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ATTORNEY GENERAL

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To the Homeowners Associations and Management Companies in Indiana:

Thank you for your selfless work on behalf of your neighbors to ensure your communities are great places to live. Your work is another example of Hoosier hospitality in action. As election day approaches and political candidates intensify their campaign activities, you may be seeing political activity in your neighborhood. Political signs are starting to appear, and candidates may have started canvassing for votes in your neighborhoods. Homeowners associations' boards may have new members who may be unaware of laws restricting the enforcement of their rules and restrictive covenants regarding political signs and activities.

The Office of the Indiana Attorney General is tasked with overseeing compliance with state law in many different areas. This authority extends to oversight of homeowners associations, including for criminal acts, such as conversion, committed against an association's members. *See Ind. Code § 32-25.5-4-1.* This office works to ensure fair and lawful operation of homeowners associations throughout the state. In this letter, I offer guidance to homeowners associations and their management companies to help elucidate the limits placed on enforcement of those rules.

In brief, the State of Indiana has placed strong limits on an HOA's ability to restrict political signs and activities in their neighborhood during the thirty (30) days leading up to an election. Once familiar with those limits, HOAs should be confident that they won't violate the law.

Limits on HOA Rules: Political Signs

A homeowners association may not adopt or enforce a rule that prohibits a member of the HOA from displaying a political sign on the member's property during the period beginning thirty (30) days before and ending five (5) days after the date of the election to which the sign relates. *Ind. Code § 32-21-13-4.* However, an HOA may adopt and enforce rules that restrict the size of a sign to be no larger than a typical election sign. *Ind. Code § 32-21-13-5(1).* Also, an HOA may limit the number of signs, provided that it is a reasonable number of signs. *Ind. Code § 32-21-13-5(2).* An HOA may restrict the locations where a sign may be displayed but may not prohibit the display of a sign in a window on the homeowner's property or on the ground that is part of the homeowner's property. *Ind. Code § 32-21-13-5(3).*

These restrictions to HOA rules and covenants apply only to signs advocating the election or defeat of one (1) or more candidates for nomination or election to a public office; support or opposition

to a political party, a party's candidate, or the approval or disapproval of a public question. Ind. Code § 32-21-13-3.

A homeowners association may remove a sign that violates the HOA rules and restrictive covenants permitted by these statutes. Ind. Code § 32-21-13-6. However, removing signs without the authority to do so may be criminal conversion under Ind. Code § 35-43-4-3. *Buzzell v. State*, 636 N.E.2d 158 (1994). You should consult your HOA's attorney if you are unsure about your authority to remove a sign.

Limits on HOA Rules: Political Activity

A homeowners association may not adopt or enforce a rule or covenant that prohibits, or has the effect of prohibiting, a candidate, an individual who holds an elected office or their spouse, or a volunteer worker of a candidate or individual who holds an elected office from entering onto HOA property for purposes of conducting political activity. Ind. Code § 32-21-13-7(c). However, if access to HOA Property is controlled by gates or other means and common areas, including roads and sidewalks, are privately owned and maintained, then this limit does not apply to that HOA. Ind. Code § 32-21-13-7(a). HOA Property for this section is defined as real property owned by either a member of the HOA, the HOA, or the members of the HOA in common. Ind. Code § 32-21-13-7(b).

As a strong supporter of the First Amendment, I believe in the wisdom of strong laws protecting our citizens' right to a robust debate during our elections. I also believe in the value that a homeowners association brings to its members in maintaining their neighborhood at high standards. I hope this letter helps you navigate the necessary restrictions the State has placed the enforcement of your rules and restrictive covenants regarding political signs and activities.

Again, thank you for caring about your neighborhood and for all that you do to make Indiana a great place to live.

Sincerely,



Todd Rokita
Attorney General