ISSUE #1

Section 1.11 - Sample Provision Excerpt (Public Preview)

Satellite Dishes. Unit Owners shall be permitted to install one (1) satellite dish no greater than fourteen (14) inches in height on the deck located appurtenant to their respective Unit. Satellite Dishes are not permitted to be installed anywhere other than on the decks appurtenant to a Unit Owner's respective Unit.

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 1.11 (p. 1): 47 C.F.R. § 1.4000 (FCC OTARD Rule)

Statutory / Legal Reference: 47 C.F.R. § 1.4000 (FCC OTARD Rule)

Statutory Comparison: Under the FCC Over-the-Air Reception Devices (OTARD) Rule, 47 C.F.R. § 1.4000, promulgated under § 207 of the Telecommunications Act of 1996, any covenant or rule that prohibits, requires prior architectural approval before installation, or restricts satellite dishes/antennas measuring one meter (39.37 inches) or less in diameter on property within the owner's exclusive use or control is federally preempted and void.

CURRENT WORDING IN DOCUMENT:

Satellite Dishes. Unit Owners shall be permitted to install one (1) satellite dish no greater than fourteen (14) inches in height on the deck located appurtenant to their respective Unit. Satellite Dishes are not permitted to be installed anywhere other than on the decks appurtenant to a Unit Owner's respective Unit.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section 1.11 to incorporate the mandatory federal safe harbor of 47 C.F.R. § 1.4000, permitting OTARD reception antennas and satellite dishes up to 1 meter (39.37 inches) in diameter on exclusive-use property without prior architectural approval.