ISSUE #1

Section 4.28 - Sample Provision Excerpt (Public Preview)

Soiar Panels. No solar heat panels shall be permitted on roofs of any structures in the Subdivision. All such panels shall be enclosed within fenced areas and shall be concealed from the view of neighboring Lots, common areas and the streets. vicinity of or adjacent to the Subdivision.

MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. 4.28 (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:

Soiar Panels. No solar heat panels shall be permitted on roofs of any structures in the Subdivision. All such panels shall be enclosed within fenced areas and shall be concealed from the view of neighboring Lots, common areas and the streets. vicinity of or adjacent to the Subdivision.

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.