

# Legal Centre News

*Making a Difference in the Community Since 1989*

Volume 35

May 2007

## Peterborough to host education meeting on electoral reform

“On October 10, 2007, the provincial government is running a referendum along with the election and not enough voters know about it,” said Melinda Rees, Executive Director at the Peterborough Community Legal Centre. “Electoral reform could completely change the face of politics in Ontario, but most voters have not received information about this issue.”

A coalition of nineteen community groups is sponsoring a public education meeting called “Electoral Reform-Make Every Vote Count” on May 29<sup>th</sup> from 7-9 p.m. so that voters can learn about how Electoral Reform will affect them.

Under the current electoral system, each riding in Ontario is represented by one elected member. To be elected, the member only has to secure the *most* votes in his/her riding not the *majority* of votes. The political party with the most elected members forms the government which means that the governing party is very rarely a majority government.

In order to create a more representative system, the provincial government appointed a Citizens’ Assembly to investigate the various options for electoral reform. In addition, the government agreed to hold a (See Referendum, p. 3)

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## Electoral Reform-Make Every Vote Count

On October 10, 2007, Ontarians will vote in a referendum regarding electoral reform.

Do you know about the issues?

Come learn more!



### Public Education Meeting

May 29, 2007  
7 pm - 9 pm

Peterborough Public Library Auditorium  
345 Aylmer St. N.  
Free, wheelchair accessi-

# Chief Justice Roy McMurtry retires

The Board and Staff of the Peterborough Community Legal Centre would like to thank Chief Justice McMurtry, on the occasion of his retirement, for his instrumental role as Attorney General in establishing a network of community legal clinics that has

*As a lawyer whose career has been defined by his commitment to public service and social justice, Chief Justice McMurtry exemplifies the finest traditions of the profession of law.*

grown, with his ongoing support and encouragement, to become one of the most advanced civil law systems of representation for low income people in the world today. To quote Chief Justice McMurtry: "...our laws and freedoms will only be as strong as the protection that they afford to the most vulner-

able members of our community. In affording this protection, legal aid clinics do make a deep and essential contribution to our social fabric and indeed to our very way of life." I know that his words have encouraged, motivated and inspired the staff and volunteers at our clinic and, I am sure, have had the same impact at every community legal clinic in the province.

Chief Justice McMurtry has had an illustrious career as a lawyer, jurist and Attorney General. Amongst his many achievements are his role in the patriation of the Canadian

Constitution and the creation of the Canadian Charter of Rights and Freedoms, his outstanding performance as Ontario's Attorney General from 1975 to 1985 and more recently, his participation as Ontario's chief justice in the decision legalizing same-sex marriage.

As a lawyer whose career has been defined by his commitment to public service and social justice, Chief Justice McMurtry exemplifies the finest traditions of the profession of law. Now that he has retired from the judiciary, we know that he will continue to work to improve the lives of Ontarians.

Paul Atkinson, LL.B  
President, Board of Directors

# Ontario faced all time high evictions in 2005

Evictions of Ontario tenants reached an all-time high in 2005 according to a study recently released by Michael Shapcott of the Canadian Centre for Policy Alternatives.

Shapcott reports that a record number of 64,864 tenant households were the victims of economic eviction. Simply put, these families could not maintain their housing because they could not afford to pay the rent. On average, this means that 260 households lost their

housing each and every working day in 2005.

Ontario's growing housing insecurity affects all members of society. Shapcott notes that low-income people are subject to "housing insecurity, poor health and premature death."

When the cost of emergency

services for evicted tenants is factored in (for example the cost of increased use of food banks, shelters, hospitals, etc.), the cost of doing nothing about this situation, is, as Shapcott says "enormous and growing."

