

The MISSOURIAN

The Missouri Chapter of NAHRO Newsletter

December 2011

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From the Office of the President: Matt Moran

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Dear Missouri NAHRO Members,

Some years are more memorable than others. The year 2011 will be remembered by people in Joplin for many years to come, not just for the tornado that took away 30% of our town, but for the way our people helped each other through the initial days afterward, and also for the way people from places all over rallied around us to bring more help (which is still going on).

At our Housing Authority, we lost 103 homes; 10 were reoccupied in October and our goal was to have the others ready by Thanksgiving, but it hasn't worked out that way. Now we'll have them ready in January and February (fingers crossed), which means 2012 will start out as a great year!

Disaster recovery has often been like being in a big maze, but I think working at the Housing Authority (and working with CDBG before that) has given me some valuable experience in dealing with mazes. We are very fortunate that MHAPCI was in place to help us through it. The whole experience has given me more appreciation for the basic mission that we all share of providing safe and affordable housing for people who need it. While the national economic struggles of the past few years are an ongoing issue for all of us, the need for safe and affordable housing isn't going away. As we transition into a new year, with all the presidential politics and economic uncertainties, take time to appreciate the work that you do and what it means to other people. Visiting with residents, especially now, recharges my batteries.

"Thank you" to the officers and committee members who did so much work over the past two years, especially with regard to our conferences. Our new officers and committees have much to live up to, and I'm looking forward to seeing how we do. A new year brings a new batch of legislative bills coming out from the State, and there will be new alerts from NAHRO about our future funding and regulation. **Please be ready to help as much as you can.**

"Happy New Year" to all of you,

Matt Moran

President

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Paul Page	Vice President – Housing
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MHAPCI News Notes

December, 2011



MISSOURI HOUSING AUTHORITIES PROPERTY AND CASUALTY, INC.

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FROM THE PRESIDENT.....

I am writing to you as the outgoing President of MHAPCI. A brand new slate of Directors will be taking office in January, 2012, with David Hayes at the helm as President; Matt Moran, Vice President; Reba Williams, Secretary; and Ed Miller, Treasurer.

Since I formally assumed my responsibilities as the President of MHAPCI in January, 2010, we have bounced back from a record \$4.5 million loss in 2009, with net income of over \$1 million in 2010, allowing MHAPCI to declare an 18% dividend in the form of a reduction in premium on your 2012 invoice. As 2011 winds down, we appear to be on track for another year in positive territory, even after the \$7.8 million loss in Joplin and the \$500,000+ windstorm that hit Maryville, Tarkio and Higginsville in August.

Other accomplishments include a regularly updated website that contains useful information and sample forms and templates to assist Members. We performed an in-depth review and amendment of MHAPCI's Scope of Coverage Agreement; implemented new technology; put a new desktop property valuation system in place, and tested it with on-site appraisals of 50+ units. We announced our first property rate decrease and are offering optional property deductibles in 2012.

Looking beyond 2011, there are many exciting opportunities that are slated for completion in 2012. In addition to the new technology and other improvements that we are bringing online, most notable is the potential for a group employee benefits option for Members. With your support, earlier this year we gathered health benefit information from many of our Members, and now have the necessary data to better understand the employee benefits plans that our Members currently offer and analyze the ability of two governmental entity pools to meet Members' needs. There are still a few obstacles to climb, but the Board of Directors and MHAPCI are focused and committed to the call of our Members to provide an alternative to the mounting cost of employee benefits.

On behalf of the Board of Directors and staff, thank you for working with me to assist MHAPCI in moving forward. Your active interest, participation and feedback ensure the continued success of the MHAPCI program. I will remain on the Board until replaced or retirement, whichever comes first.

Carole King

EMPLOYEE MANAGEMENT ISSUES

Joann N. Dyroff, General Counsel

Employers have been urged for years to ensure that employees understand that they are employees-at-will, and that they may be terminated with or without cause, and have no contractual rights to continuing employment. However, even though an employer has written its policy manual to provide for employment-at-will, and advised new employees of this policy verbally and in writing, it may still face employment termination claims, and the increasing number of EEOC claims and employment court cases make employers wonder what additional steps they may take to protect themselves in a difficult legal climate.

