

*August/September 2004*

**ANNUAL GENERAL MEETING SEPTEMBER 25, 2004  
CONVENTION, NOVEMBER 15—19, 2004**

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**KELOWNA RESIDENTIAL TENANCY OFFICE TO CLOSE**

We have been notified that the Kelowna Residential Tenancy Office will close on August 31st. For members located in and around the Kelowna area, service will remain the same for now through their Local Government Agent office. (A list of Government Agent offices can be found in the Introduction and Resources section of your MHPOABC manual, or in the resource links in the members area of [www.mhpo.com](http://www.mhpo.com) )

This publication is for the information of members of "MHPOABC" Manufactured Home Park Owners' Alliance of British Columbia, but does not constitute legal or professional advice. Neither the MHPOABC nor any other party assume liability for loss or damage as a result of reliance on this material. Appropriate legal advice or expert assistance should be sought from a competent professional.

## President's Report

Warren Robertson

As we draw closer to our Annual General meeting in Kamloops at the end of September, I would like to encourage members to consider running as a director of the MHPOABC for the coming year. Although we have good veteran leadership at the present, there is always a need for "new blood" to step forward and take their turn at helping to shape and direct the future of our provincial organization. Being a director has the rewards of helping to grow the MHPOABC and playing a major role in the stewardship of our businesses. Without volunteers past and present who have taken their turn at being a director, our Association would not be the force it is today. I urge you to take some time and think

about being a director and let me know your thoughts and questions.

I would also like to say how important it is for Park Owners to continue belonging as members to the MHPOABC. With a strong membership base that is well informed and educated, our Parks can run smoother and our business owner / customer relationship can be better. By keeping up to date with changes in legislation and having a direct voice to government we are much more effective as a united group than going it alone as individuals. On behalf of our directors I would like to thank all of you for your continued support of your Association. See you in Kamloops!

### **2005 Rent Increase Rate.**

The "inflation rate" for rent increases that take effect in the year 2005 will be available in the fourth week of August. At that time the new Consumer Price Index percentage for British Columbia will be known. Once we have confirmation from the Residential Tenancy Office the percentage number will be posted on our website [www.mhpo.com](http://www.mhpo.com), or you can give us a phone call. If you have questions about this please call us at 1-877-222-4560.

We are working hard to obtain fairer treatment from government with regard to rent increases and are actively pursuing government on this issue.

### **Empty Sites?**

If you have any empty sites in your Park please write up an advertisement and send it to us by email [info@mhpo.com](mailto:info@mhpo.com) or by fax (250) 478-6264 and we will post it on our website [www.mhpo.com](http://www.mhpo.com) for the public to view. Please include information such as the park location, park name, contact name, telephone and /or email, type of site(s) available, services available, and the pad rent and amenities close by such as shopping and banks etc. This free service is for members only.

### **Site Plan reminder**

A reminder that when you are signing a new tenancy agreement with a new Tenant you should include the boundaries of the manufactured home site measured from a fixed point of reference. The "site plan" is a required term of a new tenancy agreement and must be included. See section 12 (b) of the Manufactured Home Park Regulation.

By having site plans you can avoid future problems with regards to what your tenant is renting. Remember to keep a copy of the "site plan" so you have one on file.

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**NOTICE OF  
ANNUAL GENERAL MEETING**

**Saturday, September 25<sup>th</sup>, 2004**

**10am to 4pm**

**Forsters Convention Centre at the Best Western,  
1250 Rogers Way, Kamloops**

No Host Bar and Complimentary Appetizers, Welcome Reception Friday, September 24<sup>th</sup>, 6 pm to 9 pm.

We have a block of Rooms reserved under the Manufactured Home Park Owners Alliance of BC for the nights of September 24<sup>th</sup> and 25<sup>th</sup>. Phone for reservations at 1-800-665-6674. This room block will be held by the hotel until August 24<sup>th</sup>.

