money to be made in organized, building-wide rent strikes. The leverage created by such strikes left landlords with few

Seizing The Wealth.....Continued On Page 9

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, FEBRUARY 27, 2012.

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

PRESIDENT'S MESSAGE
Robert Tulloch

The JALA general meeting this month is very important to Jackson landlords, particularly those owning properties in the areas where the city plans to tear down foreclosed buildings (some 450 are being looked at). I have personally been involved in the issue of lead paint/dust contamination in the city for at least 14 years. I was on a committee in 1998/1999 with the county health department addressing lead paint issue and high blood lead levels in children living in homes exhibiting high levels of lead dust. I had one of my properties abated through replacement of windows and encapsulation of areas where lead was detected using XRF scanning. I was also involved in the disappointing attempt to follow-up with the tenant and her children to determine any positive effects from the abatement. Mine was a pilot study and was done at no cost to me, but cost at least \$35,000 in federal funds.

I would like to start the February meeting at 6:00 PM, instead of the usual 6:30 PM, so I can give you an introduction to the subject and let you know what has transpired over all these years with regard to housing demolition and potential contamination of neighborhoods with lead dust.

The demolition activity on the part of the city has the potential to cost us a great deal of money and headaches if the spreading of lead dust results in elevated blood lead levels in your residents of our rentals. This is a serious problem particularly in light of the City of Jackson's position of governmental immunity when it comes to lawsuits over defects such as the heaving of the bricked portion of Mechanic Street and the resultant damage to a citizen's vehicle.

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:


Doug/Cindy Vasbinder
Tom Hillard

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, February 27, 2012
5:00 PM (Dinner)
6:00 PM (Speaker)

JALA General Meeting
Steak's Eatery
Monday, March 26, 2012
5:00 PM (Dinner)
6:30 PM (Speaker)

JALA BOARD OF DIRECTORS/2012

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Lansing, MI 48909

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(517) 373-2426
PO Box 30036
Lansing, MI 48909

Sen. Randy Richardville (17th Dist.)
P.O. Box 1631
Monroe, MI 48161
1-800-477-8238

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.

CORRECTION IN THE JALA JANUARY, 2012 NEWSLETTER

On Page 8 of the JALA January, 2012 newsletter, a "re-printed" article from a Landlords of Mid-Michigan member lists "social orientation" as a protected class under the Fair Housing Act. This is incorrect, as "social orientation" is NOT a protected class.

From the State of Michigan Website (the Michigan Fair Housing Act of 1968) it lists it as an act to prevent discrimination in real property transactions on the basis of race, color, religion, or national origin; to prescribe the functions of the civil rights commission, to authorize the creation and prescribe the functions of local commissions and to provide remedies for violations of the act.

Elliott-Larsen Civil Rights Act: An Act to define civil rights; to prohibit discriminatory practices, policies, and customs in the exercise of those rights based upon religion, race, color, national origin, age, sex, height, weight, familial status, or marital status.....

JALA just wanted to be sure this correction was explained and made to our members.

We are sorry for the error and hope no confusion was caused!

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MAKE A NOTE!

The general meeting will begin at 6:00 PM instead of 6:30 PM for the February meeting. So, please try to be there and ordering your dinner (if you choose to dine there) by 5:00 PM. We are sorry if this causes any inconveniences, but the president needs to have time to explain the situations and issues that will be discussed.

LANDLORD HUMOR

A large family with seven children moved to a new city. They were having a difficult time finding an apartment to live in. Many apartments were large enough, but the landlords objected to the large family.

After several days of searching, the father asked the mother to take the four younger children to visit the local cemetery to honor their grandparent's grave, while he took the older three children with him to find an apartment. After they had looked most of the morning, they found a place that was just right! Then, the landlord asked the usual question, "How many children do you have"? The father answered with a deep sigh, "Seven...but four are with their dear mother in the cemetery." He got the apartment!

A housewife called up a pet store and said, "Send me 30,000 cockroaches at once."

"What in the world do you want with 30,000 cockroaches?" asked the astonished clerk.

"Well", replied the woman, "I am moving today and my lease says I must leave the premises in exactly the same condition I found it".

