

LAS VEGAS SUN

J. Patrick Coolican:

Don't question your HOA or you might get arrested!



[Steve Marcus](#)

Sun City Anthem homeowners Robert Frank, left, and Timothy Stebbins pose outside Anthem Center Wednesday, March 28, 2012. Frank and Stebbins accused their home owners association of keeping members' dues in violation of IRS rules. The pair were arrested by Henderson Police in 2010 for filing a false report but the charges were recently dropped.

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Don't question your homeowners association because Henderson Police might arrest you.

Here's the story: Robert Frank and Tim Stebbins probably cared too much about the finances of their homeowners association, [Sun City Anthem](#). Frank was first a resident agitator and then a board member. Stebbins was just a concerned resident.

Frank and Stebbins believed the board was piling up excess reserves — more than \$3 million — when that money should have been returned to homeowners. Not returning it placed the money at risk of IRS tax liability, they insisted.

Frank and Stebbins built their case and then sought advice from friends in the legal community to avoid a boomerang lawsuit from the HOA board. They were advised to bring the issue to local law enforcement, meaning [Henderson Police](#). Bad advice.

Frank and Stebbins accused two board members of “forgery” — essentially knowingly signing a false statement — which was probably also imprudent. According to a police affidavit, Frank told the investigator a “flagrantly false” board resolution related to the surplus was “used to deceive the community membership and government agencies concerning the improper disposition of millions of dollars of overcharged/surplus homeowner assessments.”

After an investigation, Henderson Police exonerated the board members and then arrested ... Frank and Stebbins.

Huh?

Yes, they were arrested in 2010 for filing a “false report of a crime.”

Henderson Police determined the board members didn’t knowingly sign false documents and so couldn’t be accused of forgery. Moreover, police said Frank and Stebbins had to have known their allegation was false and so should be prosecuted for filing a false police report.

Meanwhile, an IRS audit vindicated the claim of Frank and Stebbins that Sun City Anthem owes the [U.S. Treasury](#) more than \$1 million for not returning it to the homeowners.

An administrative appeal to the IRS was denied, but negotiations with the government to find a resolution are ongoing, according to current HOA board President Jim Long. The tax liability is roughly \$1.35 million, he said.

Regardless, at least for now, it seems Frank and Stebbins were right that Sun City faced a tax liability by not returning the excess dues of homeowners.

Attorneys for Frank and Stebbins successfully had the venue of the case changed because a member of the HOA board was also a substitute Henderson judge.

So, North Las Vegas City Attorney Jeffrey Barr prosecuted the case, until recently dropping it.

Through a spokeswoman, Barr sent me a brief statement: “It was in the interest of justice that the North Las Vegas city attorney decide not to move forward with this case.”

Thankfully, this puts an end to it.

Frank is a 72-year-old retired Air Force Colonel who said he’d never had a speeding ticket before this ordeal.

Stebbins is a 73-year-old retired salesman of analytical instrumentation and laboratory robotics.

Frank said when the pair were arrested they were stripped to undergarments and left in handcuffs for four hours while other alleged criminals were processed. “And for what? To scare a couple old guys?” he exclaimed, suddenly choked with emotion.

There are good reasons we have laws against filing false police reports, which waste law enforcement resources and can besmirch the good name of innocent persons. And I can see ignoring Frank and Stebbins or sending them off to the IRS to make their complaint. But prosecuting them? This seems to be a curious use of government resources.