**There is no prior registration or fee for this meeting but the cost of hotel rooms, meals and drinks are the members' responsibility.**

**AGM Agenda (subject to change) 10 am start.**

- 1. Call to order, introductions of current Directors**
- 2. Quorum confirmation**
- 3. Minutes of 2003 Annual General Meeting**
- 4. President's Report**
- 5. Financial Report**
- 6. Election of Board of Directors for 2004/2005.**
- 7. New or Other Business**
- 8. Adjournment of Annual General Meeting.**

**Afternoon speakers- Mary Duffy (Residential Tenancy Office Director)  
- Annette Schattenkirk (Professional Mediator)**

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# Judicial Review of Arbitration Decisions

By Al Kemp

The following article is reprinted with permission from ROMA BC's Top Storey August/September 2004 issue.

We all know that arbitration decisions cannot be appealed or "reviewed," except on one of three grounds that rarely occur (unable to attend hearing for uncontrollable reason; new evidence that couldn't have been obtained earlier; arbitrator's decision was obtained by fraud).

The only recourse is to appeal the decision to the Supreme Court of BC, with the test being that you must prove the arbitrator's decision to have been "patently unreasonable."

In June, a Supreme Court Judge issued a ruling on a rare application for Judicial Review. Aside from the above test, the reason few decisions are appealed into court is the long time it takes for a hearing to be held. This hearing was held in May on an appeal by a tenant of an arbitrator's decision made 14 months earlier!

The Judge in a remarkable understatement, noted that "the tenancy was eventful." There had been numerous problems caused by these tenants (they have since been evicted by at least one more landlord, again following a number of problems), culminating in an Order of Possession being issued in December 2002.

In March, 2003, following an arbitration hearing at which the tenants failed to appear, the arbitrator ordered them to pay the landlord nearly \$8,400.

The tenants then applied for judicial review, citing five grounds, some of which aren't worth mentioning and were rejected by the Court. One of the grounds was that the arbitrator's order was "patently unreasonable in that it cannot be rationally supported by the Residential Tenancy Act." In ruling on this ground, the Judge wrote:

"In *Fulber v. Doll*, this court concluded (in 2001) that the standard of review of decisions of arbitrators under the Residential Tenancy Act is 'patent unreasonableness.' That standard was approved by the Court of Appeal (in 2003) in *Schubach v. British Columbia Housing Management Commission*. . . (the landlord) filed material apparently before the arbitrator on

26 February 2003, and upon which the arbitrator based the findings of fact set out in his award. Manifestly, there was evidence upon which the arbitrator could come to the conclusions he did on the quantum of damages to the units; and that the damage had been caused during the tenancy of (the tenant). . . In those circumstances, the court has a limited authority to interfere with the arbitrator's decision.

"*In Re McInnis and Simon Fraser University et al*, . . . the court said,

. . . If the decision is to be upheld, there must be some evidence logically capable of supporting the conclusion to which the tribunal has come. Such evidence is sometimes referred to as evidence which 'reasonably' supports the conclusion, . . . must be one to which the tribunal could reasonable have come on the evidence. Such language does not, in my view, authorize the court to embark on the exercise of weighing and evaluating evidence which was properly received by the committee and which possesses some probative value. The court of review remains confined to the initial questions of whether there is some evidence capable of supporting the committee's conclusion.

"Application of that . . . proposition to the circumstances of this case is dispositive of the grounds argued by (the tenant.) The arbitrator's order is not patently unreasonable. It was supported by some evidence.

"In result, the petition is dismissed with costs to (the landlord)."

**"...the arbitrator ordered them to pay the landlord nearly \$8,400."**



Continued on page 6

In our opinion, the Judge did an excellent job of succinctly pointing out that “patently unreasonable” means exactly that – if a reasonable person in considering the evidence would come to that conclusion, then a Judge cannot change the conclusion. So next time you feel an arbitrator has made a poor decision and you are considering Judicial Review, remember:

- you will likely wait many months for a hearing;
- you may need to incur the added expense of a lawyer to assist you;
- the likelihood of a Judge overturning an arbitrator’s decision, based on it being “patently unreasonable” is slim at best!

