

Condo Insights

#50 Political Signs in Condominium Associations

In an election year, it is not usual to see homeowners expressing support for their preferred political candidate or movement through yard signs, banners and flags. Can a condo owner display such signs from their residence, on their front door or balcony, or in their front yard?

Displaying political signs on an individual's private property is a fundamental practice of free speech and expression protected under the U.S. Constitution and the New Jersey Constitution. Political signs often promote a particular candidate for public office or a ballot measure, but political signs also include messages in support of a cause or principle or other messages of public interest. While the right to display political signs on private property is not absolute, it is protected under the law.

Many municipalities in Southern New Jersey have ordinances that limit and/or restrict when, where, and how individuals may display yard signs. Towns may not subject political signs to different or more restrictive treatment than other signs. Limits on the number of signs and how or when they can be displayed are generally constitutional so long as the limits apply to all signs uniformly and address legitimate public concerns. A municipality can also prohibit political signs on public property in certain cases.

Condominium and community associations promote neighborhood unity, but that sense of unity can be severely tested during an election year, especially as election day draws closer. In most community and condominium associations, most of the outside property tends to be owned by and under the control of the association, not the individual owner. That means an association can control, limit and prohibit political signage in common areas. This authority also extends to prohibiting banners on balconies assuming that balconies are defined as limited common areas. Many associations already prohibit solicitation, meaning that door-to-door political campaigning is also not permitted.

Some condo owners may challenge such rules and policies under their right to free speech. The First Amendment guarantees the right to freedom of speech without restriction by government entities. It does not apply to private entities such as community and condominium associations. Subsequently, some condo associations have established policies restricting and regulating political speech and posting of political signage within the community.

Community Associations Institute ("CAI") is the national trade organization for community and condominium associations. CAI has issued a policy recommendation respecting the right to freedom of speech while recognizing the rights of residential community associations to reasonably regulate political and noncommercial signs within their respective communities. Associations can develop rules and regulations concerning time, location, materials, size, number and manner of where political and noncommercial signs, political displays are located while preserving freedom of political expression. Association policies should also clarify what is defined or deemed to be "political" as opposed to "patriotic" to avoid confusion and misunderstanding.

Community and condominium association governing documents often include regulations regarding outside signage that can be utilized to develop a specific policy about political signage. The governing documents may already specify the size and the number of signs a resident can have that are visible from outside their home. Many associations also have governing document restrictions that limit the display of that signage to a specific period around a holiday and/or election. If the Board establishes a policy separate from the governing documents, the Board should distribute the policy to ensure that it is implemented in accordance with the Association bylaws.

Association policies regarding political signage and displays of support for a cause aren't designed to limit or censor freedom of expression or support for a political candidate. They exist for aesthetic reasons to maintain curb appeal, to balance the rights of all homeowners and to promote the sense of neighborhood unity within the community.

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