Reprinted From The LLOM NL, MI, April, 2011



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JUDGE MICHAEL KLAEREN WAS THE FEATURED SPEAKER AT THE JANUARY, 2012 JALA GENERAL MEETING
 By Robert F. Tulloch, JALA President

JALA invites 12th District Court judges to speak at our meetings at least once every year. This past month, we had the pleasure of hearing from Judge Michael Klaeren, the newest judge of the three sitting on the 12th District Court bench. Judge Klaeren was appointed by Governor Jennifer Granholm after the retirement of Chief Judge Falahee, who served the court many years.

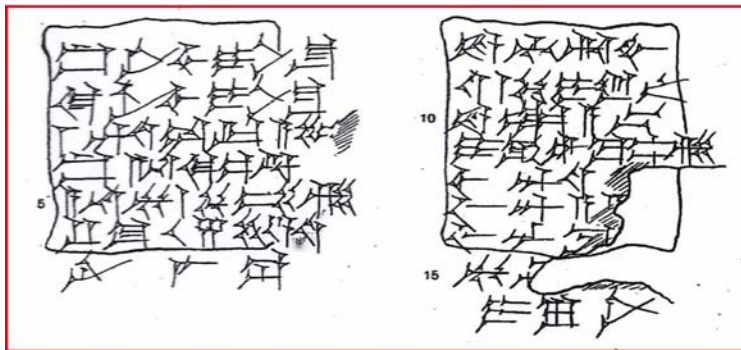
Some folks wonder why we keep having the different judges come and speak since they are all governed by the same court rules. District judges have a great deal of leeway in how they interpret their responsibilities and the law. In our area of interest, the requirements for security deposits to late fees to proper notice can vary from judge-to-judge. It is very important to understand where each judge is coming from, so when you appear before him/her, you can make the most effective arguments.

And, so it was with Judge Klaeren. He enlightened us on his interpretation of late fees, among other equally important areas of contention between landlords and the judges. Judge Klaeren was quick to point out how much he has learned regarding landlord/tenant law since he was first appointed. Most of us forget that judges can come from very different backgrounds. An attorney specializing in corporate law has a great deal of on-the-job learning before venturing into conducting trials and making decisions in the criminal law arena. Likewise, an attorney who practiced criminal law for years has some catching up to do when it comes to handling landlord/tenant cases. We can all appreciate the challenges faced by the appointees and how fast they must get up to speed. Fortunately, in a court such as ours with three or four judges, there is plenty of support for the new "guy/gal on the block".

One area that intrigued me was Judge Klaeren's embracement of our five-day default process. When this was first

Judge Klaeren.....Continued On Page 7

Guess What You Are Looking At?



(See Answer On Page 6)

DID YOU KNOW?!

Did you know that.....

- Landlords can greatly increase the depreciation deductions they receive the first few years they own rental property by using segmented depreciation.
- Careful planning can permit you to deduct, in a single year, the cost of improvements to rental property that you would otherwise have to deduct over 27.5 years.
- You can rent out a vacation home tax free (in some cases).
- A special tax rule permits some landlords to deduct 100% of their rental property losses every year, no matter how much.
- People who rent property to their family or friends can lose virtually all of their tax deductions!

Written By Stephen Fishman, JD, Every Landlord's Tax Deduction Guide

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OPPORTUNITY LIES IN THE MIDST OF DIFFICULTY

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You'll find that every situation, properly perceived, offers opportunity. As fast as each opportunity presents itself, use it. No matter how tiny an opportunity it may be, use it. You'll find new directions when you have an open mind and a willing hand.

Successful people didn't achieve their distinction by having some new talent or opportunity presented to them. They developed an opportunity that was at hand.

You must make your own opportunities if you want success. Opportunities are all around you. Open your eyes and take action.

Written By "Mentor Max"
Inspired Lifestyles Newsletter
November, 2011
Submitted by Charyl Wozniak

And, Here Is What You Are Looking At:

This is an Assyrian clay tablet written between 4,000 and 5,000 years ago (2-3,000 BCE). It is a lease for renting a house written in Old Babylonian Akkadian (Cuniform Script).

