



**American Civil  
Liberties Union  
of New Jersey**

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279 Franklin Avenue  
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RE:    Wyckoff Sign Ordinance

Dear Mr. Landel:

It was a pleasure to speak with you this afternoon. As we discussed, the American Civil Liberties Union of New Jersey (ACLU-NJ) has concerns regarding Wyckoff Township's sign ordinance that purports to ban political signs from private property after a permitted period of thirty days. As I explained, durational limits on political signs are unconstitutional and should not be enforced.

As you may know, the ACLU-NJ has engaged in successful efforts against similar sign ordinances, including lawsuits filed in 2008 against the Borough of Hawthorne and in 2001 against the Borough of Franklin Lakes, as well as advocacy efforts in other parts of the state.

The United States Supreme Court has held that political window and yard signs play an important and unique role in American democracy. City of Ladue v. Gilleo, 512 U.S. 43, 48 (1994) ("Displaying a sign from one's own residence often carries a message quite distinct from placing the same sign someplace else, or conveying the same text or picture by other means. Precisely because of their location, such signs provide information about the identity of the "speaker." *Id.* at 56). See also State v. Miller, 83 N.J. 402, 412 (1980), citing Thomas v. Collins, 323 U.S. 516, 530 (1945) (where political speech is involved, our tradition insists that government "allow the widest room for discussion, the narrowest range for its restriction").

Courts throughout the country, including in New Jersey, have consistently struck down ordinances that placed durational limits on political signs displayed on private property. See, e.g., Boehm v. Borough of Franklin Lakes, 2001 WL 1704817 (D.N.J.) (Hayden, J.) (ordinance limiting display of political signs to no more than two weeks prior and two days after an election); Whitton v. City of Gladstone, 54 F.3d 1400, 1403-04 (8th Cir. 1995) (ordinance limiting display of political signs to no more than 30 days before an election and

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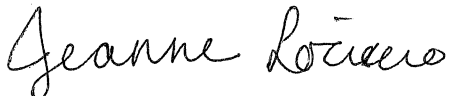
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seven days after an election); Fehribach v. City of Troy, 341 F. Supp. 2d 727, 732-33 (E.D. Mich. 2004) (limiting display of political signs to no more than 30 days before an election). I also note that Wyckoff's limitation of the size of a sign to be no more than four square feet is constitutionally dubious. I have not found a reported case upholding a four square foot limit. We grant that size regulations may be generally permissible for aesthetic or safety reasons. Pica v. Sarno, 907 F. Supp. 795, 800 (D.N.J. 1995). However, "residential signs are a form of expression entitled to the highest degree of protection by the Free Speech protection by the Free Speech Clause of the First Amendment." Id. at 800; see also Farrell v. Teaneck, 126 N.J. Super. 460, 464 (Law Div. 1974) (ensuring that aesthetic interests do not come "at the expense of a landowner's loss of unrestricted use of his property"). The Township's prohibition of political signs exceeding four square feet in area "may strongly impair the free flow of protected speech" because the size limit here would not "be large enough to permit viewing from the road, both by persons in vehicles and on foot." State v. Miller, 83 N.J. 402, 416 (1980) (holding that the six square foot size limit placed by the Borough was inadequate and noting that such a limitation cannot be upheld if it were determined in an arbitrary manner).

Based on the foregoing, I request that the Township (1) immediately cease enforcement of the durational limits on political signs and publicly announce such action and (2) repeal or amend the ordinance to cure the constitutional defects as soon as possible. The ordinance, as currently framed, abridges the First Amendment rights of the Township's citizens. Given the clarity of the law, I am hopeful that we will be able to resolve this amicably and swiftly without the need for further action.

Sincerely,



Jeanne LoCicero/fr  
Deputy Legal Director