While termination at will provides substantial protections against claims, issues such as discrimination and retaliation continue to raise serious concerns for employers. Jonathan A. Segal, in *Performance Management Issues* in the November, 2010 issue of *HR Magazine*, discussed common mistakes that can increase the possibility of a claim being made, and steps to be taken to try to avoid those mistakes.

Inaccurate Evaluations. Supervisors may be reluctant to accurately evaluate the work performance and attitude of individual workers, and performance evaluations in the employee's file may be far different from the actual work performance of the employee. A supervisor may feel that the employee will be unhappy with a low evaluation, or is going through a difficult time and needs to have that taken into account. A good evaluation or even one that states that the employee "meets expectations" may be the basis for an age discrimination action if that employee is subsequently terminated for poor performance and a younger replacement hired. Consider including comparative questions on the evaluation: how does the employee compare with other workers – better or worse? Not everyone can be the best employee.

Overkill. An employee whose file shows no evaluations, or only acceptable evaluations, and shortly before termination suddenly has a series of detailed, negative evaluations, may claim that the negative evaluations were prepared to allow termination for an unlawful reason. A cluster of negative evaluations after a period of no evaluation or acceptable evaluations may be worse than no documentation. If the negative evaluations appear to address a number of relatively minor items, they may raise a question about whether someone is being terminated for an improper reason (age, disability, etc.), and the recent negative evaluations are being used as an excuse.

Nondescriptive evaluation labels. In preparing evaluations, it is important to use specific, identifiable categories and descriptions for negative reviews. A term such as "bad attitude" may be considered as a pretext for age or racial discrimination. Without detailed, accurate terms, the employee has no opportunity to correct his/her mistakes, and the employer may not have a good basis for a defense if the employee alleges that the termination was made for an unlawful reason.

Postponing evaluations/termination. Employers often know that a particular employee will need to be given a low evaluation or terminated, but postpone that difficult task because of concern for the employee's situation. Once a decision has been made, however, it is best to carry it out as soon as possible. If an employee senses that termination may be near, possible opportunities may arise for the employee to make a complaint protected under law, such as medical issues under the Americans With Disabilities Act (the "ADA"), or that may make a termination appear to be retaliatory. If it is not possible to take the action immediately, it is important to document the decision in a form that will be verifiable as to the date the decision was made, such as an internal email, so that it can be shown that the decision had been made and the evaluation/ termination was not in retaliation for a subsequent protected act by the employee.

Disrespect. Terminations need to be handled with respect for the employee, and the employee should not be made to feel demeaned or abused in the termination procedure. If this happens, the employee's termination itself is not the main issue, but the issue becomes how the employer handled the matter. While abusive behavior is not necessarily unlawful, it can lead to claims being made by an employee seeking to regain respect with the help of a lawyer.

Employer focus on possible disability. While an employer may have genuine concern when an employee exhibits a drop in performance that may appear to be related to depression or other mental or physical illness, changes to the ADA make it dangerous for employers to discuss these issues with employees. Under the new expansion of the "regarded as" portion of the definition of disability, if the employer suggests that performance issues may be related to physical or mental issues of the employee, the employee may then have a claim for accommodation under the ADA. It is important for employers to focus on performance or behavior, and not address possible underlying physical or mental issues which may be causing the issues.

Inconsistency in application of policies and rules. It is important to apply policies consistently, as an employee who violates a policy and is subsequently terminated can claim that the policy has not been applied consistently. However, an employer needs to have some flexibility – no two circumstances are identical, and there may be extenuating circumstances that would justify a variance from a normal policy. An employer may be reluctant to terminate a good, long-term employee who violates a policy, where a violation of that same policy recently resulted in the termination of a different employee. However, at times mitigating factors may need to be taken into account. An employer could consider having a specific procedure where a supervisor could request an exception to the policy. If the procedure and reasons are documented, and someone is then warned rather than terminated, an employer should be able to distinguish between two different outcomes for a violation of the same policy.

