

STOKES COUNTY BOARD OF ELECTIONS

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Robert "Buster" Robertson, Chairman
Durward Bennett, Secretary
Mike Pell, Member

Jason Perry, Director

July 31, 2017

Clifton Kilby
Commander, American Legion Post 290
PO Box 432
King, NC 27021

Dear Mr. Kilby,

Please find below responses to the inquiries from your July 11 letter.

1. The Stokes County Board of Elections will meet next on August 15 at 4:00 PM. The meeting will take place in the 3rd floor conference room of the Reagan/administrative building on the county government campus.
2. The information provided is from email correspondence with the legal team at the State Board of Elections & Ethics Enforcement. A copy of that exchange has been included.

Josh Lawson, general counsel of the State Board, stated that "no private party can impose limits on who may and who may not appear at a polling location. If a landlord allows her property to be used as a precinct or early voting location, the landlord cannot impose extra-statutory limits on who may enter." Mr. Lawson also noted constitutional concerns would be triggered if a private rule "acted to curtail either a person's ability to vote or their ability to carry out electioneering activities in spaces that statute reserves for that purpose."

North Carolina General Statute 163-166.4(a1) states that "the county board of elections shall also provide an area adjacent to the buffer zone for each voting place in which persons or groups of persons may distribute campaign literature, place political advertising, solicit votes, or otherwise engage in election-related activity." The statute

does not indicate an exception to this, such as a candidate or other individual who has been banned by a private organization from the property being disallowed from engaging in such campaigning activity.

According to Stokes County Attorney Ty Browder, if a private entity wants to enforce a ban on an individual, the location would not be able to be used as a voting site. By the act of being used as a voting site, the location becomes a public place.

The Forsyth County Board of Elections has entered into agreements on a voluntary basis with some non-public voting place locations. This includes various restrictions on the allowance of campaign literature and whether or not campaign signs are permitted on the property. The Forsyth County Board of Elections, according to its document regarding these voting locations, “respectfully requests that all candidates voluntarily honor this agreement.” Also, this agreement does not include restricting an individual from the voting place who wishes to stand outside the prescribed Election Day buffer zone and verbally solicit votes for a particular candidate.

North Carolina General Statute 163-166.4(b) allows a county board of elections office to receive special permission from the Executive Director of the State Board of Elections & Ethics Enforcement that would prevent – on an involuntary basis – election-related activity from occurring at a non-public voting location. However, this includes a legal requirement that no other suitable voting place can be secured for the precinct.

3. I am not aware of a written agreement between the Board of Elections and American Legion Post 290 for use of the site on Election Day.
4. According to Mr. Lawson, if an individual is barred from property by a court order, a county board of elections would be “under no obligation to make special accommodations that would enable him to electioneer at that property.” Absent this type of legal action, considerations as previously described in this letter would prevent a private entity from barring someone on Election Day. Per Mr. Browder, when a private location opens up for public use, it can’t discriminate.

If you have further questions or concerns, please contact me. You previously wrote that “with the current information contained in your letter being known, nothing at this time will change.” Please advise on the American Legion’s position on the matter as soon as that is determined, whether it has changed or remains the same.

Thank you.
Jason Perry

