ISSUE #1

MARKUP #1 ->

2.14. Antennas, Disks, and Towers. No outside receiving or transmitting antennas, disk-type receivers or towers shall be erected or maintained on any Lot without the express written consent of the Developer. However, disk-type receivers of a diameter of twenty four (24) inches or less shall be permitted provided that the installation of these receivers is made pursuant to rules and regulations adopted from time to time by the Association and in accordance with all applicable ordinances and/or regulations of Manheim Township..

2.15. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarry or mining operations of any kind shall be permitted upon or in any Lot or elsewhere on the Premises.

ARTICLE III - RESIDENTS ASSOCIATION

3.01. Membership. Each Owner shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Each Lot shall be subject to assessment as set forth below.

3.02. Voting Rights. The Association shall have two classes of voting membership:

(a) Class A Members shall be all Owners with the exception of the Developer (only until such time as the Class B Membership is extinguished) and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members of the Association. The vote for such Lots shall be exercised as such persons among themselves may determine, but in no event shall more than one vote be cast with respect to any Lot.

(b) The Class B Member shall be the Developer and shall be entitled to one vote for each Lot owned, subject to the following limitations:

(I) At such time as the Developer has sold 25% of the Lots in the Development, the number of votes to which the Class B Member shall be entitled shall not exceed the total number of votes which may be cast by Class A Members.

(ii) At such time as the Developer has sold 50% or more of the Lots in the Development, the number of votes to which the Class B Member shall be entitled shall not exceed 33 1/3% of the total number of votes which may be cast by Class A Members; and

(iii) At such time as the Developer has sold 75% of the Lots in the Development, the Class B Membership shall cease to exist and any Lots retained by the Developer shall be converted to Class A Membership.

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 2.14 (p. 5): FCC OTARD preemption conflict (47 C.F.R. § 1.4000): Outright antenna/satellite-dish prohibition, sub-1-meter diameter cap, mandatory cable-hookup removal, permit fee, or unqualified front-elevation/street-visibility ban is unenforceable as applied to covered <= 1-meter reception devices on exclusive-use property.

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

Statutory Comparison: Under the FCC Over-the-Air Reception Devices rule (47 C.F.R. § 1.4000, including FCC 21-10), preemption applies to covered direct-broadcast satellite (DBS/DSS) dishes one meter (39.37 inches) or less in diameter, television broadcast antennas, and fixed wireless broadband antennas installed within areas under the owner's or occupant's exclusive use or control. Outright bans, sub-1-meter diameter caps, monetary permit fees, mandatory removal upon cable availability, and unqualified front-elevation or street-visibility prohibitions that preclude an acceptable quality signal are preempted unless justified by a documented safety objective (§ 1.4000(b)(1)) or a National Register historic site (§ 1.4000(b)(2)).

CURRENT WORDING IN DOCUMENT:

Antennas, Disks, and Towers. No outside receiving or transmitting antennas, disk-type receivers or towers shall be erected or maintained on any Lot without the express written consent of the Developer. However, disk-type receivers of a diameter of twenty four (24) inches or less shall be permitted provided that the installation of these receivers is made pursuant to rules and regulations adopted from time to time by the Association and in accordance with all applicable ordinances and/or regulations of Manheim Township..

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Provided that for covered reception antennas and satellite dishes one meter (39.37 inches) or less in diameter installed within areas under the owner's or occupant's exclusive use or control, this provision shall be administered in accordance with 47 C.F.R. § 1.4000 without outright prohibition, permit fee, or placement/size limits that preclude an acceptable quality signal, while preserving association authority over shared common elements, dishes exceeding one meter, documented safety objectives (§ 1.4000(b)(1)), and historic preservation sites (§ 1.4000(b)(2)).