

There are those that will assume that there is no way that community associations can regulate political signs because it violates their right of free speech under the First Amendment to the Constitution. This is not entirely correct in the Home Owner Association (HOA) context.

Virginia Code Section 15.2-109 prohibits "localities" from restricting the display of political signs on private property. The Virginia Code 1-221 defines "locality" as "a county, city or town" Thus 15.2-109 does not apply to HOA.

The Virginia Attorney General has recognized this in a 2004 Opinion interpreting Virginia Code § 15.2-109, which restricts the ability of a "locality" to prohibit the display of political campaign signs on private property. The Attorney General was asked whether the restriction of this statute also applied to private homeowners' associations. The Attorney General stated that a locality meant "a county, city, or town as the context may require" and concluded:

"Accordingly, it is my opinion that the restriction imposed by § 15.2-109 on a locality's authority to regulate the display of political campaign signs on private property does not apply to private homeowners' associations."

Although municipalities are constrained by the First Amendment in regulating political signs, there is really no restraint imposed on community associations which are created by the recordation of restrictive covenants. **These covenants are in the nature of a contract between the owners of lots or units, and buyers in the association are deemed to have agreed to the contractual provisions upon their purchase.** Because they are recorded in public land records, any person purchasing has constructive notice of their existence and is required to abide by those covenants. If the covenants prohibit signs, then they are prohibited.

Under Virginia law, recorded covenants need not be reasonable.

In conclusion, although there have been challenges to the authority of HOA to regulate political signs, it remains lawful in Virginia for HOA, through recorded covenants, to regulate political signs. Sky Bryce Association, Inc. "Amended Declaration of Protective Covenants and Restriction" are recorded in Book 957, page 376 of Shenandoah County.

AMENDED DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS OF SKY BRYCE ASSOCIATION, INC.

6.22 Signs No sign of any kind on a Lot shall be displayed to the public view without first obtaining written approval from the Association, except that one (1) sign of not more than two (2) square feet, showing the Owner's name, name of the premises and street number shall be permitted on a Lot, but in no event shall the sign measure more than three (3) feet in length or height.