**...low-income people are subject to "housing insecurity, poor health and premature death."**

With files from Ontario Alternative Budget 2007 "Fourteen cents a day won't build many homes" by Michael Shapcott, the Wellesley Institute

## Tenants fuming over smoking bans in apartments

On May 31, 2006, the *Smoke-Free Ontario Act* came into effect. Under the *Act*, smoking is now illegal in enclosed public places, it is illegal for anyone under 19 years of age to purchase tobacco products and by May 2008, retail displays of any tobacco products in public will be illegal. For landlords and tenants this means that smoking is currently illegal in the common areas of residential units including elevators, laundry rooms and hallways. There is increasing public pressure to make smoking inside residential units illegal as well. This is contro-

versial. On one side of the debate is the irrefutable medical evidence that second hand smoke poses serious health risks. On the other, is the landlord's duty under the *Ontario Human Rights Code* to accommodate a tenant disabled by addiction. Application of the Code may require a landlord to install ventilation systems to accommodate the smoking tenants and to balance their rights with the rights of the non-smoking tenants. As more cases are decided in higher Courts, a body of case law will emerge. The only sure bet is that this debate is far from over.

(Referendum from p. 1) binding referendum on the Assembly's recommendation which was released on May 15, 2007. The Assembly has recommended a form of proportional representation called the Mixed Member Proportional system (MMP).

Ann Thomas, Peterborough's Representative on the Citizens' Assembly and Queen's University Politics Professor and Citizens' Assembly Academic Director Dr. Jonathan Rose will both speak at Peterborough's public education meeting on May 29<sup>th</sup>.

Everyone is welcome to attend. For more information, contact the Legal Centre at 749-9355.

## Divisional Court rules that housing tribunal has jurisdiction to award damages

In a recent decision, the Superior Court in Brampton granted a tenant's request for damages arising from harassment by the landlord and interference with the tenant's quiet enjoyment.

The tenant was assaulted by three of the landlord's friends in the presence of the landlord and the tenant's family.

Originally, the housing tribunal found that it did not have jurisdiction to award damages to the tenant. The Court

found that the tribunal "erred in law in determining that it had no jurisdiction to award damages for breach of contract." The Court ordered the landlord to pay the tenant \$4,000.00 plus costs in addition to the tribunal's award for abatement of rent and moving expenses.

The Landlord and Tenant Board (LTB) appears to be ready to apply this reasoning. In April, 2007, it ruled that it could award compensatory damages including aggravated

damages and cited several Divisional Court cases as its authority for doing so. In the case before the LTB, the landlord illegally locked out a tenant who suffered from a severe mental illness. The tenant was awarded \$1000.00 aggravated damages and a rent abatement in the amount of \$695.00.

This clarification of the Board's jurisdiction may lead to fairer awards for Legal Centre clients.

# Electoral Reform:

The welcome winds of change are blowing around the clogged corridors of old style Ontario politics – and what a refreshing breeze it is for those who want to see Ontario adopt a modern, progressive electoral system. This October, voters in Ontario will have the chance to vote for a new system for electing politicians to Queen’s Park. The result of this historic vote will be binding on the provincial government and could rekindle flagging public interest in the democratic process.

## **Our Current System – “like a horse race”**

Our current electoral system

has been criticized as an outdated hand-me-down from our colonial past that has not been changed since our first parliament was elected in 1792. It is called the Single-Member Plurality system (SMP) or the “first past the post” system - because it works like a horse race. Voters choose a single member to represent their electoral district. Their vote for the candidate is also a vote for the candidate’s political party. The winner needs *more* votes than any other candidate (a plurality) but does *not* need a *majority* (50% plus 1) of the votes. Ontario, for example, has *rarely* been governed by a

party with an actual majority. The unfortunate result of this system is that the legislature is not representative of all voters and the government is not accountable to the majority of voters. This may explain why a lot of people do not bother to vote.

## **The Citizens’ Assembly – power to the people**

Last year, the provincial government fulfilled an election promise by appointing a Citizens’ Assembly to investigate different electoral systems in use around the world and to recommend whether Ontario should keep its current system or adopt a different one. The Citizens’ As-

### ***Frequently Asked Questions about Electoral Reform in Ontario*** (from [www.citizensassembly.gov.on.ca](http://www.citizensassembly.gov.on.ca))

***Why do I get two votes?*** The first vote on the ballot allows you to choose a party. This vote determines the total share of seats each party gets in the legislature. The second vote allows you to choose an individual member to represent your local district. Together, the two votes give you strong local representation and produce fairer election results.

***Will Ontario citizens have less representation under the new system?*** Citizens will gain representation overall through the combination of 90 local members and 39 list members. If you divide the number of Ontarians by 129 representatives, it works out to about 19,000 fewer citizens per representative compared with the current system at 107 seats.