## **CREDIT CHECK COSTS GO DOWN!**

**Effective August 1, 2004  
the cost of doing credit checks is  
going down.**

**Single report = \$9.95**

**Joint report = \$17.95**

**Commercial unchanged at \$39.95**

**No hit—no charge**

**Just another reason being a Member of MHPOABC makes  
good sense!**

Fax the tenant application form, along with a cover letter giving your park name and membership number, your return fax number and your telephone number. Results are returned to you in a few minutes. The bill will be sent to you at the end of the month.

If you would like further information about the credit report, phone ROMA BC at 250-382-6324 toll free 1-888-330-6707 to discuss it.

**Fax: 250-382-6006**  
ROMA BC OFFICE HOURS  
Monday—Friday 8:00 am—5:00 pm

## Convention 2004 Palm Springs, California

**Place: Riviera Resort 1600 North Indian Canyon Drive**

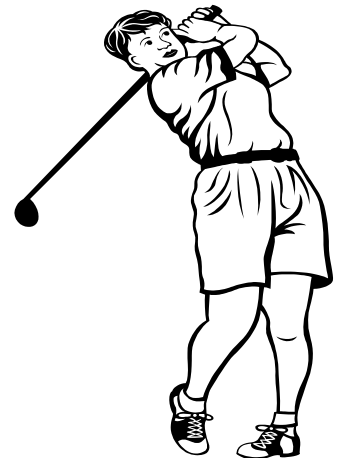
**Date: November 15th to 19<sup>th</sup>, 2004**

### The Convention Schedule:

- Daily Breakfast meetings are scheduled for Monday November 15<sup>th</sup> to Friday November 19<sup>th</sup> inclusive.
- Meetings are planned to last a maximum of two and one half hours per day including the “brunch” leaving plenty of time for sightseeing and other activities.
- Several guest speakers will discuss various topics of interest to Park Owners including speakers from the W.H.A. (The Western Mobile home Park Owners Association) the California Park Owners Association based in Sacramento.
- We are also hoping to meet with several local Palm Springs Park Owners and arrange a bus tour of their parks, including the Good, the Bad and the Ugly!!!!
- There will be a “Welcome Reception” on Sunday Evening as well as a “Farewell Dinner” on Friday Night. A meeting place in the extensive Resort grounds will be set aside for our group so that we can meet around 6pm each evening to enjoy “happy hour” and to arrange various evening group activities.

### Accommodation:

- A block of suites have been reserved at the Riviera Resort and Racquet Club which has offered 1 bedroom Suites for \$95.00 U.S. per night + 13.55% state tax and \$1.25 utility fee. This same rate for our group will be valid for 3 nights prior to the Convention dates and 3 nights after.
- Reservations can be made by calling 1 800 444-8311
- The suites are reserved on a first come – first served basis subject to availability, with the convention rate available only until October 15<sup>th</sup> so reserve your accommodation A.S.A.P.
- Please specify that you are part of the MHPOABC Convention group.
- The Riviera Resort is located less than 2 miles from Palm Springs Downtown area and offers a complimentary shuttle bus to downtown and to and from the airport.



### The Riviera Resort offers the following amenities:

- A lighted 18-hole Championship Putting Course.
- Tennis Courts: The Riviera Resort contains a tennis center with nine courts, five lit for night play.
- Racquet and ball rental are available as well as a staff of tennis professionals for lessons. Proper attire and shoes are required.
- Volleyball: The Riviera Resort offers a regulation sand volleyball court. Complimentary volleyballs are available from the front desk.
- Basketball: The Riviera Resort offers a “half-court” basketball court, which is lit for night play. Complimentary basketballs are available at the front desk.

