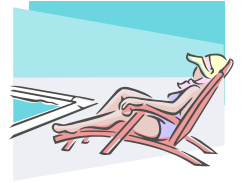




JALA NEWS

Jackson Area Landlords Association



Volume 17/Number 7

July, 2011

SOME RECENT JALA MEMBER EXPERIENCES

By Robert Tulloch, JALA President

Over the last month I received calls from two members on two very different issues that led to frustration and contempt. In the first instance, a member filed for possession and received a default judgment after the expiration of the five days. Unbeknownst to the plaintiff, the defendant had filed a response one day late. The response was stamped June 1, 2011, which was the last day available to file a response due to a problem with the stamping machine. The defendant dated the response 6-2-2011, one day beyond the five-day limit. The plaintiff asked for a default which was granted and after the expiration of the ten-day wait period, the plaintiff applied for a writ to recover possession based on the default judgment. The writ was granted. On the day of the eviction, (with the plaintiff at the property and the court officer starting the process of eviction), the tenant went to the judge and had the eviction stopped. The fact that the date stamp on the papers was June 1, 2011 and with the defendant signing and dating the response on June 2, 2011, led to some confusion as to whether the response was timely filed. To err on the side of caution, the court stayed the eviction. The plaintiff was furious! A hearing was subsequently scheduled as if the response had been filed within the five-day period, and the court ordered the defendant to pay or move by July 5, 2011.

Legal Aid was involved in this exchange, but we don't know the depth of their involvement. The whole case is clouded by accusations back and forth regarding service and the eviction. The bottom line for our member is that the original eviction date of June 13, 2011 was delayed until July 5, 2011, thus costing the landlord almost a full month's extra rent.

In the second instance, the tenants moved out and gave a forwarding address. The landlord withheld money from the security deposit for back rent and some damages. The tenant responded that they disagreed and wanted their money. Up to this point all was normal. If the tenant disputes the amount withheld however, the landlord must return the disputed amount or file a small claims action to have a court determine the disposition of the funds. The landlord has 45 days **from the date the tenant vacated the property to file suit**. If the landlord fails to take this action within the 45-day period, they surrender any claim to the deposit and **can be sued by the tenant for twice the amount withheld**. Let me emphasize again that the 45 days is from the date the tenant vacated your rental property. When you consider the four-day period allowed for notification of a forwarding address, the 30 days the landlord has to forward a list of damages, and then the seven days allowed for the tenant to respond, adds up to 41 days leaving only four additional days to file suit. In this particular case, the landlord tried to negotiate back and forth with the tenant to try and resolve the issue. By the time he called me, the window was long closed and the tenant had filed suit to get their deposit and the member did not know what to do. I told him to go to the tenant and settle this mess before court and have it dismissed. Give the tenant what they want (it was not all the amount withheld, as they acknowledged some damage) otherwise if it goes to court, the landlord could have had to return double the amount, and have a hit on his credit report. The landlord settled with the tenant and got out clean.

The moral of this story is that you must understand the statutorily dictated process and the time limits involved and how they overlap. Pay attention to the details of what you are doing and take immediate action at each step. Do not wait until day 29 of a 30-day window to act!

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, SEPTEMBER 26, 2011.

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

Summer is now in full swing and what had started as a wet spring has turned into a dry, early summer with stressed corn and soybeans, as well as gardens and flowers requiring frequent watering. One redeeming fact is that the lawns have basically stopped growing except for the trashy grasses the city plants after making road repairs. A lawn can only be three inches tall, but where the city repaired the road and replanted the median, it is reaching 12 to 14 inches, and is filled with "desirable plants" like Hoary Alyssum. Way to go Department of Public Works!

In the past month we had a rental property association in the Allen/Hillsdale/Jonesville area join us here at JALA as an associate member and so far have brought 15 of their members along as associates. Hopefully they will take advantage of our credit reporting service, as well as enjoying our JALA Newsletter and our support.

