

## **Testimony**

### **Proponent of HB2096**

Senate Commerce Committee

March 9, 2015

By

Carl Best

Chairperson Lynn and members of the Senate Commerce Committee, thank you for allowing me to present my testimony in writing.

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.

Two Kansas statutes define property owned in common interest associations and equally differentiate between property owned by an association and unit owners.

- The association I am a member of was established using and submitting to the TOWNHOUSE OWNERSHIP ACT. Statute 58-3702 (b) states a "townhouse owner means the person or persons owning the real estate in fee simple on which a townhouse unit is located" and (d) defines the remaining property as Common Areas and Facilities. Subparagraph (1) includes "All real estate owned in fee simple by the association" as common. The association's declaration states all property is owned in fee simple and provides each owner an easement to common property.
- Kansas Uniform Common Interest Owners Bill of Rights Act Statute 58-4602(e) states "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, facilities or areas are normally constructed and maintained using dues from homeowners within an association's boundaries. Common elements or areas may also include entrances to the development.

When political signs for or against candidates or ballot questions are placed on 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.