ISSUE #1

Section 11.16 - Sample Provision Excerpt (Public Preview)

Solar and Other Energy Saving Devices. No solar and other energy saving device or system which was not part of the original construction of the Lots shall be permitted to be installed without the prior written approval of the Architectural Committee.

MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. 11.16 (p. 1): Solar restriction conflicts with the California Solar Rights Act (Cal. Civ. Code §§ 714 & 4746).

Statutory / Legal Reference: Cal. Civ. Code § 714 & 4746

Statutory Comparison: Under Cal. Civ. Code § 714, any covenant, restriction, or condition contained in any governing document that effectively prohibits or restricts the installation or use of a solar energy system is void and unenforceable. Reasonable restrictions are limited to those that do not increase the cost of the system by more than $1,000 (for photovoltaic systems) or decrease its efficiency by more than 10% (or for solar water heating systems, increase cost by more than 10% not to exceed $1,000, or decrease efficiency by more than 10%). Under Cal. Civ. Code § 4746, associations also cannot prohibit solar installations on common area roofs of multifamily buildings shared by owners.

CURRENT WORDING IN DOCUMENT:

Solar and Other Energy Saving Devices. No solar and other energy saving device or system which was not part of the original construction of the Lots shall be permitted to be installed without the prior written approval of the Architectural Committee.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to California Civil Code §§ 714 and 4746, no architectural rule or covenant shall prohibit or effectively prohibit the installation of a solar energy system, nor impose any condition that increases the cost of a solar photovoltaic system by more than One Thousand Dollars ($1,000) or decreases its efficiency by more than ten percent (10%) as originally specified and proposed. Applications for solar energy systems shall be processed in writing within forty-five (45) days of receipt.