It reads as follows: Samas-dur-ali rented the house of Nisi-inisu from Nisi-inisu as a house for rent (payment) for one year. He will weigh out 1/3 shekel and 15 grains of silver. He will enter on the first day of the month or Tirum; he will leave completely in the month of Isin-abi, before Samas, before Ayya, before Mama; year of Samsu-iluna.

Amazing, is it not? Since those long before us first organized themselves and developed what we call "culture", property rights have been a predominant aspect of our social evolution.

As landlords, we represent a proud tradition of providing housing for those seeking a temporary place to live, and have done so for millennia.

Submitted By Robert F. Tulloch,

WILLIAM PITT IN PARLIAMENT, 1763

"The poorest man may in his cottage bid defiance to all the forces of the crown. It may be frail and its roof may shake. The wind may blow through it, the storm may enter and the rain may enter, but the King of England cannot enter. All his force dares not cross the threshold of the ruined tenement."

And from the foundations of English Common Law came our 4th Amendment protections against unreasonable search and seizure.

Submitted by Robert F. Tulloch



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Judge Klaeren.....Continued From Page 4

implemented, we had proposed to then Chief Judge Falahee, that the response from the defendant (if they responded within the five day window) should be reviewed for merit when received by the clerk. Judge Falahee rightly responded that the clerks are unqualified to render judgment as to the merit of the defendant's response, and must schedule a hearing even though the defense may be frivolous. Judge Klaeren brought up this issue in the meeting and suggested that the judges could spend a few minutes each morning reviewing the defendant's responses and determine the merits of their defense. By defaulting out those responses that basically had no merit, precious court time could be saved by not docketing these cases. The defendant (if they wished to pursue the defense), would always have the option of filing a motion to set aside the default verdict.

We applaud Judge Klaeren for suggesting this improvement and will actively pursue it with current Chief Judge Darryl Mazur.

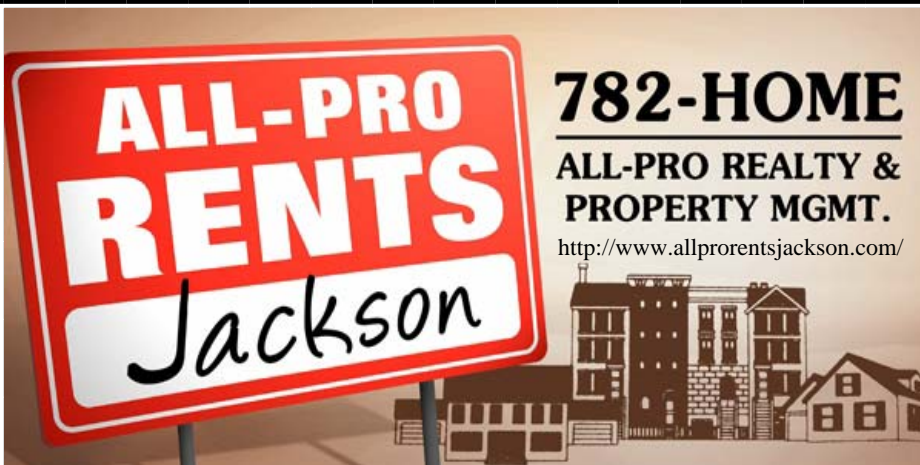
We would like to thank Judge Klaeren for his presentation and remind members that each time we have one of the judges speak, it can be a whole new ball game because of changes in the statutes, rulings from appeals courts and new ways of looking at old issues!

**LOOKING AHEAD TO
THE MARCH, 2012 JALA
GENERAL MEETING**

The JALA Board has contacted Bond and Company, PLC who are Certified Public Accountants.

Last year we had one of their CPA's at our general meeting and the turnout was very positive and we as landlords learned a lot about taxes, requirements from the federal government, etc.

We are in process of waiting to hear back with a confirmation, however it looks like we will be featuring one of their CPA's at the March, 2012 general meeting! If you want to learn more, be there!



