

Dublirer

The entire NJ Supreme Court opinion on the Dublirer case is quite interesting;
<http://caselaw.findlaw.com/nj-supreme-court/1685374.html>

However, for those of us with limited time or interest, the following extracts relate the gist of the opinion.

A resident... asked the Board if he could distribute campaign materials in the building. The Board, citing a "House Rule" that barred soliciting and distributing any written materials, denied the request. The resident filed a lawsuit and claimed that the House Rule was unconstitutional.

The House Rule reads as follows: There shall be no solicitation or distribution of any written materials anywhere upon the premises without authorization of the Board of Directors... A bulletin board for resident's use is provided in the rear lobby.

The appellate panel ... struck the House Rule on free speech grounds. The panel noted that Dublirers expressional activity was "political-like speech" because it related to the management and governance of the common-interest community. The panel found that the restriction left Dublirer without reasonable alternate means to convey his message.

Even though Dublirer did not run for public office, his message was akin to and should be treated as political speech, which is entitled to the highest level of protection in our society.

The Board can adopt reasonable time, place, and manner restrictions to serve the community interest.... For example, it could reasonably limit the number of written materials that an apartment dweller can distribute in a given period.

The Board allows itself to distribute materials throughout the complex, but its critics cannot do so. As the excerpts in the record reveal, parts of the Boards updates praise its achievements and harshly criticize its opponents. But the Board prohibits detractors from answering in the same manner.

Nothing in our case law permits a group in power to attack its opponents yet bar them from responding in the same way.

We therefore find that the Board's House Rule violates the free speech guarantee in New Jersey's Constitution.

Chief Justice Rabner delivered the opinion of the Court.