We have more irons in the fire to increase membership both with regular members and associates, as well as out-of-area credit subscribers. We are hoping these efforts will bear fruit as the year wears on. Remember, the more folks we have on board as JALA Members, the louder our voice in Lansing advocating for our members.

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:

Kevin Commet/Taryn Hammond
David Klein
Lynn Jordan
Greg Fryt
Paul Friedland
MHPA (15 Assoc. Members)

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

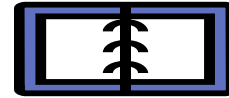
You may also contact JALA President Robert Tulloch (596-2592/ contact@jala-mi.org) for answers to your questions.

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

THERE ARE NO JALA GENERAL MEETINGS FOR THE MONTHS OF JUNE, JULY, OR AUGUST. THE MEETINGS WILL RESUME ONCE AGAIN IN SEPTEMBER, 2011.

JALA BOARD OF DIRECTORS/2011

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Vice-President	Scott Craft, 474-2585
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Treasurer	William Ellison, 784-4080
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Board Member	Ted Paluck, 764-0633
Board Member	Fred Kulas, 784-2089
Board Member	Don Smith, 782-0909
Office Manager	Charyl Wozniak, 782-4384

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(517) 787-0064
PO Box 30014
Lansing, MI 48909

State Rep. Mike Shirkey (65th Dist.)
517-780-4265

Senator Mike Nofs (19th Dist.)
(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.

Also, Property Mgr. Kyle Bamm (Rent-Me-Properties) has offered to be available to our members to answer questions too: (517-784-7368)!

TEN BEST CITIES TO BUY RENTAL PROPERTY

The American dream of homeownership has dissolved into the daydream of a decent rental, and some cities are making it very easy on their month-to-month newcomers. Vacancies among the nation's rental properties dropped from 6.6% last year to 6.2% last quarter as 44,000 more units found renters during that period than during the same period a year earlier, according to Reis, that's the largest increase during that normally slow winter period since 2000 and the lowest vacancy rate since 2008.

Slight improvements in job growth and employment figures are driving demand for housing again, but even the 4.5% rate on a 30-year fixed-rate mortgage quoted by Fannie Mae in June, the lowest since December, hasn't kept year-to-date existing-home sales from plummeting to 13% of what they were just before the first-time homebuyer credit expired during the same period last year, according to the National Association of Realtors.

The foreclosure rate is leveling off, according to RealtyTrac, but the U.S. Census Bureau found that U.S. homeownership dropped from 69% in 2004 to 66.5% at the end of last year.

The \$163,700 median existing-home price is 5% lower than it was a year ago, but potential homebuyers facing 9.1% national unemployment and tight credit requiring a 20% down payment on home purchases are content to wait it out in a rental.

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Potential landlords love to hear that. Average asking prices (\$1,047) and actual paid rent (\$991) are up roughly 2% as 79 cities reported rent increases and shrinking rental stock. Reis noted that landlords who were offering incentive packages a year ago that gave tenants three to four months free on 12- to 15-month leases have cut those concessions to a month or less.

Here are the best 10 places (recommended by Reis) to buy a rental property and cash in on rising rents and dwindling supplies:

1. Las Vegas, Nevada
2. Orlando, Florida
3. Colorado Springs, Colorado
4. Memphis, Tennessee
5. Jacksonville, Florida
6. Houston, Texas
7. Atlanta, Georgia
8. Columbus, Ohio
9. Phoenix, Arizona
10. Tulsa, Oklahoma

Reprinted From MSN Money.com,

June 27, 2011

MAY GENERAL MEETING FEATURING R. DARRYL MAZUR, CHIEF JUDGE OF THE 12TH DISTRICT COURT
By Robert F. Tulloch, JALA President

First off, I wish to apologize for how late this article is appearing in the newsletter. I hoped that these write-ups would appear the month following the meeting, but alas, things got in the way.