EEOC DEAD SERIOUS ABOUT PROTECTING WORKERS

Susan McNary, CEO

One can pick up a lot of information about the EEOC's stepped-up enforcement initiatives simply by reading the daily headlines posted on the EEOC website at <http://www.eeoc.gov/eeoc/newsroom/index.cfm>: "Wal-Mart to pay\$275,000 to Former Employee Fired after Cancer Surgery... He requested that they not require him to perform manual lifting. Wal-Mart denied his request for accommodation and discharged him claiming he could not perform the essential functions of his job." "Dairy Queen Restaurant Sued by EEOC for Sexual Harassment and Retaliation... Manager Did Not Address Harassment, Then Fired Employee for Complaining, Federal Agency Says;" "UPS Unit to Pay \$95,000 to Settle EEOC Disability Discrimination Suit... Deaf Worker Was Denied Sign Language Interpreter;" "High School Diploma as Prerequisite to Employment May Violate ADA"; "King Soopers to Pay \$80,000 to Settle EEOC Disability Discrimination Lawsuit, Store Supervisors Bullied Learning Disabled Boy, Federal Agency Charges;" "Butterball Sued by EEOC for Harassment, Firing of HIV-Positive Employee." If these words don't get your attention, the statistics will, with annual claims filed with the EEOC up 24% from 1997, and settlements up 80% to \$319.4M in fiscal year 2010, providing relief to 1348 employees or applicants for employment.

While Federal discrimination laws and regulations apply to employers with 15 or more employees (20 for age discrimination), Missouri's anti-discrimination laws apply to Housing Authorities, regardless of number of employees. Missouri's Human Rights Act prohibits discrimination or unfair treatment in employment based on race, color, religion, national origin, ancestry, sex, age and disability.

MHAPCI covers employment practices liability claims for many of Missouri's public housing authorities, including claims of discrimination, retaliation and wrongful termination. Please call us if you would like to add such coverage or if you receive an administrative complaint or have any questions about possible allegations of discrimination.

Insurance Fraud Starts With an Attitude

Bill Byington, MEM Claims Management, Fraud

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<http://www.mem-ins.com/public/home.page>

You may be surprised to learn that many people equate insurance fraud with a white lie. Perhaps it seems harmless and is just the cost of doing business for an employer. If you are an employer, you know that is definitely not harmless and you have most likely paid the price. There are ways to address misconceptions about insurance fraud.

Research has shown that some employees find it acceptable to commit insurance fraud. They accept this criminal behavior through erroneous perceptions about insurance companies including that they have deep and endless pockets or are taking advantage of business owners when rates increase. Research also indicates that some employees justify their fraudulent actions by telling themselves many other people commit fraud, so 'Why shouldn't I?', or that their fraudulent act is a victimless crime and only the insurance company will suffer.

The reality and consequences are that insurance fraud actually affects us all. Insurance fraud undermines the insurance industry as a whole and the costs of fraudulent actions are passed on to everyone through higher insurance rates, cost of goods, services and taxes. For many businesses, these attitudes toward fraud could force them to cut jobs, go without insurance, or even close their doors.

Remember that the fraudulent actions of the few who find insurance fraud acceptable do impact the rest of us and our wallets. Therefore, it is essential to report any unusual or suspicious actions you feel may be happening in your workplace.

It is also important to increase public awareness about insurance fraud. Insurance companies, including Missouri Employers Mutual, are implementing extensive fraud campaigns to educate policyholders on signs to watch for, issues that arise, and how to respond to them. For more information check out MEM's [fraud prevention](#) materials.

New technology, such as database mining for red flags of fraud, is being developed to assist the insurance industry in reviewing large amounts of information. Even with all these resources available to us, the only real way to fight fraud starts with you—and all of us must do our part.

