

ROBERT E. FRANK

2374 Sandstone Cliffs Drive
Henderson, NV 89044-0121
December 6, 2007

Senator Warren B Hardy
Chair, Government Affairs Committee
6536 Blue Sapphire Court
Las Vegas, NV 89110-4049

Dear Senator Hardy:

Thank you so much for agreeing to review my allegations of mismanagement of the records and documents and finances at Sun City Anthem (SCA) Community Association, Inc. This letter will briefly describe my allegations of HOA misbehavior and mismanagement. I have documents prepared to illustrate my points when needed. In my opinion, some of the former and present SCA Directors, managers of the Del Webb Community Management Company, executives appointed by Del Webb and Pulte to the SCA Board during the declarant control period, and managers of RMI, our present Community Association Manager (CAM), have frequently violated their fiduciary duties to this community. The consequences are high and solutions to the problems do not seem within our reach.

For example, in June 2007 our residents were notified that SCA records and documents created by our association between the years 1998 and 2006 by the Del Webb Community Management Company were "discovered" to be in outside storage in seriously damaged condition. Documents reportedly found by the Board Secretary had been dumped into cardboard boxes in unsealed metal containers and damaged by "Rat Infestation". Of course, no one knows what is missing.

Board members and homeowners have subsequently been told the damaged records were moved, disinfected, and secured under lock and key in an air-conditioned room in the Anthem Center. At first, no one was allowed to be admitted except Elaine Berg, Board Secretary since May 2006, and Tina Dixon, wife of the new President of the Board. Even after all these many months, those documents are still being generally withheld from community homeowners and not routinely merged with other SCA records. More alarmingly, the CAM (RMI) has not taken responsibility for them as mandated by statutes.

When asked how this could have happened, Mrs. Berg said "she did not know" and that she was only interested in dealing with the problem. This was a false statement made in a loud voice in front of a few hundred homeowners at a monthly board meeting. In fact, Ms. Berg was the Board Secretary when three, non-climate-controlled containers were placed outside to store our records. Banker-type boxes containing the documents delivered from Del Webb were then placed in the storage containers by RMI staff members—employees of our Community Association Manager (CAM).

A few weeks later, during a Board Book Review workshop, in front of a few residents, some of the board members casually admitted that the 2005-2006 board, 2006-2007 board, and hold-over members of the 2007-2008 board, as well as the RMI managers, had full knowledge of the gross mishandling of these vital records over those many years. Terry DaSilva, the current Community Association Manager (employed by RMI) had also been the Assistant CAM under RMI. She had similar responsibilities under our previous CAM, Del Webb Community Management Company.

A key responsibility for Ms. DaSilva from 2003 to 2007 (under both companies) was to comply with laws and regulations requiring the protection of our vital records and documents. Yet, she, Ms. Berg, and the other CAM staff and prior board members failed in their lawful duties by allowing our records to be mismanaged and damaged. Moreover, they have not disclosed why they allowed these vital records to be stored with such disregard for the consequences. I believe this is a clear violation of NRS 116.31177, NRS. 116.3118, NAC 116.400 Sec. 28 8 (a, b, c, d, e, f, g), SCA BY-LAWS 6.4 and RMI contract 1.07.

In my opinion, such deception and poor records management could be because some individuals are attempting to hide evidence of gross negligence, financial mismanagement, law violations, or fraud. It begs such questions as, how much did this lack of access to official records and financial data degrade the financial planning for our \$8 Million budgets in recent years? Without accurate records, how could our Reserve Funds and operating budgets be reliable? Have our seriously under-funded Neighborhood Reserves been due to false and/or incomplete data? Why has Pulte not been required to pay the \$1.375 Million from the "Co-Gen Agreement" which has been due since May 2005? Where are the details on why the \$250,000 Pulte payment intended to correct construction-defects in Recreation Center #2 was not spent on the code violations and safety deficiencies? Why are our annual audits limited to mostly checking bank balances instead of also verifying that our financial services and property management services are effective and honest? These are just a few of many basic business and financial management questions that must to be answered in the future.

I have served as a member of this SCA board since May of this year. I campaigned on a platform of openness, homeowner participation in community government, and doing away with the secrecy, deception, and bullying under which the previous boards operated. My concerns about improprieties and illegal acts by these boards were among the reasons I ran for election, and why I earned almost 80% of the votes cast this year. And now, as a well-informed member of this board, I realize these concerns were valid.

Because of my sustained efforts to expose and correct these widespread violations of Nevada State Laws, NRS, NAC, and SCA Rules I have become the target of constant criticism and retaliation by other board members, their associates, and the Del Webb-selected association attorney, John Leach. With the help of other homeowners, attached are some clear examples of board member misconduct, bad business judgment in managing association affairs, failure to perform fiduciary responsibilities, and egregious abuse of power.

We could provide much better documentation of our problems if our members were not being inhibited from conveniently accessing the full range of SCA Official Records. The Board recently imposed a \$10 an hour fee to view, \$0.25 a page to copy, and limited to only 1 person present when reviewing SCA documents and records. I believe this was done to try to block and discourage homeowners from learning the facts and attempting to hold board members and Community Association Managers accountable for their mismanagement.