Judge Mazur opened his presentation after introductions stating that his purpose in speaking to our membership is education. The success of a landlord in recovering premises (and a money judgment if requested) rests solely on meeting the burden of proof as supported by proper and adequate documentation. The plaintiff must prove by the preponderance of the evidence that the defendant failed to comply with the requirements of the lease agreement and based on that failure, the landlord is entitled to regain possession of his/her property. Note the reference to "the lease".

The lease is a contract between the two parties and defines their legal relationship regarding occupancy of the subject property. You must bring the lease to any hearing scheduled by the courts. The lease must be the original or a copy and bear the signatures of the parties. For many years, landlords entered into very casual relationships with tenants where there was no written contract and the parties relied on a "verbal agreement". While this sufficed if no problems arose, it became a nightmare for both the landlord and the tenant and May General Meeting.....Continued On Page 6



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This call got me thinking, so I contacted the 12th District Court regarding filing by mail. Well, it seems we can do just that. This is great for our out-of-area members, or members who cannot get around easily. If the defendant does not respond in the allotted time, you can request a default by mail and then hire someone to handle the eviction.

After serving the tenant in-person or by mail with a Demand for Possession, and after the expiration of the required period (8 days for the Demand for Possession, or 31 days for the Termination of Tenancy Notice, if mailed), the landlord can file the Summons and Complaint by mail (with a check for the appropriate amount and an Affidavit regarding the number of living units if in the City of Jackson). You must also include stamped envelopes for EACH defendant and yourself.

All of these forms are available in the JALA office, from JALA by mail, or online at the JALA website. The copy of the and the affidavit must be notarized. The fees for filing are as follows:

CONGRESS REPEALED SOME RECENTLY ADDED 1099 REPORTING REQUIREMENTS

As we previously reported to you, the Internal Revenue Service (IRS) will begin strict enforcement and the assessment of penalties for failure to comply with the 1099 requirements. It will be a lucrative source of penalty income.

Under the Patient Protection and Affordable Care Act of 2010, "persons engaged in a trade or business" who made payments aggregating \$600 or more to a single payee during a tax year were required to file a Form 1099. this requirement applied to payments for *both goods and services* and it included payments to corporations. *This part of the Act has been repealed; therefore the old rules for issuing 1099's (summarized below) are still in effect.*

Under the Small Business Act of 2010, rental property owners were added to the definition of "trade or business". *This has been repealed; therefore rental property owners are not required to follow the 1099 reporting requirements.*

However, the penalties for non-compliance with the Form 1099 rules have been *increased to up to \$500* for each form 1099 not filed with the IRS and provided to the recipient. (This penalty can increase to a maximum of \$500,000 in willful failure to file penalties.)

In summary: A Form 1099 is required to report payments aggregating \$600 or more to non-corporate taxpayers (who are not employees) or any payments aggregating \$600 or more to an attorney or to a law

firm (regardless of whether or not the attorney is incorporated) made in the normal course of a trade or business. The form is not required for payments made for merchandise only. The penalties for failure to timely file these forms or to file them without the taxpayer identification numbers has increased to \$500 per failure. Also, if you don't have the recipients identification number, the rules require you to withhold income tax from the payments.

Reprinted From Fromholz, Paauwe & Baker, P.C. Certified Public Accountants

RENTLINX.COM STATS

JALA 2nd Quarter 2011 Stats:

- **Properties listed:**
 April: 94
 May: 21
 June: 221
- **Units listed:**
- **April: 216**
 May: 38
 June: 413

MCL Fee Description

- 600.5756(1) Claim for Possession of Premises; \$45.00
- 600.5756(2) Supplemental Filing Fee (for Money Judgment):
 - *Claim up to \$600; \$25
 - *Claim over \$600 up to \$1,750; \$45
 - *Claim over \$1,750 to \$10,000; \$65
 - Claim over \$10,000; \$150

FILING COURT ACTIONS WHEN YOU ARE OUT OF THE AREA

We had a member call the office concerned that he could not make it to Jackson from his residence near Detroit. And, he could not get hold of an attorney to take care of filing an eviction. The issue was finally resolved when the member hooked up with Adam Howard (JALA Attorney)

Be sure to include the additional fee for a supplemental (money) judgment if you have checked that block (recommended), and write across the top of the Summons and Complaint the name of the process server you would like to use.