***How are list members accountable to the voters?*** Like local members, list members are accountable to the voters. They are elected through the party vote. If voters are unhappy with a party's performance or its list members, they can withdraw their support for that party in the next election.

***How are seats allocated to parties?*** Mixed Member Proportional systems use formulas to allocate seats to parties. The Assembly chose the simplest formula (called the "Hare formula"). It divides the total number of party votes by the total number of seats in the legislature. The result of this calculation determines the number of seats to be allocated to each party.

# Making Every Vote Count

sembly is the first of its kind in Ontario and has attracted attention from all over the world as a model that has the potential to change the role of ordinary citizens in making public policy. The Assembly is composed of randomly selected Ontarians (52 men and 52 women) from across the province, including Peterborough's own Ann Thomas.

Unlike other forms of public consultation, where citizens generally have very little background on the issues, the members of the Citizens' Assembly have had the opportunity to engage in a lengthy period of learning, discussion and consultation. The Assembly is chaired by Justice George Thompson, a veteran of Royal Commissions. The academic director is Dr. Jonathan Rose, a professor of Political Science at Queen's University. His job has been to teach the Assembly about electoral systems around the world and to coordinate presentations from a wide range of experts on the subject. As George Thompson remarked, "if anyone doubts that ordinary citizens can learn enough about electoral systems to make an informed decision, the evidence to date suggests they

are simply wrong. We clearly have very active learners, eagerly and thoughtfully taking it all in."

After this intensive learning experience, the Assembly embarked on two months of consultations across the province which included a well attended meeting in Peterborough on December 5, 2006. The education phase was followed by a further six weeks of deliberation. The Assembly released their written report on May 15, 2007. The report is available (with educational materials) on the Assembly website at [www.citizensassembly.gov.on.ca](http://www.citizensassembly.gov.on.ca). The Assembly's recommendations will go to voters in a referendum that will take place alongside the provincial election on October 10, 2007.

## The "made-in-Ontario" solution

The Assembly has recommended that the province adopt an electoral system known as the Mixed Member Proportional system or MMP. MMP is a form of proportional representation (PR) which has been in use for some time in several other democratic jurisdictions around the world including Germany and New

Zealand. MMP makes every vote count, produces greater public participation in the political process and results in real majority governments.

The MMP electoral system recommended by the Assembly will contain some unique features. To quote from the Assembly website:

- The MMP system designed by the Assembly is a made-in-Ontario solution. It preserves the best of the electoral system we have now—strong local representation—and adds new elements to produce more proportional election results. This means that the share of seats each party wins will be roughly equal to the share of votes it receives.
- Citizens will be represented by 90 members elected in local ridings (70% of the legislature) and 39 members (called "list members") elected provincially (30% of the legislature). The number of local ridings is reduced slightly but all citizens will gain representation *overall* through the combination of local and list members. Provincially elected list members provide Ontarians with a new pool of represen-

tatives to draw on. List members have a unique opportunity to focus on broader issues that may affect a region or the whole province.

- With a total of 129 members, the legislature will be restored to about the size it was from 1987 to 1999, when it was reduced from 130 to 103 seats. The Assembly members felt this was necessary to achieve proportionality, while retaining strong local representation.

### **Impact on Ontario**

What would Ontario look like with an MMP electoral system? To quote Ann Thomas: "The first thing that attracted me to the system was that we have two votes. We can vote for a local person and for a party. The second thing that appealed to me was the votes reflect the seat percentages more fairly. If, for example, the Conservatives receive 35% of the vote, they get 35% of the seats". This means that all votes would count and all voters would gain some form of representation through the combination of local and regional representatives. As pointed out by the Assembly in its initial report, an MMP system would provide Ontarians with greater choice, more flexibility and a new pool of representatives to choose from. Overall this

means that Ontario citizens would be better served at the ballot box, by the election process and in the legislature.

It is likely that MMP will produce coalition governments because it will be harder for one party to obtain a real majority (50% of the votes plus one). But coalition governments representing the majority of voters are likely to be more responsive to voter concerns than the false majority single party governments we have known. There is plenty of evidence to suggest that countries which have MMP electoral systems (such as Germany and New Zealand) also have stable, effective coalition governments - possibly because the MMP system distributes power more equitably and in accordance with the wishes of the electorate.

