ISSUE #1

Section 7.3 - Sample Provision Excerpt (Public Preview)

No children under the age of nineteen (19) may permanently occupy any Unit.

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 7.3 (p. 1): Occupancy or amenity restriction discriminates based on familial status / disability or imposes an overbroad age restriction under the Fair Housing Act and HOPA.

Statutory / Legal Reference: 42 U.S.C. §§ 3604(a) - (c) & 3607(b) (Fair Housing Act & Housing for Older Persons Act) & 24 C.F.R. §§ 100.300 - 100.308

Statutory Comparison: The Fair Housing Act (42 U.S.C. §§ 3604(b), 3604(c)) prohibits discrimination based on familial status against households with individuals under age 18 - specifically barring age-based occupancy or familial-status exclusions against households with minor children - unless the association actively qualifies and maintains biennial age-verification records as 55+ or 62+ Housing for Older Persons under 42 U.S.C. § 3607(b)(2) and 24 C.F.R. §§ 100.304 - 100.307.

CURRENT WORDING IN DOCUMENT:

No children under the age of nineteen (19) may permanently occupy any Unit.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Any age-based occupancy restriction shall be enforceable only while the Association actively qualifies as "Housing for Older Persons" pursuant to 42 U.S.C. § 3607(b)(2)(C) and 24 C.F.R. §§ 100.304 - 100.307, including maintaining at least 80% occupancy of units by at least one person 55 years of age or older and conducting mandatory biennial age-verification surveys. Absent active HOPA qualification, no restriction shall discriminate on the basis of familial status.