If you have any questions on this process, please call our office at (517) 782-4384 or submit requests through the "contact" links on our website.

Respectfully Submitted By Robert Tulloch, JALA President

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DOG FOR SALE
(A touch of humor)

A guy is driving around the back woods of Montana and he sees a sign in front of a broken down shanty-style house that reads: Talking Dog For Sale. He rings the bell and the owner of the dog appears and tells him the dog is in the backyard. The guy goes into the backyard and sees a nice looking Labrador Retriever sitting there. "You talk?" he asks. "Yep," the Lab replies. After the guy recovers from the shock of hearing a dog talk, he says "So, what's your story?" The Lab looks up and says, "Well, I discovered that I could talk when I was pretty young. I wanted to help the government, so I told the CIA. In no time at all they had me jetting from country to country, sitting in rooms with spies and world leaders because no one figured a dog would be eavesdropping."

"I was one of their most valuable spies for eight years running, but the jetting around really tired me out, and I knew I wasn't getting any younger, so I decided to settle down. I signed up for a job at the airport to do some undercover security, wandering near suspicious characters and listening in. I uncovered some incredible dealings and was awarded a batch of medals."

"Later, I got married, had a mess of puppies, and now I'm just retired." The guy is amazed. He goes back in and asks the owner what he wants for the dog. "Ten dollars," the guy says. "Ten dollars? This dog is amazing! Why on earth are you selling him so cheap?"

"Because he's a liar! He never did any of that stuff!!!!"

May General Meeting.....Continued From Page 3

particularly for a judge trying to sort things out. Although JALA has for years emphasized the need for a written lease and provides members with both a short and long lease form to use, occasionally a landlord will appear in court without documentation, and then the "he said/she said" ensues. Always use a written lease!

The current process requires a defendant in summary proceedings to recover possession to respond to the summons and complaint within five (5) days of service. If the defendant fails to respond within that period, the court, **upon request by the plaintiff**, will issue a default judgment for possession. The defendant can file a motion to set the default aside after posting a bond equal to one month's rent. The defendant can ask the court to waive the bond citing their reasons, which the court may or may not accept. If the defendant files a response within the allotted period (five days), the court **MUST** schedule a hearing no matter what the reasons given on the response. The clerks cannot evaluate the response to determine if it has merit. Only a judge can do that, and typically the issue goes to a hearing. It is incumbent upon the landlord to read the response and prepare themselves to argue the merits. If the tenant says they did not pay the rent because there are roaches in the apartment, the tenant has to prove there are, and that the landlord did nothing about it. Typically the tenant will say "I told the landlord . . ."

The lease **SHOULD** provide that any complaints to the landlord must be in-writing. The landlord can state that no written notice was given regarding any roach problem, and it is up to the tenant to provide evidence not only of a roach problem, but of the written notification of the problem. Typically the tenant will have their brother, mother, boyfriend/girlfriend or other experts in court to testify to the roach problem. Unless they have pictures (of the rental premises) showing roach infestation, their assertions should be excluded upon request by the landlord. In some cases, it may behoove a landlord to have a pest inspection by a pest eradication company to support the case. This can be costly and the court will not allow money damages incurred by having an inspection.



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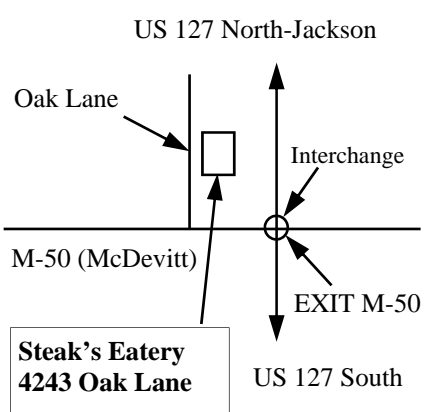
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The next general meeting will be in September, 2011. No meetings during the summer months.



