Section c - Sample Provision Excerpt (Public Preview)

oncerning pets and (ii) prohibit certain types of pets entirely.
(a) Owners shall be permitted to keep up to 2 dogs, or up to 2 cats or, 1 cat and 1 dog so long as such animals do not disturb or annoy other residents, and do not weigh over forty (40) pounds unless a variance has been obtained from the Board of Directors.

ISSUE #1

MARKUP #1 ->

MARKUP #1 · FAIR HOUSING ACT (FHA) LIABILITY RISK

BOARD & COUNSEL REVIEW

Sec. c (p. 19): Pet restriction clause lacks mandatory statutory carveout for assistance and emotional support animals.

Statutory / Legal Reference: 42 U.S.C. § 3604(f)(3)(B) & 24 C.F.R. § 100.204 (Fair Housing Act - Assistance Animals) & HUD FHEO-2020-01

Statutory Comparison: Under federal Fair Housing Act regulations (42 U.S.C. § 3604(f)(3)(B), 24 C.F.R. § 100.204, and HUD Notice FHEO-2020-01), associations cannot apply pet restrictions, breed bans, weight limits, or pet fees/deposits to an individual with a disability who requires a service animal or emotional support animal.

CURRENT WORDING IN DOCUMENT:

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SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Provided, however, that these pet restrictions, breed prohibitions, weight limitations, and pet fees shall not apply to verified assistance animals, including service animals and emotional support animals required as a reasonable accommodation under the Fair Housing Act (42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204; HUD Notice FHEO-2020-01).