### **MMP and Social Justice**

The experience of European countries with similar PR systems is interesting from another perspective. These countries tend to have a smaller gap between the wealthiest and the poorest, higher social welfare spending, stronger environmental policies, higher levels of foreign aid and lower incarceration rates. This is because a truly representative government has to balance the

needs of all its citizens. Compare this to our winner-takes-all system where the federal Conservatives, elected by 36.27% of the vote, and the provincial Liberals, elected by 46.5% of the vote, need only respond to the interests of the minority that elected them.

Much public education needs to take place between now and the referendum on October 10, 2007. To quote George Thomson again, "it is imperative that a strong, well funded public education campaign is in place and soon, to help build civic literacy about the issue. Voters will need to understand what the Assembly decided and why". Although the province has promised to launch an education campaign, it has yet to announce the specifics or commit to funding.

### **Find out more**

Peterborough is fortunate enough to have a wide range of civic and community groups which have come together to plan and implement a grassroots education campaign from now until the referendum in October. The campaign starts with an information meeting on May 29, 2007 at the Peterborough Public Library on Aylmer Street between 7:00 and 9:00 p.m. Ann Thomas and Dr. Rose will be guest speakers. We hope to see you there.

## Landlord taking photos without notice and consent contravenes privacy legislation

The Assistant Privacy Commissioner made an important ruling for tenants under the *Personal Information Protection and Electronic Documents Act* (PIPEDA) in August 2006.

The tenant in this case was notified that his landlord would be entering his unit for insurance purposes. The tenant was at home when the landlord and two insurance agents entered his unit. The agents immediately set about taking photos of the rooms in the tenant's unit. The tenant was not notified that photos would be taken and

did not give his consent.

The tenant complained to the Privacy Commissioner, taking the position that the landlord had collected his personal information without his consent when he took the pictures.

The Assistant Privacy Commissioner agreed with the tenant, finding that the photos constituted "information about an identifiable individual that was personal information for the purposes of the Act." She also went on to state that the landlord "ought to have been sensitive to the fact that people consider

their homes, above all, to be a very private sphere." She acknowledged that taking photos without consent may be an industry practice but that it was not acceptable under the *PIPEDA*.

This case is extremely important to tenants in light of the changes to the *Residential Tenancies Act* which give landlords the right to enter rental units in order to inspect. Tenants may find this case helpful in applications to the Landlord Tenant Board in which there has been a breach of privacy protections under the Act.

## Provincial Budget News: Ontario Child Benefit

In its March budget release, the provincial government announced a new program, the Ontario Child Benefit, to assist families with low incomes. The program will not be fully implemented until 2011.

In July 2007:

- Eligible families will receive a one-time payment of up to \$250 for each child under 18.
- Families with a net income in 2005 of under \$20,000 will receive the maximum payment of \$250 for each child.
- Families with incomes over \$20,000 will receive an amount that is reduced by 3.4 cents for every dollar of family net income over \$20,000.
- This payment will not be treated as income or clawed back from families on social assistance.
- To be eligible for this benefit, parents must have registered for the Canada Child Tax Benefit (CCTB/NCBS) and must have filed tax returns in 2006.
- The benefit is only paid once. No other payments under the OCB will be made until July 2008.

Legal Centre News will keep you posted as the OCB rolls out in 2008.

*With files from the Income Security Advocacy Centre.*

# Report to Peterborough City and County Councils on Social Issues

## Report Background

During the 2006 Municipal Election, the Peterborough Community Legal Centre and the Peterborough Social Planning Council took the lead in planning and holding two public meetings at which important social issues were topics of discussion and debate. In total, 16 local agencies sponsored the meetings.

The first of the two meetings gave the public a chance to

meet with their City and County municipal council candidates. The second meeting was the Mayoralty Debate on Social Issues (see below).

At the first meeting, the 130 attendees broke out into groups that considered six key areas: income security, access to affordable housing, food security, access to public health care, public transportation and employment and training. The Peterbor-

ough Community Legal Centre was charged with producing a report of the proceedings which was to be presented to both City and County Councils following the municipal election.