- Two Swimming Pools with Jacuzzi
- A Fitness Centre.

**For further information about the Riviera Resort go to their web site at [www.psriviera.com](http://www.psriviera.com)**

**Travel:**

- Palm Springs International Airport is located 2.5 miles from the downtown area. Arrange for pick up by the Riviera Resort shuttle bus at the same time as reserving your accommodation.
- Alaskan Air has two direct flights daily from Vancouver, and flights from Kelowna via Seattle.
- Air Canada has two flights daily via Los Angeles or San Diego.
- Westjet will start a direct flight from Vancouver in October. Group Fares may be available from Vancouver if 15 or more members want to fly out and back at the same time on the same day.
- Mary at Viking Travel in Enderby is willing to coordinate this. Please contact her at 1 888 523 – 5519 for current fares and schedules.
- Take your R.V. and extend your trip by driving to Palm Springs, about a 20 hr drive.

**The Convention Fee:**

The Convention Fee of \$300 Cdn. per person covers the cost of the “Welcome Reception”, Five “Brunches”, the meeting room and speakers’ costs, the Bus tour and the “Farewell Dinner”. Please register by filling out the Registration Form and forwarding it and your cheque to the MHPOABC office before September 30<sup>th</sup>. The \$300 Convention fee is non-refundable after September 30th.

**Business Expense Write-off?**

There are a number of variables that could affect how much you can write off as business expense. We strongly advise that you consult your accountant or business advisor beforehand.

**General Tips:**

- Consider cancellation insurance and extra out of Province medical insurance. This may be available through your Gold credit card.
- Budget for lunches, evening meals, shopping, entertainment and incidentals.
- Canadian Citizens do not currently require passports to enter the U.S. but it is strongly recommended that you have a passport for ease of travel to the U.S. If you do not hold a Canadian Passport please check what your individual requirements will be with a Travel Advisor or the U.S. Consulate in Vancouver.
- Don't forget your bathing suit and sunscreen!!!

**PALM SPRINGS CONVENTION HOTEL BOOKINGS – RIVIERA RESORT -**

We have been notified by the Riviera Resort ( [www.psriviera.com](http://www.psriviera.com) ) that their one bedroom suites are reserved on a first come – first served basis subject to availability, so reserve your accommodation A.S.A.P so as not to be disappointed. Please specify that you are part of the MHPOA Convention group. Reservations can be made by calling 1-800-444-8311. The Convention dates are November 15th-19th inclusive. Also, please remember to fill out the Convention registration form and mail it in to us with your \$300 fee if you plan to attend. (See the Convention article in this issue of the Reporter for more details.)

## ENJOY PALM SPRINGS ATTRACTIONS AT CONVENTION 2004

Palm Springs California, "playground of the rich and famous". A magical place known worldwide for its warm and welcoming spirit. Situated in the desert the sleepy village of the 1880's drew pioneers, after the completion of the Southern Pacific Railroad through the desert, who's descendants created an oasis, which having pure dry air and healing waters became THE international playground of Hollywood stars who built palatial homes in the 1920's and 30's that are still preserved as originally built by their current owners. Situated 110 miles East of Los Angeles along Highway 10, Palm Springs has the perfect climate for playing golf, tennis, hiking, biking, horse-back riding swimming and sunbathing 365 days a year. Downtown Palm Springs has preserved and embellished it's "village" atmosphere over the years becoming "hippier" than ever with quaint lampposts, benches sculptures and Mexican -tiled enclaves which invite the visitor to stroll amongst the boutiques, galleries, coffeehouses, antique and curio shops. Located on Palm Canyon Drive is the "Walk of the Stars" which honors the city's pioneers, benefactors, and celebrities that have contributed to the growth and charisma of the village. Many of the streets are named after them. Village Fest is celebrated every Thursday evening downtown, the shops staying open until 9pm with food and sidewalk entertainment available for everyone to enjoy Palm Springs is also the ancestral home of the Agua Caliente Band of the Cahuilla Indians, who continue to be a major force in the desert's cultural and economic success. In their Spa Resort Casino located downtown can be found the "Springs" and their tribal lands include the Palm, Murray, Tahquitz and Andreas Canyons which were featured in Frank Capra's Classic 1935 film "Lost Horizon" and which are located just minutes from downtown and now open to the public.

