

By the book

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Sometimes political activists pick the wrong issue. When that happens, it's better for them to switch to something else.

A Democratic group is attacking state Sen. Kim Brimer, R-Fort Worth, because of the rent payments he made to his wife for the use of an Austin condo that she owned. The allegations don't hold water.

It's still early in the campaign for the November election in which Democrat Wendy Davis hopes to oust Brimer from his District 10 seat. If the allegations raised by the group calling itself the Lone Star Project are any indication, it's going to be an ugly campaign.

The Lone Star Project and its director, Matt Angle, have sent a letter to Brimer saying that he should donate \$357,000 to charity from his personal funds.

This, they say, is to make up for the rent payments to his wife that he made from political contributions, as well as any profit that his wife might have made when she sold the condo last year.

State law allows legislators who don't normally live in Austin to use political contributions to pay rent on a residence in Travis County, although it says they can't convert those funds for other personal use, for the purchase of real estate or as payment on loans for the purchase of real estate.

In 1996, before Brimer's wife bought a condo across the street from the Capitol, he asked the Texas Ethics Commission whether it would be permissible for him to pay rent to her, using political contributions.

Yes, that's OK, the commission said in an advisory opinion, so long as the condo is her separate property and the rent is no more than the fair market value for the use of the property.

So the state agency that is charged with telling elected officials how they're allowed to spend political contributions says it's OK for Brimer to pay rent on a condo owned by his wife. But a group that favors candidates from the same party as his November opponent says it's not.

It's not hard to tell that this is a baseless political attack.

The Lone Star Project also tries to hang Brimer with a noose fashioned from a separate Ethics Commission ruling. But the noose doesn't fit.

In February, the commission levied a \$10,000 penalty against former Arlington state Rep. Toby Goodman for using political contributions to pay rent to his wife on a condo in Travis County and, later, a home in adjacent Williamson County from 2003 to 2006.

Goodman and his wife purchased both the condo and the home jointly, and both are listed as borrowers on legal documents securing loans for the purchase money. Even though Goodman later deeded to his wife his interest in both properties, he remained liable for the loans. The commission reasoned that the rent payments were improper because of his loan liability.

In Brimer's case, he and his wife previously had designated some of their property as separately owned. Before they were married in 1987, each signed an "Agreement in Contemplation of Marriage," what most people call a "pre-nup." She has her money and her heirs, and he has his. The Texas Constitution protects such arrangements.

Brimer's wife, Janna, purchased the condo on her own, and the borrower listed on legal papers is "Janna K. Brimer, married but not joined herein by my spouse."

At the time of the condo purchase, the Brimers filed a separate document stating that he had signed the loan papers for the purchase but was not to be held liable for the loan payments. She and her heirs would take care of that.

After Goodman's use of political funds to pay rent to his wife became an issue in the 2006 elections and he was defeated, the practice faded in Austin. Keller state Rep. Vicki Truitt, who had paid rent to her husband for a condo he owned in Austin, passed a bill making it illegal to use political contributions to pay rent to a spouse.

Kim Brimer voted for the bill. His wife and Truitt's husband have since sold their condos.

The Lone Star Project has every right to look for and use whatever issues it wants to help kick Brimer out of office. No doubt Wendy Davis will have some issues to bring up on her own.

But on paying rent to his spouse, Brimer did everything by the book. His opponents should look somewhere else for an issue.

