



City of Kirtland  
c/o Daniel F. Richards, Law Director  
9301 Chillicothe Road  
Kirtland, Ohio 44094

October 23, 2008

Sent via fax to (440) 256-9301 and U.S. mail

Dear Mr. Richards:

It has come to the attention of the American Civil Liberties Union of Ohio Foundation that Kirtland Ordinance (Section 1286.17(a)) of the Planning and Zoning Code) rigidly restricts political signs related to elections. The ordinance limits the display of signs to a period of thirty days before and ten days after an election, limits the number of signs permitted in a lot, and limits the size of those signs. Moreover, the ordinance demands a deposit of ten dollars (\$10.00) for each sign. The ordinance infringes on Kirtland residents' free speech rights under the Ohio and United States Constitutions.

Political speech is at the core of the First Amendment. According to the United States Supreme Court, "speech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection". *Connick v. Myers*, 461 U.S. 138, 145 (1983). Signs, "[o]ften placed on lawns or in windows...play an important part in political campaigns...residential signs have long been an important and distinct medium of expression." *City of Ladue v. Gilleo*, 512 U.S. 43, 55 (1994). Oddly and unacceptably, Kirtland seems to burden the exercise of core political speech more than it does less-favored (albeit still protected) commercial speech.

The ACLU of Ohio is concerned about the size limitation for each sign. I direct your attention to *Hudson v. Arshinkoff*, 9<sup>th</sup> District, 2005-Ohio-6976, where the court held an eight-square-foot sign limitation unconstitutional. As the limitation on size of signage is unconstitutional, so is the limitation on the number of signs. In essence, the provision limits the number of statements residents can make and positions they may publicly hold. As was the case in *Arshinkoff*, this is particularly problematic during years where there are numerous contested elections.

We are also disturbed by the temporal restrictions on signs. Just such a restriction was held unconstitutional in *Painesville Bldg. Dept. v. Dworken & Bernstein Co., L.P.A.* (2000), 89 Ohio St.3d 564, 2000-Ohio-488. As the

AMERICAN CIVIL  
LIBERTIES UNION  
OF OHIO FOUNDATION  
4506 CHESTER AVENUE  
CLEVELAND, OH 44103-3621  
T/216.472.2220  
F/216.472.2210  
WWW.ACLUOHIO.ORG  
contact@acluohio.org

member of  
SHARES

© 2008 ACLU of Ohio



*Painesville* court recognized, people have the right to advocate publically on political concerns even when an election is not imminent.

Finally, the requirement of a ten-dollar (\$10.00) deposit per sign unconstitutionally conditions the right to core political speech on financial ability. Government "may not impose a charge for the enjoyment of a right granted by the federal constitution." *Murdock v. Com. Of Pennsylvania*, 319 U.S. 105 at 112 (1943).

If Kirtland insists on enforcing its limitations on political speech, I will have little choice but to consider legal action to compel compliance with the constitutional right of free speech.

I look forward to hearing from you within the next two weeks. Please feel free to call me if you have any questions.

Sincerely,

Jeffery M. Gamso  
Legal Director  
(216) 472 -2220

AMERICAN CIVIL  
LIBERTIES UNION  
OF OHIO FOUNDATION  
4506 CHESTER AVENUE  
CLEVELAND, OH 44103-3621  
T/216.472.2220  
F/216.472.2210  
WWW.ACLUOHIO.ORG  
contact@acluohio.org

