

COAF-01-08: RESOLUTION ON UNWANTED NEWSPAPERS

Whereas, the first amendment which guarantees freedom of press and freedom of speech covers distributing and printing newspapers; and

Whereas, the Commonwealth of Virginia is governed under the Dillon Rule; and

Whereas, some residents of the Mount Vernon Magisterial District have tried to stop the delivery of unwanted newspapers—specifically the Washington Examiner-- with limited success; and

Whereas, the unwanted delivery of the Washington Examiner is littering private property; and

Whereas, the residents of the Mount Vernon Magisterial District spend time and money disposing of unwanted deliveries of the Washington Examiner; and

Whereas, the residents of the Mount Vernon Magisterial District have become unwilling and uncompensated “employees” of the Washington Examiner by disposing unwanted copies of the Washington Examiner as a part of the distribution process; and

Whereas, residents are able to stop delivery of mail delivered by the U.S. Postal Service; and

Whereas, residents are able to stop delivery of newspapers they subscribe to such as the Washington Post; and

Whereas, residents are able to stop unwanted telephone calls through the federal DO NOT CALL list; and

Whereas, residents explicitly expressed an objection to the delivery of the Washington Examiner and requested stoppage of delivery both orally and in writing to the Washington Examiner; and

Whereas, the Washington Examiner has not responded to the requests and continues to deliver the unwanted newspapers; and

Whereas, residents who receive unwanted newspapers are required spend money to stop delivery of “free” newspapers by seeking legal counsel; and

Whereas, the Fairfax County Attorney (County Attorney) has previously rendered an opinion that the Fairfax County Board of Supervisors (BOS) does not have authority to establish an ordinance to force publishers from delivering unwanted newspapers on private property to include driveways; and

Whereas, in *Tillman v. Distribution Systems of America, Inc.*, 224 A.D.2d 79, 648 N.Y.S.2d 630 (1996), the New York Appellate Division ruled that a newspaper distributor did not have a constitutional right to distribute newspapers by leaving them on homeowners' property.

Therefore Be It Resolved that the Mount Vernon Council of Citizens Associations (MVCCA) requests that State Senators and State Delegates introduce legislation based on the *Tillman v. Distribution Systems of America* legal case that will allow Virginia residents to stop unwanted newspapers from being delivered.

Be It Resolved that the MVCCA requests that the BOS direct the County Attorney to determine if the BOS has authority to implement an ordinance based on the *Tilman v Distribution Systems of America, Inc.* case.

Passed by the MVCCA on January 23, 2008