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RENTAL REGISTRY IN THE CITY OF JACKSON

By Robert Tulloch, JALA President

Most of you have all received the emails regarding the registry ordinance, so I will not go over this again. We were very upset that the Director of Community Development (DCD) did not meet with representatives of JALA before this draconian ordinance faced first reading and approval by the city council. In his presentation to the council, the DCD alluded to having met with Laura Schlecte (City Councilperson 4th ward) and several large female rental property managers. Having discussed this meeting with several of the managers, it became clear that this was a last minute attempt to get some support from folks who had little time to review the proposals nor thoroughly understand the implications, not only of the registry requirement but also proposed changes to the housing code. After the first reading and approval by the council, we approached the DCD and asked for a meeting in which we could present our (JALA's) concerns and comments on the proposal.

I sent out a copy of the proposed ordinance by email to all our members with valid email addresses. *(Members without email are missing out on important information. If you do not have email, please get a son, daughter etc. etc., to let you use theirs for these important distributions!)* Some member managers made this information available to their clients and I received input back from both our members and non-members alike. These comments were incorporated into a write-up which was given to the DCD prior to the meeting. Three of us (myself, Will Stoner and Tom Mijal) met on Friday, February 3, 2012 with DCD, the Chief Building Inspector Frank Donovan and Dennis Diffenderfer, Rehabilitation Coordinator, for approximately three hours. We first went over the code changes and expressed our concern over the lack of some definitive criteria and how that could lead to very subjective interpretation by inspectors. We also asked for clarification in some areas where a liberal interpretation could have led to massive and costly backfit. These issues for the most part, were all resolved to our satisfaction.

The next area was far more contentious. The registry is designed to force all landlords to register their properties under threat of fines and orders to vacate unregistered properties. The purpose of this effort is supposedly to generate more funds to pay for inspectors which according to the DCD, are in short supply. Why this is so, I don't understand, as the CDBG (Community Development Block Grant - a federal grant to cities) was to provide \$568,000 for inspections and another couple of hundred thousand for administration/city attorney etc. This issue was not explored in-depth.

It was pointed out that the city inspection program has been running for 20-plus years with no need of a registry and has been sufficiently funded. The DCD responded that they have about 7,000 rentals to inspect and one inspector (for \$568,000???) and it will take them seven years to inspect them all and the inspection cycle is supposed to be every two years. The registering of properties at \$100 per unit will be every two years, as will be the inspections. For 20 units, a landlord might be looking at \$4,500 every two years in fees, something we can ill afford!

Nothing was resolved regarding the registry. As long as the city is determined to collect more fee's, this is their intent. We offered information to the DCD on alternative methodologies using 3rd party inspections to reduce city costs and protect the privacy of our tenants. We also offered up information on the Grand Rapids Registry Program, which has been implemented with no registration fees and only a small increase in inspection fees. The DCD said he knows folks at Grand Rapids and will get in touch with them.

The DCD is concerned over the 52% rental housing in Jackson and would like to see it closer to 20%. We don't know how the destruction of abandoned or foreclosed homes (now estimated at 673 in Jackson) will affect that percentage, as we don't know how many properties considered rentals are in that mix. It was pointed out that reducing the number of rentals from 52% to 20% could result in a 16% drop in property tax revenue. That might be exacerbated by landlords driven out of business and abandoning even more properties due to the increased costs associated with the registry and the frequency of inspection. The DCD did not think this would be the case, as he expected property values to increase including those of rentals because of increased rental revenue to landlords due to less available rental units. It was offered up that this will not be the case and the city needs to understand the rental market in Jackson where rental rates are driven not by availability, but by the limited resources of many renters.

It would behoove the City of Jackson to do a detailed analysis of the potential outcome of these proposals before embarking on something so drastic. Perhaps the \$568,000 of CDBG funds previously used for inspections will be spent on more old fashioned street lights on Mechanic St., a new sculpture to mark Jackson as an emerging center of the arts, or perhaps tearing down the old hotel on the river, the old Consumer's building and maybe even the Hayes Hotel. There is no end to the parking areas we can provide for the thriving and expanding business and office spaces downtown. All sarcasm aside, we need to be vigilant in our opposition to this proposed ordinance and the havoc it could wreak on our chosen line of work and income.