MEM has a dedicated Special Investigative Unit designed to detect and report any potential fraudulent actions to the State of Missouri Fraud and Noncompliance Unit. The first step for you is to simply report any suspected issues to the claims adjuster or Special Investigative Unit. Open communication between the insurance carrier and your business is key to preventing fraud from costing you money, time, and lost productivity.

Call MEM's Fraud Hotline 1.800.442.0592 with any questions, concerns or to report suspicious activities.

Housing Committee News

Paul Page

V-P MONAHRO Housing Committee

paulpha@sbcglobal.net

FY 2012 Public Housing Operating Subsidy Funding cuts and recapture of Operating Reserve funds have been the lead stories and concern for Housing Authorities this year. The house and senate passed the 2012 HUD appropriation bill and the President has signed the bill.

Status of FY 2012 Appropriations

Programs in (\$Millions)

FY 2011 Enacted FY 2012 Conference Bill

Public Housing Operation Fund \$\$4,617 * \$3,962 (14% less than 2011)

*Allows the Secretary to offset up to \$750 Million in PHA's "Excess reserves"

FY 2011 Enacted FY 2012 Conference Bill

Public Housing Capital Fund \$2,040 *\$1,875 (8% less than 2011)

The preceding information was taken from the NAHRO website.

I'm looking forward to our Housing Committee in March at the Spring Conference. If you have any topics that you would like to have on the agenda, just let me know.

Wishing Everyone a Happy New Year.

MEMBER SERVICES

I hope everyone had a wonderful holiday season and ready to prosper this New Year.

As for the Member Services Committee, we have not had a meeting yet to discuss our avenues this year. I hope to see some new faces and look forward to some new ideas. We all have to work together to make this thing work, so please, if you have not chosen a committee, do so and have your voice heard. Of course, we hope you choose Member Services. So please attend our meeting and help make the next two years a fun filled experience.

The Southwest NAHRO committee meeting is in Norman, OK January 18-20. I hope to bring back some ideas from there as well and get to rolling.

Mendy Peetoom has started contacting vendors for the March meeting as well. There has been a large turnout at the past two spring meetings and we are hopeful it will be a repeat this year as well. We are fortunate to have such a supportive group of vendors.

The March meeting will also be time to judge our MO NAHRO Awards. We will be putting out forms and information in the near future. Please take the time to nominate those deserving employees.

If anyone has suggestions on what they would like Member Services to provide please let anyone on the committee know. I believe our range of services will include, but not limited to, registration table, name tags, products for sale, hospitality room, Missouri basket for Southwest NAHRO, assist with door prizes, awards judging and banquet, and anything else that is requested by the President.

Hope to see everyone March 21-23 in Kansas City.

Member Services
Rhett Ehlert, VP

MISSOURI upcoming meetings

MONAHRO Spring Conference....March 16-18....Hilton Kansas City Airport

MONAHRO May workshop....May 9-11....Camden by the Lake, Lake Ozarks

MONAHRO Fall Conference....September....St. Louis Area

MONAHRO Maintenance Conference....October....Lake or Springfield

SWRC upcoming meetings

2012 Winter Committee - Norman, OK

January 18-20, 2012

Embassy Suites Norman Hotel & Conference Center

2501 Conference Drive, Norman, Oklahoma 73069

Hotel Cut-Off Date 1/03/2012

Room Rate S/D \$115.00

Reservations: 405-364-8040

[Agenda & Registration Information](#)

2012 Maintenance Workshop - Shreveport, LA

February 27 - March 01, 2012

DiamondJacks Casino & Resort

Hotel Cut-Off Date 2/10/2012

Room Rate S/D \$77.00

711 DiamondJacks Blvd.

Bossier City, Louisiana 71171

Reservations: (866) 552 9629

[Agenda & Registration Information](#)

72 Annual Conference - Kansas City, KS

June 19-22, 2012

Kansas City Marriott Downtown

Hotel Cut-Off Date 5/25/2012

Room Rate S/D \$99.00 Reservations: **800-266-9432**

200 West 12th Street · Kansas City, Missouri 64105

[Click here](#) to make your room reservation online

[Agenda & Registration Information](#)