

Posted on SCA-HOA Message Board by ROBERT E FRANK on March 26, 2008 11:32:09 AM

Recently, I have been asking basic questions about SCA's Income Tax Filings since 2003, and I have found it surprisingly difficult to get straight answers to simple questions from the current and past SCA Treasurers and Finance Committee Members.

Instead of receiving crisp replies, as they would have to give to an IRS auditor, I have only received nasty complaints for daring to ask the questions. In addition, some members have complained to me that I should just ignore such things as it creates disharmony in our community. But, I am worried that SCA may have a large tax liability that is being ignored. If so, we should all be concerned.

In the meantime, the NV Law and the NV Department of Justice Guide for Nonprofit Directors make it perfectly clear that I am legally obligated/required to ask such financial questions, and the responsible parties are legally required to clearly and completely respond. Here is the link to the Nevada Nonprofit Guide:

<http://ag.state.nv.us/publications/manuals/Guide%20to%20NonProfits.pdf>

Members who are interested in learning about the facts concerning our income tax situation are encouraged to request a copy of our SCA tax returns since 2003, and to read the papers posted on Mr. Gary Porter's web site. Porter and Company is widely acclaimed in the industry as the top CPA firm in the nation when it comes to Homeowner Association taxes and auditing expertise. Public statements made on that web site are well-grounded in tax law history. And, local SCA members who are retired from the IRS remind me that the IRS is a federal agency and they conduct audits from a national, not state, perspective. These retired IRS executives share my concern over our current income tax situation.

Here is one article that all SCA members should find quite informative:

<http://www.porterandcompany.com/Articles/ItCouldHappentoYou.pdf>

Other highly useful articles can be found at:

<http://www.porterandcompany.com/books-and-articles.asp>

Bottom line: Our tax return in 2007 was filed under Form 1120 for normal for-profit corporations (not under the special HOA form 1120h). It was signed by Treasurer Roz Berman and indicates that our association has collected and retained more than \$3 million dollars in excess dues. This large amount was above and beyond the requirements for our reserves.

IRS rules (and our Board Resolutions) require homeowners to vote on whether excess dues are refunded or credited to future dues. If neither option is implemented, taxes must be paid. At this point, we have not been advised on why our Treasurer(s) have failed to comply with IRS rules in 2004, 2005 and 2006. This also begs the question on why dues were raised this year instead of being reduced? We clearly have been collecting too much in dues for the past few years.

Unless details are released to prove otherwise, this means that millions of dollars of excess dues will be taxed at the for-profit rate of 30%, and we may owe over \$1 million in taxes.

I certainly hope that is not correct as it would be a gross waste of our dues money, but when there are no quick answers on something this basic, I can not help but worry.

This is OUR money at risk of being owed to the IRS, and we all share the need to be informed, and to be given the facts showing that our management structure and directors are serving us well.