

# The HOA Advocate Gazette

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## Freedom Fighters

When I was very young, I met a college professor named Zlatko who once swam the Danube River. He did it in the middle of the night to escape the Communists. That made quite an impression on me. Zlatko was a freedom fighter. He spoke out against the Communists and then he had to flee for his life.

I met other refugees from Eastern Europe. They had tales of stifling rules enforced by civil servants who were not very good at their jobs, but had the power to destroy other people's lives. They used that power, and destroyed lives in order to hang on to that power. The people I met had sacrificed everything – giving up their homes, families, even their spoken language, in order to first fight fascism and then escape it.

I can't compare myself to those brave freedom fighters that fought communism over half a century ago. I haven't made any major sacrifices like they did. On the other hand, I can't ignore their efforts either. The things they paid for with their blood should not be given up now because it is more convenient to look the other way, or just move out of a neighborhood. Our American ideals and freedoms are worth fighting for. That includes due process, and the right to peaceful enjoyment of one's home. Those things are worth fighting for, even if it means putting yourself in danger.

I'm not in any personal physical danger, of course. That's not how politics works these days. But I am getting sued for speaking out.

There is always a price.

## Open Letter to The Senate Judiciary Regarding SB 254

By Jonathan Friedrich

On March 25, 2011 you heard testimony supporting SB 254 from three women, all of whom are current or former members of the Sun City Anthem executive board in Henderson.

These women did a favor for all homeowners. They personally demonstrated the smug, arrogant and mean-spirited attitude so many Nevada homeowners have been complaining about – Bully Boards. I am sure you observed that.

They all complained about "false and frivolous" complaints filed against their wonderful board by "nasty homeowners".

These women knew the Nevada Commission for Common-Interest Communities (the Commission) had investigated the matter of false and frivolous complaints in 2011. The Ombudsman stated in all the time she had worked on HOA disputes she never found "false or frivolous complaints". These women knew the

Commission had determined this was not an issue. They knew that fact or should have known that. They came dangerously close to calling the Ombudsman a liar and the Commission incompetent.

Why? Because in their vain arrogance they insist they are the only ones who are qualified to determine what is a "false or frivolous complaint". They have determined all complaints by a petty, insignificant, worthless homeowner against the omnipotent board, by definition, must be false or frivolous because they, as board members, can do no wrong.

One of those women is so conceited, she essentially said to a homeowner: "I am a director, and if you don't like it when I poke a stick in your eye, then you should move."

It has been very difficult for the disappointed, frustrated and angry homeowners of Nevada to effectively communicate the horrible conditions they are forced to endure from outrageous boards. These three women offered this Committee vivid proof of just how real and serious the problem is. The message was loud and clear.

Abused homeowners have nowhere to go but to you, our legislators, for remedy and relief. We need your help! SB 254 does NOT provide that help.

## Justice Delayed is Justice Denied: HOA Stalling Tactics

### Common NRED Stalling Tactics

The pencil-pushing bureaucrats at NRED are experts at stalling tactics. How else can you get a simple dispute to drag on for years and cost the homeowner thousands of dollars? Here are some of the excuses you can expect to hear from NRED, and some ideas for snappy comebacks.

#### *“We lost the complaint”*

Of course you did. You lost it again, for the third time. That’s why we pay you the big bucks, because you are so good at losing important paperwork.

#### *“You did not substantiate the claim”*

You mean you chose to ignore my carefully collected evidence, did nothing to investigate the truth, accepted the word of the board’s attorney, and wasted weeks of my time while enjoying the benefits of your cushy job that gives you a big paycheck for pushing paper.

#### *“We don’t have enough staff to handle all the complaints”*

With the technology available today, your staff should be able to process claims on the same day they come in, unless your management is lazy or corrupt, in which case, your whole section needs to be eliminated.

### Best Stalling Tactic Ever

Bob Frank, his wife Kay and close friend Tim Stebbins own lovely homes in Sun City Anthem where there are 7,100 other homeowners. Bob and Tim and a few associates discovered their board had failed to refund millions of end-of-year surplus assessments—contrary to what the board had said in association tax returns.

These were assessments left over after all bills had been paid and reserves filled to over 90%.

After working with some retired IRS Revenue Agents, Bob and Tim confirmed the HOA had to return those millions to the members to avoid paying 30% income taxes. The board admitted it had stashed away \$4.7 Million into a

secret “off the books” slush fund, but refused to refund them.

Bob and Tim asked NRED for help, but were told NRS116 did not allow it to deal with financial violations. They were told to go to law enforcement officials.

***Surplus/excess assessments  
MUST be returned to HOA  
members to avoid tax.***

Henderson Police Department was asked to investigate. After a couple of months of reviewing the submitted files and meeting only with the Sun City Anthem Board, the investigator reported the suspicions were “unfounded” and closed the case.

But, then, something strange happened. For perhaps the first time in the history of Southern NV, Bob and Tim were arrested for filing a “knowingly false police report”—a misdemeanor comparable to a speeding ticket.

But, this was not just a “routine police action”. The top political guns were personally involved. Henderson Police Chief Jutta Chambers, City Attorney Elizabeth Quillin, and Municipal Court Judge Dianna Hampton personally directed the arrests.

This was clearly intended to be a strong message to this 71-year-old retired Air Force Colonel and courageous friend Tim Stebbins to ***never challenge*** one of Henderson’s HOA boards!

Bob and Tim were arrested, perp-walked, strip searched, and handcuffed behind their backs to a metal pole in jail for four hours while waiting to be fingerprinted. Judge Hampton ordered them to pay bail if they wanted to get out of jail before an arraignment hearing could be held to determine flight risk.

How do you get two senior citizens with perfect records to be arrested for filing a “willfully false” police report? Do you go to the police and file a complaint about a previously filed complaint? Does that work?

Even if the report was honestly found to be unjustified by the evidence submitted, how do you prove willful bad intent by the people making the report? Why would you waste taxpayer time and money to even try?

Of course, your odds improve if you have some powerful connections. If an HOA board member recently worked in the City Attorney’s office, for example, that would be one way to make powerful connections and get some action.

***Imagine! Bob and Tim were arrested and jailed because the HOA board claimed they filed a false police report!***

This political maneuver stalled the investigation for over a year. But, after a six-month audit, an IRS Revenue agent notified the Sun City Anthem board it owed ***\$1.345 Million dollars*** for back taxes and penalties for the 2007 return.

The IRS is expected to assess fines and penalties for other returns filed in the same way since 2007. That means HOA homeowners will likely have to pay twice for the board’s failures. Having to pay \$1.345 Million in income taxes on \$3.7 Million unreturned surplus funds is just outrageous.

The current board claims it is appealing the IRS audit findings, but the likelihood of changing the findings is very slim. In the 40 years since the HOA tax ruling was published, there seems to be no case law or public evidence of a reversal of an IRS audit of this specific issue.

The residents of Sun City Anthem depended on their auditor, ***Gary Lein***, attorney ***John Leach***, and their management company, ***RMI***, to oversee and guide their HOA board to make sure things are done properly.

***It appears they let the homeowners down!***