

MEMO FOR THE RECORD

In accordance with NRS 116.31083.8(e) this copy of remarks made by Director Robert E. Frank during discussion of Agenda Item IV of the April 23, 2009 SCA Board Meeting is submitted for permanent attachment to the minutes of this meeting.

This is to certify that I, Robert E. Frank, Director of the Sun City Anthem Community Association, Inc., have been illegally denied by the SCA Board President, Roz Berman, the right to place an action item on the agenda of the April 23, 2009 Board Meeting as authorized by NRS Chapter 116. This statute provides that:

NRS 116.31087.1

"If an executive board receives a written complaint from a unit's owner alleging that the executive board has violated any provision of this chapter or any provision of the governing documents of the association, the executive board shall, if action is required by the executive board, place the subject of the complaint on the agenda of the next regularly scheduled meeting of the executive board."

Attached to this statement are items of correspondence showing that I duly requested the placement of a formal agenda item under "XV. Unfinished Business".

This agenda item was intended to review and reconsider a previously incorrect board decision that violated my rights to "Indemnification" as guaranteed by the following statutes. The dispute has involved the misconduct by certain current and previous SCA directors by denying reimbursement to me for approximately \$30,000 of legal fees incurred while defending myself against false charges made by those other directors.

The previous Board ruling was that I was not entitled to both Indemnification and D&O Insurance coverage. However, the statute clearly provides for BOTH Insurance AND Indemnification of additional legal services--if the director desires. See the statute citations as follows:

NRS 116.3102.1(o)

"Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance."

NRS 116.31036.3

"If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his role as a member of the board, the association shall

indemnify him for his losses or claims, and undertake all costs of defense, unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against the association, but may be recovered from persons whose activity gave rise to the damages."

Also attached is an email dated September 17, 2008 from the association attorney to the board president that was used to improperly guide the board's previous action. It deceptively avoids the key issue that the board is required by statute to provide BOTH D&O Insurance coverage AND ALSO indemnify any and ALL other legal expenses for the director's defense while being a respondent or defendant. It is a clear violation of Nevada law for the board to deny my request for indemnification.

It was my hope to directly challenge the accuracy of the attorney's stated opinions, and to show how the attorney's conflicts of interest have contaminated his judgment on this issue. I was also planning to bring my attorney to provide new and decisive information to the board's attention while striving to avoid costly and unnecessary litigation against the association to collect the funds due to me.

By denying my right to place such an item on the board's agenda (regular or executive sessions), and by any refusing to allow consideration of a settlement, the board president and her concurring directors have violated the statutes and highly increased the likelihood of costly litigation to the association. These actions tend to serve the association attorney's financial interests while seriously damaging the SCA homeowner interests.

This is a clear violation of the concurring directors' fiduciary duties, and it demonstrates a serious breach of their business judgments. This is notification that failure to settle this statute-authorized demand for reimbursement of indemnification expenses is the basis for filing an Intervention Affidavit per NRS 116.760 against all involved 2007 and 2008 SCA Directors.

(signed)

Robert E. Frank
SCA Director and Resident of Black Mountain Village
2374 Sandstone Cliffs Drive

Attached: 6 Documents with Additional Details