ISSUE #1

Section 4 - Sample Provision Excerpt (Public Preview)

No solar panels (attached or detached) are permitted. Fireplace wood may not be stored on a driveway or in view of the front of the home. It is the responsibility of every homeowner and a benefit to our community to ensure that every property is kept well maintained.

MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. 4 (p. 1): Clause imposes an absolute ban on solar power devices without recognizing the statutory homeowner petition and approval pathway under Ind. Code § 32-25.5-3.5 (HEA 1196).

Statutory / Legal Reference: Ind. Code § 32-25.5-3.5-1 to 32-25.5-3.5-5 (HEA 1196)

Statutory Comparison: Under Ind. Code § 32-25.5-3.5-5 (enacted by HEA 1196), even if a governing document purports to prohibit solar power devices or requires architectural approval, a homeowner may petition other association members and, upon presenting the signatures required by § 32-25.5-3.5-5(c) (65% of members or the declaration's amendment threshold, whichever is less), the board may not deny the request to install a rooftop solar power device.

CURRENT WORDING IN DOCUMENT:

No solar panels (attached or detached) are permitted. Fireplace wood may not be stored on a driveway or in view of the front of the home. It is the responsibility of every homeowner and a benefit to our community to ensure that every property is kept well maintained.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Notwithstanding anything herein to the contrary, all requests to install a solar power device shall be evaluated in accordance with Ind. Code § 32-25.5-3.5 (HEA 1196), and the Board shall not deny a qualifying solar power device installation supported by the homeowner petition threshold set forth in Ind. Code § 32-25.5-3.5-5.