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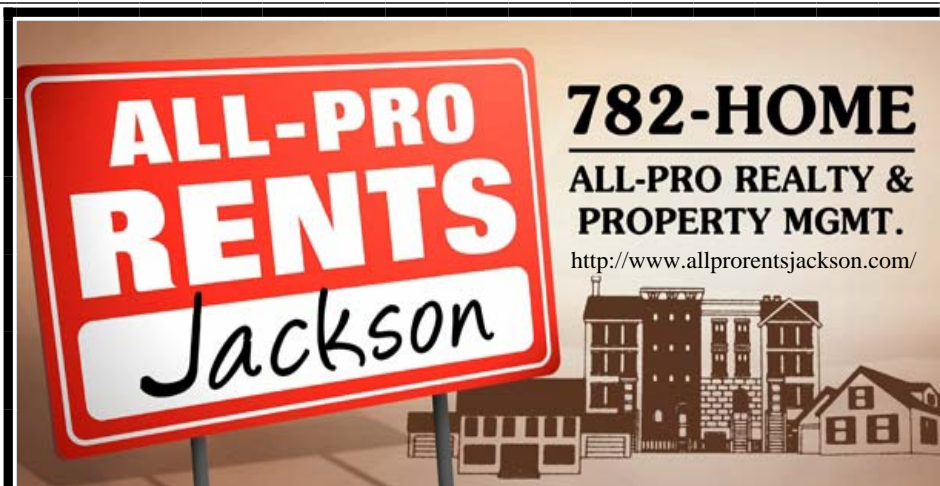
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**KEEP YOUR RENTALS
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SUMMER CHECKLIST**

- Repair window screens and check screening on porches. Save old screening for future patches.
- Build or repair fences and arbors, so they will be ready for planting season.
- Repair deck boards as needed; remove protruding nails and replace with coated or galvanized screws. Be sure to check and tighten bolts in deck supports.
- Clean and seal wood decks as necessary. Deck stains with at least some pigment last longer than clear sealers.
- Reverse ceiling fans (they should have been blowing upward during the winter) and clean tops of fan blades.
- Check to be sure winter wind hasn't lifted vinyl and aluminum siding, and repair as needed.
- Wash black streaks from your roof. Use prepared cleaner or mix your own (using one part chlorine bleach with three parts water and a handful of trisodium phosphate. Apply to small section of roof with garden sprayer, let soak 20 minutes, then rinse with hose. Also, wash siding and gutters with the same solution. You will have fewer streaks if you start at the bottom. Always be careful with ladders around power lines!
- Scrape and touch-up exterior paint, paying special attention to windowsills, gable vents and garage door.
- Complete larger exterior painting jobs (use caution because cheap paint IS NOT a bargain). Acrylic paint is the best.
- Clean gas grill and replace any rusted or damaged parts.
- Check the crawl space for moisture and remove debris. If you spot signs of termites, call a professional.
- Clean concrete drives, walkways, and patios. Repair as needed.

Reprinted from the SLA NL,
MI, March, 2011



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DOMESTIC VIOLENCE LEASE ESCAPE STATUTE

Submitted By Robert Tulloch, JALA President

At the general meeting held in May, our speaker, Judge D. Mazur, pointed our attention to MCL 554.601(b). Information is available at the JALA Site or at the Michigan Legislature Site). **This law HAD immediate effect in October, 2010. I normally monitor these laws but I never saw this one before. If any of you were already aware of this requirement, please let me know.**

This requires management companies to post this law in their office, and for all landlords to provide a written copy of the law to their tenants. I could not find any fines or jail terms for non-compliance, and normally failure to comply with certain other sections of this act limit the tenant's liability. In this case, the law allows the tenants to break the lease with no liability at all.