The following is a short list of activities that can be enjoyed in and around Palm Springs. For more information contact Palm springs Bureau of Tourism 1 800 927 – 7256 or [www.palm-springs.org](http://www.palm-springs.org)

The Palm Springs Follies: Located downtown in the historic Plaza Theatre the "follies" is a variety of hilarious vaudeville acts featuring the music and dance of the 30's and 40's with the legendary line of lovely chorus "girls" all over age 50.

Golf: Palm Springs calls itself the "Golf Capital of the World" having 105 courses in the area many of them quite spectacular and challenging and most of them open to the public.

Palm Springs Aerial Tramway: Located only a short drive from Palm Springs a 6,000 ft. 10 minute journey up the sheer cliffs of Chino Canyon aboard a rotating tramcar to Mt San Jacinto State Park. At 8,500 ft the restaurant at the top serves lunch and dinner along with spectacular views of the desert below.

Palm Springs Air Museum: A collection of propeller-driven World War II aircraft in flying condition.

The Living Desert Zoo and Gardens: Located a short drive from Palm Springs a 1,200 acre wildlife preserve and botanical garden featuring rare and endangered desert plants and animals as well as an African wildlife exhibit.

Joshua Tree National park: Approx 1 hr's drive from Palm springs the Mohave and Lower Colorado deserts join to form Joshua Tree National Park a wonderland of desert landscape, flora and fauna.

Touring the Desert: Airplane, Helicopter or Balloon flights across the Desert at sunrise or sunset. Jeep tours, Camel tours or Covered Wagon tours, Hiking and biking tours are all available. View the San Andreas Fault close up.

The Date Gardens: Located approx 30 miles from Palm Springs the Coachella Valley is the "Date Capital of the World" Palm groves have thrived there since the 1980's. Take a tour, watch a film and learn all about the romance and sex life of the date, sample the many varieties and enjoy a delicious date shake.

The Power Windmills: Just West of Palm Springs the San Gorgonio Pass is one of the most consistently windiest places on earth and home to the 3,500 Windmills that generate 1/5<sup>th</sup> of California's power supply including that of Palm Springs. Guided tours are available.



# Fact Sheet

## for Landlords and Tenants

#RTO-103

## Enforcing an Order of Possession for a Landlord

A decision of an arbitrator is final and binding. Unless it has been suspended under the Residential Tenancy Act (RTA), or the Manufactured Home Park Tenancy Act (MHPTA), an order of possession is enforceable through the Supreme Court of British Columbia.

### Serving the Order

Along with the decision of the arbitrator, you will receive at least (3) original Orders – one for your records, one for the court, and one for each person named on the order. The Order (or a true copy) must be served to each respondent. The Affidavit (RTO 15), which is provided with the Order and available on the website, contains the methods of service generally accepted by the Courts for service. However, it is the responsibility of the landlord to satisfy the Court that the Order was properly served. How you serve the order will also affect the time for the tenant to move out. As an example, if you post the Order on the door it is deemed received on the third day after posting. For more information on serving documents speak to the Supreme Court Registry nearest you.

### Review of the Order

A tenant has two (2) days from being served with the Order to file for a review under the RTA or the MHPTA. If the second day falls on a day when the Residential Tenancy Office (RTO) is not open, the tenant will have until the next business day to file. You may not apply to have an order enforced until the two-day period has passed. If the two days have passed, you should contact the RTO to see if the tenant has filed for a review. An application for a review does not automatically suspend the Order. However, if it has been suspended you will not be able to enforce the Order until the review process is completed.

