

Section 5 - Sample Provision Excerpt (Public Preview)

approval. Nothing political in nature may be displayed. No flag other than the American flag may be displayed. 5. Common property must not be damaged by any plantings. Balconies, fences, and exterior window shelves are subject to damage from lack of drainage.

ISSUE #1



MARKUP #1 ->



MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. 5 (p. 7): Sign or flag restriction conflicts with California Civil Code §§ 4705 and 4710 protections for the U.S. flag and noncommercial signs/banners.

Statutory / Legal Reference: Cal. Civ. Code § 4705 & 4710

Statutory Comparison: The federal Freedom to Display the American Flag Act of 2005 (4 U.S.C. § 5 Note, Pub. L. 109-243) prohibits community associations from adopting or enforcing any policy that prevents a member from displaying the flag of the United States on residential property to which the member has a separate ownership interest or right to exclusive possession or use.

CURRENT WORDING IN DOCUMENT:

approval. Nothing political in nature may be displayed. No flag other than the American flag may be displayed. 5. Common property must not be damaged by any plantings. Balconies, fences, and exterior window shelves are subject to damage from lack of drainage.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

approval. Nothing political in nature may be displayed. No flag other than the American flag may be displayed. 5. Common property must not be damaged by any plantings. Balconies, fences, and exterior window shelves are subject to damage from lack of drainage. [STATUTORY FLAG EXEMPTION]: In accordance with the Freedom to Display the American Flag Act of 2005 (4 U.S.C. § 5 Note, Pub. L.