ISSUE #1

Section 5.1.23 - Sample Provision Excerpt (Public Preview)

No radio or television aerial, antenna, wiring and/or satellite dish greater than eighteen inches (18") in diameter shall be installed on any Unit without the written consent of the Executive Board. The Executive Board may remove, without notice, any such aerial, antenna, wiring and/or satellite dish erected or installed in violation of this Declaration...

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 5.1.23 (p. 1): Blanket ban, sub-1-meter size cap, or prior approval requirement on satellite dishes or antennas on exclusive-use property is preempted by federal FCC OTARD regulations.

Statutory / Legal Reference: 47 C.F.R. § 1.4000 (FCC OTARD Rule)

Statutory Comparison: The FCC Over-the-Air Reception Devices rule (47 C.F.R. § 1.4000, as expanded by the 2021 OTARD Report and Order, FCC 21-10) preempts community association restrictions that prohibit, charge application fees for, require prior architectural approval for, or impose sub-1-meter (39.37-inch) diameter caps on the installation, maintenance, or use of television broadcast antennas, direct-broadcast satellite dishes 1 meter (39.37 inches) or less in diameter, and fixed wireless broadband antennas (including hub and relay antennas) situated on property within the exclusive use or control of the owner/tenant.

CURRENT WORDING IN DOCUMENT:

No radio or television aerial, antenna, wiring and/or satellite dish greater than eighteen inches (18") in diameter shall be installed on any Unit without the written consent of the Executive Board. The Executive Board may remove, without notice, any such aerial, antenna, wiring and/or satellite dish erected or installed in violation of this Declaration...

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

in accordance with FCC OTARD regulations (47 C.F.R. § 1.4000), subject only to restrictions on shared common elements, dishes exceeding one meter in diameter, documented safety objectives (§ 1.4000(b)(1)), or historic preservation requirements (§ 1.4000(b)(2)).