### Enforcing the Order

If the tenant does not leave voluntarily or as required on the Order, you must apply to the nearest Supreme Court Registry. It is an offense under the RTA and the MHPTA to remove the tenant except under a Writ of Possession (RTO 14). Take an original Order and the completed Affidavit and Writ of Possession to the Court Registry. There are fees for processing the documents. See the Registry for more information about the process. You can locate the Registry nearest you by calling Enquiry BC:

- In Victoria call 250 387-6121
- In the Lower Mainland call 604 660-2421
- Elsewhere in B.C. call 1 800 663-7867.

Once the Court has issued a Writ of Possession, you are responsible for selecting a Court Bailiff and will be required to pay any associated fees. Enforcement of the Order will depend on the availability of the Bailiff. The Bailiff will be able to explain to you the procedures they must follow. You may also pursue the tenant for any expenses you incur.

Contact the Residential Tenancy Office for information regarding recovering the costs of enforcement.

### For more information . . .

Visit the B.C. Government Web site: [www.gov.bc.ca](http://www.gov.bc.ca) (type 'rto' in the search bar).

Call the Residential Tenancy Office's 24-Hour Recorded Information Line:

- In the Lower Mainland: 604 660-1020
- Elsewhere in B.C.: 1 800 661-4886



# Fact Sheet

for Landlords and Tenants

#RTO-108

## Enforcing a Monetary Order

An Order of an arbitrator is final and binding. Unless it has been suspended under the Residential Tenancy Act (RTA) or the Manufactured Home Park Tenancy Act (MHPTA), a monetary order may be enforced as an order in the Provincial Court of British Columbia (Small Claims). The Court establishes the procedures for enforcing the order.

### Serving the Order

Along with the decision of the arbitrator, you will generally receive at least three (3) original Orders – one for your records, one for the Court, and one for each person named on the Order. An original (or a true copy) must be served to each respondent named on the Order. The Certificate of Service (RTO 21), which is provided with the Order and available on this website, contains the methods of service generally accepted by the Court. However, it is the responsibility of the person enforcing the Order to satisfy the Court that the Order was properly served. For more information on serving documents speak to the Small Claims Court Registry nearest you.

Along with the Order you must attach a letter clearly stating how, when and where you expect payment to be made. You should provide a reasonable time for the party to make payment.

### Review of the Order

A respondent has (15) days from receiving the Order to file for a review under the RTA or the MHPTA; however, an arbitrator may extend the time to consider a request for a review. An application for a review does not automatically suspend the Order; however an order may not be enforced until the review period has passed. Unless suspended, the Order may be filed for enforcement at any time after the review period, subject to any requirements of the Court.

### Enforcing the Order

To enforce an Order you will have to register it at the Small Claims Court Registry. Take an original Order and the completed certificate of service to the registry office nearest to the residential premises (requirements at each registry may vary, please contact the office nearest you). Before filing, you should contact the Residential Tenancy Office to see if the Order has been suspended. You should also be prepared to provide the Court with as much information as you can about the respondent, such as where the person lives, works, banks, etc. along with any proof of service of the Order such as a receipt for registered mail from Canada Post. There are fees involved for filing and you may request that they be added to your claim.

For the address of the nearest Small Claims Court check the blue pages of the phone book, under Provincial Government listings, for the Ministry of Attorney General, Courts, or visit the B.C. Government Web site (type 'court services' in the search bar) or call Enquiry BC 1 800 663-7867.

### For more information . . .

Visit the B.C. Government Web site: [www.gov.bc.ca](http://www.gov.bc.ca) (type 'rto' in the search bar).

Call Residential Tenancy Office's 24-Hour Recorded Information Line:

- In the Lower Mainland: 604 660-1020
- Elsewhere in B.C.: 1 800 661-4886

