ISSUE #1

Section 6.23 - Sample Provision Excerpt (Public Preview)

Antennas and Satellite Dishes. Exterior antennas, satellite receiver and transmission dishes and other communication devices are not permitted to be placed upon any Unit except in accordance with rules established by the Architectural Review Committee in accordance with Section 7.3.

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 6.23 (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:

Antennas and Satellite Dishes. Exterior antennas, satellite receiver and transmission dishes and other communication devices are not permitted to be placed upon any Unit except in accordance with rules established by the Architectural Review Committee in accordance with Section 7.3.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section 6.23 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.