

OFFICE OF THE ATTORNEY GENERAL



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July 12, 1999

Honorable Frank H. Riddick
Probate Judge
Madison County Courthouse
100 North Side Square
Huntsville, Alabama 35801

Elections – Private Property – Polling Places

Section 17-7-18 of the Code of Alabama does not authorize the public to use all property located more than 30 feet from the polling place. Unless otherwise permitted by private property owners, the public may use only those portions of the private property open to the public for voting purposes.

Dear Judge Riddick:

This opinion of the Attorney General is issued in response to your request.

QUESTION

Can a facility open itself to the public as a polling place, but then assert private property rights against trespassing to restrict campaign activity?

FACTS AND ANALYSIS

In many instances private property owners, such as churches and YMCAs, allow their facilities to be used as polling places. Your request specifically concerns whether these private property owners can restrict the use of their private property located more than 30 feet from the entrance to the polling place. In other words, can the private property owners prohibit persons from distributing literature or posting signs on the private property?

The state law regarding proximity to polling places states:

Except as electors are admitted to vote and persons to assist them as herein provided, and except the sheriff or his deputy, the inspectors, returning officer, clerks of election and watchers, no person shall be permitted within 30 feet of the polling place.

ALA. CODE § 17-7-18 (1995).

While this section prohibits persons within 30 feet of the polling place, except to vote or to perform election duties, it does not permit persons to enter all property outside the 30-feet distance. Persons are permitted to campaign, distribute literature, or post signs only in those areas that are normally open to the public and located more than 30 feet from the polling place. If a private property owner allows a portion of its property to be used as a polling place, the property owner does not thereby make all the private property open to the public. Unless otherwise permitted by the property owner, the public may use only those portions of the private property open to the public for voting purposes. Those portions of the property open to the public for voting purposes become more than private property over which the private owners have absolute control. Nevertheless, private property owners may prohibit persons from distributing literature or posting signs on their private property that is not open to the public for voting purposes.

CONCLUSION

Section 17-7-18 of the Code of Alabama does not authorize the public to use all property located more than 30 feet from the polling place. Unless otherwise permitted by private property owners, the public

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may use only those portions of the private property open to the public for voting purposes.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Brenda F. Smith of my staff.

Sincerely,

BILL PRYOR
Attorney General
By:



CAROL JEAN SMITH
Chief, Opinions Division

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