



Homeowner Associations (HOA) "No Solicitation" Restrictions

Homeowner associations have often attempted to enforce "no solicitation" restrictions on political and religious activity. Block-walking (also known as canvassing or door-to-door campaigning) is the primary target of these HOA "no solicitation" restrictions. Despite these HOA attempts, as well as by some municipalities, "no solicitation" restrictions on block-walking activities have repeatedly been defeated in the courts. The courts continue to rule these restrictions as an unconstitutional attack on free speech and specifically political free speech. The most prominent case in this area is the U.S. Supreme Court case *Watchtower Bible & Tract Soc'y of N.Y. v. Village of Stratton*.

The prohibition on HOA restrictions on block-walking and solicitation have one major exception. The one exception is where the subdivision is gated, the gates are closed, AND the streets are privately owned. In those cases, HOA's can generally enforce the "no solicitation" restrictions. A controversy exists when the subdivision leaves their gates open and allows the public to access the streets of the subdivision.

Legal Conclusion: HOA's and municipalities may not prohibit block-walking by political campaigns. HOA's and municipalities restrictions are **violations of free speech (political speech.)** **Candidates and their volunteers may block-walk throughout the subdivision and the municipality** with the only exception being gated communities.

Political Considerations: (A) If the HOA challenges a campaign block-walker, the campaign should contact the HOA and advise them of the above legal position and explain that they are committing an illegal violation on free speech. (B) If a homeowner challenges a campaign block-walker and indicates they do not appreciate "soliciting" or "trespassing", the block-walker should walk away. Further discussion will be unfruitful and will likely turn the voter against the candidate or the political issue being advocated. (C) If the homeowner says, "Our HOA has told us that block-walkers are violating the HOA's "no solicitation" restriction, the block-walker might want to say: "We understand that HOA's



attempt this from time to time. However, that restriction is a violation of the law for free speech. The law allows political candidates to go door to door." At that point, I suggest the block-walker move on to the next home, but immediately advise the candidate so that they make contact the HOA and encourage them to obey the law.

Home Owner Restrictions on Yard Signs

HOA's in Texas have repeatedly attempted to prohibit political yard signs being placed on homeowner's property. As a result, the Texas Election Code Section 259.002 (b) states: "...a property owners' association may not enforce or adopt a restrictive covenant that prohibits a property owner from displaying on the owner's property *one or more signs* advertising a candidate or measure for an election: (1) *on or after the 90th day* before the date of the election to which the sign relates; or (2) *before the 10th day* after that election date."

Legal Conclusion: A homeowner may place inground campaign yard sign or signs from 90 days before the election date through 10 days after the election date. Additionally, a homeowner may place more than one sign in their yard.

For additional information, please contact David H. Garrison at keyground@mac.com

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