*An Executive Summary of this report in on pages 9-10 .*

*The full text of the report is available on the Legal Centre's website:*

*[www.peterboroughcommunitylegalcentre.org](http://www.peterboroughcommunitylegalcentre.org)*

## Mayor promised task force on municipal poverty reduction at Mayoralty Debate on Social Issues

Over 140 people attended the Mayoralty Candidates Debate on Social Issues on November 2, 2006. The eight mayoralty candidates were asked to answer the question: "Describe three (3) actions that you would initiate as Mayor to improve the income security, housing security and food security of City residents. Describe how you would engage others on Council to work as a team on these actions."

It was during his response to this question that mayoralty candidate Paul Ayotte first announced that he would convene a Task Force on Poverty Reduction within the first 90 days of his mandate. He further addressed this issue in his Inaugural Address on Monday December 4, 2006:

One of the first actions taken out of respect for others will be to establish a Mayor's Task Force on Municipal Poverty Reduction. The outcome of this work will be a community driven effort to reduce poverty through partnerships that make use of our most valuable assets - our people, our community organizations and our government connections...But we can't just continue to see poverty as "their problem" it is our community so it is our problem too and we must do what we can to start reducing it. During our four-year term of office, we will spend almost a billion dollars operating this municipality and preparing it for the future. We must do it prudently and wisely.

The Mayor's Task Force on Municipal Poverty Reduction is holding public meetings during May and June 2007 to hear what the public has to say about food insecurity, basic needs (such as childcare, healthcare services, transportation), housing, and income security. **See p. 11 for details about the Taskforce and important upcoming dates.**

# Report to Peterborough City and County Councils on Social Issues-Executive Summary

## Income Security

There is poverty in our community and it affects everyone. Recently, the consequences of increasing poverty have become more evident (for example homeless people on the streets, panhandlers, increased food bank usage etc.). With this comes the risk that we will become inured to the suffering caused by poverty and that inequality will go unchallenged. We need to ask why we have poverty when we live in such a wealthy community.

We need action to reduce poverty. The City/County should promote the special diet allowance for Ontario Works recipients.

Poverty causes social isolation, low-self esteem and ill health. It undermines social cohesion.

Our City/County governments can address poverty now by:

- Topping up social assistance rates by broadening the discretionary benefits policy
- Developing local Ontario Works

The best food action program is one that results in increased social assistance rates and an increased minimum wage.

policies aimed at reducing the incidence of benefit suspension and reduction

- Passing a municipal

minimum wage by-law

- Implementing a local plan to assist low-income households with their energy costs.

## Housing Security

The lack of truly affordable housing puts many tenants at risk for homelessness.

The City/County governments should:

- Make affordable housing a high priority
- Enforce property standards by-laws so that tenants are not paying extra for utilities because the building and appliances are poorly maintained
- Provide more emergency funds to reduce the number of evictions due to rent arrears.

## Hunger/Food Security

Poverty leads to hunger which affects one in six families in Peterborough City and County.

The City/County should develop local Ontario Works policies aimed at reducing the incidence of benefit suspension and reduction

The best food action program is one that results in increased social assistance rates and an increased minimum wage.

(Continued on p. 10)

In the interim, our City/County governments should take leadership and ensure that:

- Agencies that receive funding for providing food services are accountable to those using the service
- Services are co-ordinated
- Funding is reliable so that services are consistently available
- Services are accessible.

## Health Care

Priority [for obtaining a doctor] should be given to those who need medical forms completed in order to obtain income supports (OW, ODSP).

The gaps in health care services hurt all residents in our community but they have a disproportionate impact on

low-income families. There is a clear connection between poverty and ill-health.

Our City/County governments should:

- Ensure that the 20,000 residents without primary health care receive services through family health teams
- Provide affordable transportation so that County residents can access medical services
- Demand provincial dental coverage for the working poor
- Help to ensure that the Peterborough Regional Health Centre is accountable and responsive to the public.

## Employment

The problem with call centre jobs is that they are low-paying, low-skilled jobs in high

stress environments with high turnover and little chance of advancement.

Peterborough should focus on “green” technology jobs and take advantage of the trades training provided at Sir Sanford Fleming College.

Our City/County governments should implement a strategy to attract jobs that:

- pay a living wage
- are full-time and with benefits
- provide healthy work environments.

## Public Transportation

Our public transportation system is not efficient, effective, or accessible.

We need transportation planning and an effective, comprehensive transportation strategy. We need an environmentally friendly, affordable, accessible public transportation system, with efficient routes and smaller buses.

