Section Clause #1 - Sample Provision Excerpt (Public Preview)

stake, or picket for the restriction or constraint of children, pets, animals, or bicycles.
The sidewalks, parking areas, driveways, and roadways shall not be obstructed or encumbered.
No game of horseshoes, baseball, basketball, tennis, soccer, or other games where balls are used, is to be played on the lawn portion of the common areas without Board...

ISSUE #1

MARKUP #1 ->

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

BOARD & COUNSEL REVIEW

Sec. Clause #1 (p. 3): 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:
stake, or picket for the restriction or constraint of children, pets, animals, or bicycles. The sidewalks, parking areas, driveways, and roadways shall not be obstructed or encumbered. No game of horseshoes, baseball, basketball, tennis, soccer, or other games where balls are used, is to be played on the lawn portion of the common areas without Board...

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).