We will keep you posted and kindly ask for your full support in any future action we decide to take.

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swallow up huge resources, some even taking decades to fully adjudicate.

If all of this seems to reek of *Kelo*, that is because it does. The natural consequence of redistributive policies such as those in place in the District is that government has been granted free rein to turn private property into a public utility, or worse. One key distinction, though, is that when Bridgeport exercised its power of eminent domain in the *Kelo* case, it was bound by an express constitutional requirement to pay "just compensation" to the property owners. D.C. landlords are not so lucky, notwithstanding the reality that the policies in question were devised for the express purpose of transferring the wealth of local landlords to District tenants -- and they have succeeded in that regard. It is especially troubling that the Supreme Court seems to have given such schemes its blessing. In the District, rent control was first adopted as a temporary World War I emergency measure, and the Court upheld it at the time just for that reason.

Where is the emergency today? And why has the high court sanctioned such a taking when the housing problems that now exist are often the result of bad public policy and confiscatory measures such as those described here, which simply perpetuate the problems they purport to address? Add to this that local judges continually devise new obstacles to stifle landlords from evicting their tenants, and it is obvious what District officials, including some local judges, have in mind. Of late, in violation of its own ethical rules, the District has even started assigning its own attorneys to represent tenants in private disputes with their landlords, to assist them in obtaining rent refunds, damages, and other forms of relief.

One can only hope that sooner or later, Congress and the Supreme Court will get a whiff of all this. In the meantime, District landlords just grin and bear it. Given that the District's most fervent advocate of tenants' rights is a member of the City Council who has a life-sized poster of Che Guevara proudly displayed on his office wall, the vision at work, and the endpoint of it all, is clear.

Written By Roger D. Luchs, American Thinker,
January 16, 2012
Submitted By Robert F. Tulloch

Seizing The Wealth.....Continued From Page 1

alternatives but to settle with their tenants, in order to reinstate the flow of income needed to pay for building upkeep, to service loans secured by their properties, and to avoid the gargantuan legal bills that having to sue volumes of tenants at one time generates. Eventually, tenants also acquired the statutory right of first refusal to buy the buildings in which they reside and to assign that right to a developer in exchange for a quick cash payment. Over the years, then, District tenants have acquired something akin to an ownership interest in their landlords' properties, courtesy of the United States Court of Appeals and the District's elected officials. As entrepreneurial as many District tenants have proven to be, however, the ultimate victims of this wealth-transfer scheme have been the tenants themselves and, more importantly, those who have refused to take part in city-sanctioned extortion of their landlords' wealth.

Without a steady stream of income, affected landlords have often had no choice but to cut back the level and quality of

services afforded their tenants and have deferred or canceled plans to upgrade and improve their properties. None of this, of course, helps the city's tax base. Plus, this scheme has caused the local court docket to skyrocket, necessitating the hiring of additional court personnel to handle the burgeoning caseload. Because many of these suits are contested (because of either real or contrived housing code issues or for other reasons), more and more judicial resources have had to be devoted to dealing with these disputes. One of the above even takes into account that once Congress granted the District home rule, one of the City Council's first acts was to institute rent control. It remains in effect to this day.

The law is imbued with byzantine filing and regulatory requirements intended as traps for the unwary, and has provided tenants with additional tools with which to bludgeon landlords into submission. Indeed, the District spends millions each year to administer rent control and related tenant-oriented programs, in part because such spending buys votes and in part because hotly contested rent strike cases

JALA Newsletter/www.jala-mi.org

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February, 2012

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MEETING LOCATION

The next general meeting will be held
Monday, February 27, 2012
Time: 5:00 menu/6:00 speaker
Steak's Eatery

The speakers for the February 27, 2012 General Meeting will be from the City of Jackson's Executive Staff: Mayor Martin Griffin; City Manager Laurence Shaffer; Director of Community Development Patrick Burtch; and City Council Members Andrew Frounfelker and Carl Breeding.

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

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50/50
Winner:
Bob Tulloch
(\$35) Donated
to JALA

