

February 6, 2015

To: Oregon Legislative Assembly
House Committee on Consumer Protection and Government Effectiveness

From: Mark Rauch

Re: House Bills 2582

Chair Fagan and Members of the Committee:

My name is Mark Rauch. I live at 895 Chikamin Loop, Silverton, OR.

Please consider the following points as my written testimony in opposition to House Bills 2582:

- 1 Passage of this bill would unnecessarily take away contractual protections and expectations of thousands of homeowners in Oregon. People choosing to buy property in a planned community agree to the contractual protections and obligations spelled out in the association's declarations or CC&R's, often include limitations on the posting of signs. In the planned community where I live, signs (with certain exceptions, such as "For Sale" signs) may not be placed on any lot without approval of the Association Board. The purpose is both to protect against the "sign clutter" that some consider an eyesore, and to avoid offensive or inflammatory language or images displayed on signs, possibly to the detriment of livability and property values. This proposed legislation would take away the contractual expectations of every property owner in a planned community in Oregon with similar CC&R provisions.
- 2 First Amendment and yard signs. It is my understanding planned communities are allowed to regulate with restrictions set out in the CC&R's. I also understand that while the First Amendment protects people from *government* interference with speech, a homeowners' association is a private entity, not a government, and the concept of planned community CC&R's as binding contractual agreements is recognized in the Oregon Planned Community Act. I also understand a person's freedom to contractually restrict or waive constitutional rights has been judicially acknowledged in other states, and has not been eliminated by any Oregon or federal case law.
- 3 This legislation would be both unfair and unnecessary. People are free to make the choice whether or not to live in a neighborhood that is subject to private covenants, rules and restrictions. If a person's interest in expressing themselves

through yard signs (with no content-based regulation) outweighs their interest in being assured their neighbors can't put unrestricted messages or images in their yard (or store junk cars, or paint their house purple, etc., etc.) then they should choose another neighborhood. I expect the force behind this bill is a very few people, maybe only one. And I expect there are many more who prefer the protections they contracted for are left in place.

I urge the committee to oppose passage of this bill.

Thank you.

c: Rep. Vic Gilliam