ISSUE #1

Section 1: [Article VII, Section 7.12] Solar Panels and Roof Equipment

No solar panels, photovoltaic collectors, or related piping and wiring shall be installed on any roof surface facing a public or private street or visible from any neighboring Lot; all solar installations may be denied in the sole aesthetic discretion of the Architectural Review Committee.

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 1 (p. 1): Architectural covenant prohibits or unreasonably restricts the installation or use of solar energy systems in violation of 25 Del. C. § 318.

Statutory / Legal Reference: 25 Del. C. § 318(b) - (e)

Statutory Comparison: Under 25 Del. C. § 318(b) - (c), any covenant, restriction, or condition contained in a deed, contract, or governing document that prohibits or unreasonably restricts the owner of a residential property from installing or using a roof-mounted or ground-mounted system for obtaining solar energy on that owner's property is void and unenforceable.

CURRENT WORDING IN DOCUMENT:

[Article VII, Section 7.12] Solar Panels and Roof Equipment No solar panels, photovoltaic collectors, or related piping and wiring shall be installed on any roof surface facing a public or private street or visible from any neighboring Lot; all solar installations may be denied in the sole aesthetic discretion of the Architectural Review Committee.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to 25 Del. C. § 318, any restriction that prohibits or unreasonably restricts an Owner from installing or using a roof-mounted or qualifying ground-mounted solar energy system on property within the Owner's exclusive control is void and unenforceable, subject only to reasonable aesthetic guidelines under § 318(d) that do not significantly increase cost or decrease efficiency.