

Who is the Real Threat to the Community?

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<http://www.scaview.org/pages/Today%27sAnthView.htm>

Below in *italics* is what David Berman recently wrote about Bob Frank and the return of surplus funds. According to David, Bob got it wrong and David presented what he claimed were the documented facts. At least that is what David would like his readers to believe.

And then there's the matter of the several millions of dollars in surplus funds that Bob Frank claims were not returned to the homeowners.

Fortunately, the record shows otherwise, with about \$4.1 million in surplus funds being returned to YOU, the SCA homeowners, in the form of full or partial assessment (dues) holidays in the fourth quarter of 2008, 2009 and 2010. Bob Frank has continuously refused to admit this documented fact.

In reading what David has written about what Sun City's financial record shows, I have the distinct feeling that David is attempting to do today what he had failed to do years ago when he was engaged in the practice of law, namely, to pull the wool over the eyes of his readers. Then his readers were associated with the Massachusetts justice court system and today his readers are the homeowners of Sun City Anthem.

If we believe David, the millions in carryforward surplus funds yet to be returned by the board that Bob Frank has talked about were in fact returned to the homeowners. That would be nice if David's claim were true. Unfortunately we cannot rely on his or his family's counting skills when it comes down to accurate reporting or providing a basis for their assumptions or calculations. As the below table shows, David is off by \$1.5 million in his claim of \$4.1 million compared to the board reported return of excess carryforward funds of \$2.6 million. Apparently David believes it's OK to lie to or mislead his readers if his reason in doing so is important enough. I'll get to that problem of David's in a separate article.

All that higher education should have taught David that when counting the number of apples in the bin one does not also include in that apple count the number of pears in the bin. That's exactly what David has done in making the claim he did. That kind of mistake is simply a mistake a person does not readily make unless they are intent on deceiving the tallyman, the recipient, or in this instance, one's readers.

With all that available brainpower, surely David would have understood that Bob Frank's unreturned millions referred to the excess income that was reported annually on the association's annual tax returns and was carryforward from the prior year. After all, that huge issue was the subject of a police investigation into alleged wrongdoing as well as an audit by

the IRS, two recent memories not easily forgotten. Actually, David knew only too well the magnitude of and the basis for the amounts that Frank claimed had been retained by the association and not returned to the homeowners as required by IRS regulations. David did not want to disclose that Bob was correct because he had a different agenda in mind. For David it was enough to simply lie and obfuscate.

Before making his unfounded accusations against Bob Frank's claim that such carryforward funds were never returned, David should have relied on the association's own 2011 board tax planning workshop report by Treasurer Dan Forgeron. In contrast to David, Forgeron accurately reported the amounts of carryforward funds from 2003 to 2010, information that is on the association's website and conspicuously that information was ignored by Berman.

As shown in column (b) of the table below and reported by Dan Forgeron, the total amount of carryforward funds that were returned during the three-year period from 2008-2010 was \$2.659 million, not the \$4.1 million that was reported by Berman.

Of particular significance in Forgeron's tax planning document is the board's acknowledgment that the amount of 2010 carryforward funds to 2011 was \$2.121 million, as shown in Column (c) for the year ending in 2010. Although David knows that that \$2.121 million was not returned in 2011 or in 2012, he nevertheless would like his readers to believe his fabricated claim. In other words, David lied.

Forgeron's report effectively demonstrated the board's plan to ignore the IRS requirement to return those carryforward funds to the homeowners. Forgeron creatively proposed that those funds would be used for a variety of other association purposes. In doing so, Forgeron implied that such amounts were needed to meet a presumed but unsubstantiated shortfall in association funds.

Having ignored the IRS regulation to return excess carryforward income for years until the audit of the 2007 tax return determined the association had failed to comply, one might think the board would have welcomed the opportunity to return the \$2.121 million in carryforward funds that remained at the end of 2010. Bob Frank was correct since that return never happened.

I'm confident the association would like the opportunity to demonstrate that excluding those \$2.121 million in carryforward funds the amount of income that was collected in 2011 was not sufficient to meet 2011 expenditures.

The table below. This table compares Berman's cumulative total claim of \$4.1 million for the three-year period from 2008 to 2010, represented by Column (a), to the Board's reported surplus amounts that were carryforward and returned to the homeowners during that same three-year period. That total is \$2.659 million, not even close to Berman's claim of \$4.1 million.

For example, for the year 2008, no carryforward funds from the prior year's carryforward surplus were reported returned to the homeowners. As a result, the 2008 cell in Column (b) is blank. The blank amount means that zero dollars from the 2007 carryforward surplus were used in 2008 to fund 2008 expenditures. That means the monies to fund the partial fourth quarter assessment holiday in 2008 originated from excess funds that were accumulating during the year. Excess income was accumulating in 2008 as a result of an increase beginning in 2008 in assessments by \$160, from \$940 to \$1100 annually. 2008 income from homeowner assessments far exceeded planned expenditures, thereby enabling the board to reduce fourth quarter assessments.

In contrast, in 2009 the board reported that \$1.408 million was returned to the homeowner. That 2009 returned amount, as reported by the board, came from funds that were carryforward from the prior year, 2008. The amount of the carryforward funds shown by Column (c) for 2008 was \$4.780 million. As a result of the partial use of those funds in 2009, the carryforward amount from 2008 to 2009 decreased by \$1.408 million, as shown in Column (d), i.e., reflecting a change from \$4.780 million at the end of 2008 to \$3.372 million at the end of 2009.

Calendar Year	Showing the amount of carryforward surplus funds the board returned in the year		Board Reported Carryforward Surplus for the Year-ending (c)	Showing amount the carryforward surplus increased or decreased () (d)
	Berman's Claim (a)	Actual (b)		
2007	n/a	n/a	\$ 3,845,000	\$ 666,000
2008	\$ 714,000	\$ -	\$ 4,780,000	\$ 935,000
2009	\$ 1,714,000	\$ 1,408,000	\$ 3,372,000	\$ (1,408,000)
2010	\$ 1,714,000	\$ 1,251,000	\$ 2,121,000	\$ (1,251,000)
Total	\$ 4,142,000	\$ 2,659,000	n/a	n/a

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