

OP. NO. 04-060

COUNTIES, CITIES AND TOWNS: GENERAL PROVISIONS.

Restriction on locality's authority to regulate display of political campaign signs on private property does not apply to private homeowners' associations.

The Honorable H. Russell Potts, Jr.
Member, Senate of Virginia
September 30, 2004

Issue Presented

You ask whether the restriction imposed by § 15.2-109, regarding a locality's ability to regulate the display of political signs on private property, also applies to private homeowners' associations.

Response

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.

Background

You relate that there is confusion regarding the applicability of § 15.2-109, not only to localities but also potentially to private homeowners' associations that regulate or may seek to regulate the display of signs within their respective boundaries. There is concern that § 15.2-109 may supersede the authority of homeowners' associations to regulate the conduct of their members by covenant, resolution, or guidelines, specifically relating to the display of signs on property within the associations' boundaries and subject to the contractual authority of the association.

Applicable Law and Discussion

The 2004 Session of the General Assembly enacted § 15.2-109,¹ which prohibits local regulation of political campaign signs displayed on personal property:

No locality shall have the authority to prohibit the display of political campaign signs on private property if the signs are in compliance with zoning and right-of-way restrictions applicable to temporary nonpolitical signs, if the signs have been posted with the permission of the owner. The provisions of this section shall supersede the provisions of any local ordinance or regulation in conflict with this section. This section shall have no effect upon the regulations of the Virginia Department of Transportation.

Section 15.2-102 provides that, as used in Title 15.2 "unless such construction would be inconsistent with the context or manifest intent of the statute," the term "locality" or "local government" "shall be construed to mean a county, city, or town as the context may require." The General Assembly did not include homeowners' associations in this definition.² Section 15.2-109, therefore, does not pertain to a homeowners' association or its ability to enter into covenants or to adopt resolutions or other guidelines. Because § 15.2-109 does not pertain to homeowners' associations, it would have no effect on their ability to regulate the conduct of their members by covenant, resolution, or guidelines, with respect to the display of signs on property subject to an association's contractual authority.

Conclusion

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.

¹2004 Va. Acts ch. 388.

²Under accepted rules of statutory construction, the mention of one thing in a statute implies the exclusion of another. See *Grigg v. Commonwealth*, 224 Va. 356, 364, 297 S.E.2d 799, 803 (1982) ("*Expressio unius est exclusio alterius.*"); *Op. Va. Att'y Gen.*: 2002 at 34, 36; 1997 at 35, 35; 1994 at 9, 11.

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