

Testimony

Proponent of HB2096

House Commerce, Labor and Economic Development Committee

February 2, 2015

By

Carl Best

Chairperson Hutton and members of the House Commerce Committee, the property owners' association I am a member of has a restrictive covenant that prohibits the display of signs. A homeowner in this association placed several political candidate signs on property owned by the association. When the board asked the homeowner to remove the signs he referred the association to Kansas Statute 58-3820. This statute does not differentiate between property owned by an individual and property owned by an association. The association's board therefore allowed the signs.

Property owned by the association is defined in Kansas Uniform Common Interest Owners Bill of Rights Act Statute 58-4602(e): "Common elements" means those portions of the property not owned individually by unit owners, but in which an indivisible interest is held by all unit owners, generally including the grounds, parking areas and recreational facilities.

Common elements are normally constructed and maintained using dues from homeowners within an association's boundaries. The term "common areas" is used in many covenants instead of "common elements".

Associations' common areas may include entrances to the development, pool, clubhouse, parks, and playgrounds. When political signs for or against candidates or ballot questions are placed in common areas it appears the association, or its board, is promoting a specific candidate, candidates, political party or political agenda. Signs may also interfere with, or cause additional, maintenance of common areas.

The amended language to K.S.A. 58-3820 and 58-4617 preserves the rights of homeowners to place US or Kansas state flags, or signs regarding candidates for public or association office or ballot questions on land homeowners individually own while allowing an association's covenants to govern the placement of signs and flags on property owned by the association.

I support HB2096 and stand for questions from the Committee members.