ISSUE #1

Section AND RESTRICTIONS OF BLFFALO STAGE PHASE III - Sample Provision...

TELEVISION, RADIO ANTENNAS AND SATELLITE DISHES. No exterior television antennas or satellite dishes larger than 18" in diameter will be allowed. Satellite dishes will be screened from public and neighbors' view.

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. AND RESTRICTIONS OF BLFFALO STAGE PHASE III (p. 1): FCC OTARD Satellite Dish / Antenna Preemption Defect: Clause imposes a blanket ban, prior-approval delay, or sub-1-meter size cap on residential reception antennas/satellite dishes preempted by 47 C.F.R. § 1.4000.

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:

TELEVISION, RADIO ANTENNAS AND SATELLITE DISHES. No exterior television antennas or satellite dishes larger than 18" in diameter will be allowed. Satellite dishes will be screened from public and neighbors' view.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section AND RESTRICTIONS OF BLFFALO STAGE PHASE III 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.