In my opinion, the leading cause of bad behavior in this community revolves around the board member relationships with our developer, Del Webb/Pulte. I believe that Del Webb/Pulte, its selected attorney for this association (John Leach), and many past and present Board Members have been (1) manipulating this age-restricted community to help the developer avoid paying millions of dollars owed to this association, (2) covering up multi-million-dollar losses in reserve funds and restaurant operations, and (3) deceiving homeowners about the true nature, scope and financial impacts of the massive construction-defects affecting 100% of our homeowners. I also believe the SCA 2008 budget contains unjustified homeowner fee increases levied in lieu of aggressively pursuing the millions owed by both the developer, and by the developer's failed Trumpets Restaurant lease

operator. Homeowner attempts to deal with these errors have been blocked by the board members and the board's attorney who have failed to prevent or resolve the problems.

Another example of SCA mismanagement problems happened since the recent closing of our Trumpets restaurant on September 30th. An ad hoc committee was formed to recommend how our HOA could best use the now vacant restaurant facilities. I believe SCA Board President, Mike Dixon, has assumed near-unilateral control of this group, and by March 31, 2008, he has directed it to complete all work to get a new lessee in operation because "our liquor license" must be extended by that date. But, that is false information. The liquor license has not been in our name for many years. Our community must know the truth, and how much money will be wasted on this project?

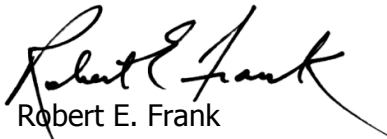
In addition to all of the above, I have found that the tools and procedures available to Nevada homeowners for uncovering HOA mismanagement and for obtaining board accountability are inadequate. Despite the legislature's guarantees under NRS 116 and NAC 116, in my opinion, the Ombudsman's Office under the Nevada Division of Real Estate is vulnerable to being influenced by powerful attorneys like John Leach and developers like Del Webb/Pulte. Hence, "protected homeowners", and community Directors like me can be blocked and openly retaliated against when we try to perform our fiduciary duties. Worse yet, an investigator in the Ombudsman's Office told me last year that it is unable to deal with serious financial mismanagement matters within HOAs. How can we be expected to handle such complex financial problems while being limited to the courts?

When you are ready, we have information on statute violations, financial mismanagement, and abuse of power by SCA Board members--both past and present. Each category is backed up by supporting documentation. Our annual budget in Sun City Anthem is nearly \$8 million, and our community assets are worth hundreds of millions of dollars. Our population is over 11,000--that is more residents than in 8 Counties and 13 County Seats in Nevada. I believe the current situation crosses over into problem areas not governed by the Office of the Ombudsman.

There is much at stake in Sun City Anthem. Solving these problems will involve and impact our shared resources, our personal property values, and most importantly; the relaxing and joyful retirement lifestyle we were promised when we came to this wonderful senior community. Most of us came here to spend the rest of our lives in comfort and relaxation. This will not be possible unless our community association is brought under effective management.

Hopefully, you will find in this letter the rationale needed to stimulate official investigations into these and related problems. Our experience indicates the Real Estate Division's Ombudsman Office needs to be looked into as well. This is about our future, and every day is particularly important at our age. Supporting documents are available for all issues when needed. Please be assured that I and my associates are ready to assist in every way we can. We look forward to your response!

Very Sincerely Yours,



Robert E. Frank
Colonel, USAF (Ret.)
Director, Sun City Anthem Community Association, Inc.

WARREN B. HARDY II

SENATOR
Clark District 12



DISTRICT OFFICE:
5070 Arville Street, Suite 4
Las Vegas, Nevada 89118-1071
Office: (702) 453-1112
Fax No.: (702) 453-1155

LEGISLATIVE BUILDING:
401 S. Carson Street
Carson City, Nevada 89701-4747
Office: (775) 684-6546 or 684-1401
Fax No.: (775) 684-6522
www.leg.state.nv.us

COMMITTEES:

Chair

Government Affairs

Vice Chair

Commerce and Labor

Member

Legislative Operations and Elections

State of Nevada Senate

Seventy-third Session

December 10, 2007

Mr. Robert E. Frank
2374 Sandstone Cliffs Drive
Henderson, Nevada 89044-0121

Dear Mr. Frank,

I am in receipt of your letter dated December 6, 2007. I thank you for taking the time to contact me and for documenting the concerns you have relative to the fiduciary management of the Sun City Anthem Community Association. Indeed, the allegations you present are troubling.

As you know, based upon our prior discussion, the proper regulation of home owners associations has been a prominent topic of discussion for the past several legislative sessions and I fear we have yet to arrive at an appropriate balance. Your frustration with the statutory inability of the Real Estate Ombudsman to act in these cases is often a primary focus of our discussions.

Considering your efforts to date, I propose to forward your December 6, 2007 letter to our legal counsel at the Legislative Counsel Bureau (LCB) in Carson City requesting their advice relative to an appropriate next step in advancing your concerns. Specifically, I will ask them whether an Attorney General investigation is appropriate in this case.

I will contact you again once I have received a response from our counsel relative to this matter. In the meantime, please do not hesitate to contact me or forward any additional information you believe to be germane to the matter.

Again, thank you for brining this matter to my attention.

Respectfully,

A handwritten signature in blue ink, appearing to be "W -", followed by a horizontal line.

Warren B. Hardy II
Nevada State Senator

Cc: Nevada LCB Legal Division