

## LIMITING HOMEOWNER ASSEMBLY IN NEIGHBORHOODS

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Twin Rivers is a 10,000-resident private community in East Windsor in Mercer County, a type of community representing a growing aspect of life in our state.

People move into such communities for safety, convenience and an orderly style of living.

Private communities like Twin Rivers or Radburn in Fair Lawn are governed by boards of elected homeowners from the community itself. There is a set of rules with which residents, upon purchasing their homes, are asked to comply. These rules are devised to create a harmonious and aesthetically pleasing atmosphere within the community. The rules apply to everyone equally.

It's those rules that are at issue in a case now before the state Supreme Court, *Committee for a Better Twin Rivers v. the Twin Rivers Homeowners Association*. This case has been widely publicized as an instance of constitutional rights being curtailed by an all-powerful, faceless governing board. In truth, it's actually a matter of whether intelligent, independent adults can be trusted to agree to their own rules for living without interference from activists, outside organizations and overbearing government entities.

The plaintiffs claim that they are not allowed to put up political signs in front of their homes during election campaigns, they were barred from using the community's common rooms for meetings, the community newsletter refused to adequately place their letters and comments on issues of concern and the Twin Rivers association was something of a miniature authoritarian state attempting to enforce thought control and silent compliance on its residents.

### No constitutional crisis

The facts are considerably more prosaic. Residents can put up any sign they want, political or otherwise, as long as the sign doesn't interfere with maintenance. Residents can place one sign in the flowerbed immediately in front of their home and in each of their windows. The community room is open to all, for any lawful purpose as long as the required fees are paid.

The newsletter has the same rules as any such publication: letters and comments are placed on the appropriate pages. All of the plaintiff's letters except for one that contained inappropriate language were published. The plaintiffs are merely unhappy about where their letters are appearing in the newsletter and are

demanding that they be given the same prominence as the editor's contributions, something that no publication would ever submit to.

Clearly, the Twin Rivers case is no constitutional crisis, but an instance of a small group of activists attempting to change rules they agreed to upon purchasing their homes.

A peculiarity of the case is that one of the plaintiffs once sat on the very same governing board now under attack. If the rules were so hard to take, that would have been the time to change them, democratically and with the agreement of all concerned.

Community association residents should be concerned about the tactic of using the First Amendment as a Trojan horse by the plaintiffs in this case.

There's a school of thought that holds that First Amendment rights of free speech are infinite and cannot be restricted in any situation for any purpose. A moment's thought raises questions about that position. You may not march up and down your street at midnight shouting the Bill of Rights through a bullhorn, and you can't force people to agree with or even listen to what you have to say.

#### 'Nobody lives in a mall'

The appeals court decision likened the Twin Rivers community to a shopping center or mall, where the public has open access and where activities like political solicitation must be allowed. But nobody lives in a mall. The kind of bustle and noise that characterize a shopping center is intolerable in a residential area. Allowing unlimited political activity would be much the same as welcoming that level of uproar into your living room.

Private communities are in large part founded to provide sanctuaries from bustle and noise. They unburden residents from some of the obligations of homeownership, like building and grounds maintenance. They are oases of calm and order in an ever more tumultuous world.

That's why the rules exist and why people agree to them. To insist that private communities must instead subject themselves to the rules of a public market is to undermine one of the major reasons why private communities are established in the first place. It is an attack on the right of individuals to assemble, to form communities, and to live as they wish, a right as fundamental in this country as the right of free speech.

More than 1.2 million people live in private communities in New Jersey. The very elements that generate that appeal of those communities are at risk in this case. Discretion will be required by the court to avoid putting those elements in jeopardy.

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