The City should promote alternative types of travel (rail, bike, travelling by foot). We desperately need a system of public transportation in the County.

The City/County governments should immediately:

- Provide free or subsidized bus passes for the working poor and people who receive social assistance.
- Establish a van system for County residents to access services in Peterborough.

We need an environmentally friendly, affordable, accessible public transportation system, with efficient routes...

# Mayor's Task Force on Poverty Reduction Community Discussions

Come share  
your views  
on these  
important  
issues!

<i>Food</i>	<i>Housing</i>	<i>Basic Needs</i>	<i>Income</i>
<b>Thurs. May 17</b>	<b>Wed. May 30</b>	<b>Thurs. June 7th</b>	<b>Tues. June 19th</b>
<b>Evinrude Centre</b>	<b>Evinrude Centre</b>	<b>Peterborough Square - lower level</b>	<b>Peterborough Square - lower level</b>
<b>6:00 - 8:00 p.m. Doors open at 5:30 p.m.</b>	<b>6:00 - 8:00 p.m. Doors open at 5:30 p.m.</b>	<b>6:00 - 8:00 p.m. Doors open at 5:30 p.m.</b>	<b>11:30 a.m. - 2:30 p.m.</b>

- A light meal will be served at each meeting.
- Free bus transportation on the regular bus route service will be provided to the Evinrude Centre. No special pass is required...just tell the driver you are going to the consultation.
- Handivan service must be booked in the regular manner through the Transit Office at 745-5801.
- Special needs, such as child care services, accessibility needs such as signing and interpretation will be available. Pre-registration is required.

## For the Record...

Excerpt from "Written Submission to the Ontario Seniors' Secretariat concerning Ontario's Consultation on Regulating the Retirement Home Industry" by the Advocacy Centre for the Elderly (ACE) dated March 16, 2007:

In our view, the largest problem is that some retirement homes are operating, in effect, as "bootleg" long-term care homes: they are offering the same high levels of care as long-term care homes but without any of the rules or accountability that the Ministry of Health and Long-Term Care enforces in the long-term care system through detailed legislation, regulation, policies, and enforcement mechanisms. Some retirement homes have locked units and use restraints on tenants, without providing any of the rights protection or other safeguards provided to residents of long-term care homes. This is a double standard, and it fails to ensure the safety and protection of retirement home tenants.

In short, there is clearly a need for a comprehensive regulatory scheme for retirement homes so that all seniors can live in environments that that promote their independence to the extent possible, while also ensuring their safety and protecting their rights.

...Although ACE is encouraged to see retirement home regulation on the Ontario government's agenda, we have significant concerns about the approach taken by the Ontario Seniors' Secretariat, in terms of both the process and the substance of the consultation.

For more information see <http://www.advocacycentreelderly.org/>

## The Objects of the Legal Centre

The objects of the Legal Centre are:

1. To provide legal services or paralegal services or both including activities reasonably designed to encourage access to such services or to further such services and services designed to promote the legal welfare of the low income residents of the County of Peterborough, on a basis other than fee-for-service;
2. To provide legal information and education and to encourage access to knowledge of legal rights;
3. To provide legal representation to low-income residents of the County of Peterborough;
4. To identify areas of law affecting low-income members of our society and to advocate reform.

## Membership

The Centre is directed by its members. If you live in the City or County, and are 16 years of age or older, you can become a member. If you are a member, you can:

- Vote at the Annual General Meeting
- Stand for election to the Board of Directors if you are over 18.
- Get the Legal Centre's newsletter twice a year.

If you want to become a member of the Legal Centre for the 2007, 2008, and 2009 years (January 1, 2007 to December 31, 2009) you need to complete the following form and send or bring it to the Legal Centre at 150 King Street, 4<sup>th</sup> Floor, Peterborough, Ontario, K9J 2R9. If you are already a member, please pass along the membership application to a friend who supports our objects.

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## Membership Application 2007-2009

I support the work of the Peterborough Community Legal Centre. I am 16 or older.

Please print:

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

Address: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Please mail or bring this form to our office. Membership takes effect 30 days after approval by the Board. Membership is for three years, and a renewal notice will be sent with the newsletters. There is no fee to become a member. You do not need to be a member to get help from us.