



PESKY SOLICITORS AND THE FIRST AMENDMENT

Concerned Spring Hill residents have suggested updates to the solicitation ordinance to create permissible hours of operation and/or tough enforcement of HOA non-solicitation policies.

Sounds like a simple fix, right? Not in practice because of the First Amendment and legal backlash that would likely ensue.

“The City has very little room to regulate in this area without significantly exposing it legally,” the city attorney says. “Solicitation has been determined to be an expression of protected speech, and the First Amendment affords rights to solicitors, making such regulation problematic.”

Here is a detailed second opinion from a legal expert with the University of Tennessee Municipal Technical Advisory Service:

... we need to steer clear of drafting an ordinance for this purpose, as these ordinances are often litigated because of the First Amendment issues presented. The cases make it clear that an ordinance that only allows solicitation from a certain time to a certain time is likely unconstitutional, unless narrowly tailored to meet a specific need. The arguments presented by the local governments and not accepted by the courts in an attempt to meet the narrowly tailored test related to the curfew are set out in the cases. Additionally, it is unclear where the courts stand on the No Solicitation signage. While it appears from a 6th Circuit opinion that an ordinance that allowed for such may be upheld, there is also language in the opinion that makes that somewhat uncertain.

Spring Hill’s Board of Mayor and Aldermen share the concerns expressed by citizens, including their neighbors and family members. Inconsiderate salesmen and hucksters are in the minority. But there are enough of them to irritate even the nicest among us.

The BOMA needs to be careful and think twice in order to serve citizens and avoid extreme legal and financial exposure on First Amendment Issues.

More updates to follow!



OFFICE OF THE COMMUNICATIONS DIRECTOR

199 Town Center Parkway • Spring Hill, Tennessee 37174

931-486-2252, ext 222

www.springhilltn.org