(2) The tenant shall include in the submittal required under subsection (1) a written statement that the tenant or a child of the tenant has a reasonable apprehension of present danger from domestic violence, sexual assault, or stalking. For purposes of releasing a tenant from his or her obligation to pay rent, the tenant is released from an obligation to pay rent no later than the first day of the second month that rent is due after notice is given. A release of a rental obligation under this section does not apply to prepaid amounts, including, but not limited to, prepayment of first and last month's rent. A release of rental obligation under this section does not take effect before the tenant vacates the premises. **Nothing in this section shall prevent a landlord from withholding security deposits pursuant to section 13(1)(d).** This subsection does not affect other sums that may be withheld by the landlord under this act or other applicable law. If the tenant is released from obligation, then the landlord has no right to withhold the security deposit to meet that obligation. We need some more work on this issue and will keep you informed. A copy of the law was sent to all JALA members by email on July 19, 2011.

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VENDORS AND OUR LIABILITY

You are careful about your tenant selection. Every applicant gets a thorough screening including a credit check, criminal background search and verification of all the information on the application. In fact, you make sure the application is filled out completely when the applicant hands it to you, and if it isn't, you hand it back and tell him to fill it out. As a result, you have almost no problems with bad tenants. They simply don't get by your careful attention. But what about your vendors? You know, the people you have come to work on your properties.

A bad vendor can cost you more in lost income and grief than a bad tenant. It turns out we are not helpless against the lying and criminal vendor, and we can easily check more than just the quality of work he or she does. I had never thought much about it until I received a call the other day from Terri Lee, the owner of Pro Compliance,

Inc. When she explained the services her company provides, I immediately thought it was a great idea! I know that I have seen the results of crooked, sleazy and incompetent repair people. We screen for competence by calling references, looking at current projects and such. But, we can also screen for licenses and lots of other things. As the Pro Compliance website explains, "Vendor compliance is a procedure that ensures your current and future vendors comply with policies related to your company."

I have almost always checked to see if a repair or maintenance person is licensed, and I have checked the company's Better Business Bureau record. But, there is far more we can do. And that's the service that Pro Compliance offers so we don't have to. The company will "perform your vendors screening and verify that their business information is valid and ensure your vendor compliance."

I am sure there are repair people you

have used for years. And if they do good work for you, there is no reason to change or run them through a check. However, if you are hiring a new vendor for something you have not had done before, there are some excellent reasons to screen them just as thoroughly as you would an applicant.

Here's what Pro Compliance says is important to check:

- Business Status and Identity
- Personal Identity of the Principal
- Liability insurance
- Professional business, trade license and bonds
- Workman's Compensation
- Criminal background and sex offender reports
- Bankruptcy, tax liens and judgments search or business credit reports
- Better Business Bureau search

Most important for liability are the liability insurance tracking, workman's compensation verification, and the criminal background and sex offender reports. Those are the items that can empty our bank accounts quickly. We could probably do all of these things ourselves, but it would take time that might be better spent actually managing properties. Plus, we can require that our vendor actually get the report him or herself. I hadn't thought much about the liability we have when we allow a vendor to work on our property except for that of liability for shoddy or dangerous workmanship. Just think of what we could end up paying for contracting with or hiring a company that hired a sex offender to work on a property. We need to screen the people who will work on our properties, have access to our tenant's homes and access to tenant records even more carefully than we do the tenants we rent to. Visit Pro Compliance's website at:

www.procompliancesource.com.

JALA Newsletter/www.jala-mi.org

Jackson Area Landlords Association
761 W. Michigan Ave., Suite K
Jackson, Michigan 49201

(517) 782-4384/E-Mail: jala@jala-mi.org

July, 2011

Presorted
Standard
U.S. Postage PAID
Jackson, MI
Permit No. 337

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, September 26, 2011
Time: 5:30 menu/6:30 speaker
Steak's Eatery

*The tentative speaker for the September general meeting will be
the City of Jackson Mayor.*

**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:

No meeting

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