

ACLU of Virginia

530 East Main Street, Suite 310 Richmond, Virginia 23219 (804) 644-8022

July 31, 2008

Re: Prohibition of Door-to-Door Political Advocacy

Dear _____:

We were alarmed to learn recently that public housing authorities in Virginia may be prohibiting door-to-door political advocacy at public housing developments. With campaign season upon us, I am writing to inform you that any such prohibition violates the constitutional rights of both political canvassers and public housing residents.

Canvassing door to door for the purpose of campaigning, voter registration, and other forms of advocacy is an essential part of our democratic system and fully protected by the First Amendment. Although courts have allowed Housing Authorities in some specific circumstances to limit access to property under their control, the First Amendment does not permit such restrictions to be applied to core political activities.

The right to distribute conduct registration drives and distribute campaign literature

In *Martin v. City of Struthers*, the United States Supreme Court struck down a ban on distributing literature door to door. In so doing, the Court recognized the importance of this form of advocacy:

The widespread use of this method of communication by many groups espousing various causes attests its major importance. . . . Many of our most widely established religious organizations have used this method of disseminating their doctrines, and laboring groups have used it in recruiting their members. . . . Of, course, as every person acquainted with political life knows, door to door campaigning is one of the most accepted techniques of seeking popular support, while the circulation of nominating papers would be greatly handicapped if they could not be taken to the citizens in their homes.

As if to anticipate the very problem before us, *Martin* also recognized that door-to-door advocacy may be particularly important for those who do not have the means to access more expensive forms of communication: “Door to door distribution of circulars is essential to the poorly financed causes of little people.”

The right to receive registration information and campaign literature

In addition, the *Martin* case makes the point that there are two rights involved in the distribution of literature door-to-door, holding that the First Amendment not only “embraces the right to distribute literature,” but also that it “necessarily protects the right to receive it.” When a government attempts to ban the canvassing of households, “it substitutes the judgment of the community for the judgment of the individual householder.”

Residents of public housing have the same right to receive information about political candidates, voter registration, and issues of the day as the residents of any other neighborhood.

ACLU is prepared to assist canvassers and tenants

The ACLU will take very seriously any reports from canvassers who have been prevented from going door to door to hand out political literature or to solicit tenants to register to vote. Our first step will be to resolve the situation by negotiating on behalf of such individuals, but we will not hesitate to use the courts in circumstances where legal action is the appropriate course of action. We are also prepared to assist tenants who report that housing authority officials have violated their First Amendment rights by prohibiting canvassing in at their apartment buildings.

Request to review policies and train staff

We ask that you immediately review your policies governing access to public housing units to ensure that activists seeking to go door to door for advocacy purposes have full access to tenants. We also recommend that you inform all members of your staff that they cannot prohibit door-to-door canvassing.

Should you have any questions, please do not hesitate to call ACLU of Virginia Legal Director Rebecca Glenberg at (804) 644-8080 or rglenberg@acluva.org. I am also available to speak with you.

I thank you for your attention to this matter.

Sincerely,

Kent Willis
Executive Director