Section 10.09 - Sample Provision Excerpt (Public Preview)

Exposed Roof Metal /Antennas All exposed stack vents, skylight curbs, attic ventilators, and other metal roof accessor shall match or closely resemble the roofing color. All stack vents and attic ventilators shall be located on the rear roof slopes perpendicular to the ground plane.

ISSUE #1

MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING — BOARD & COUNSEL REVIEW

Sec. 10.09 (p. 3): Clause prohibits or over-restricts solar energy devices in conflict with Tex. Prop. Code § 202.010.

Statutory / Legal Reference: Tex. Prop. Code § 202.010

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 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:
Exposed Roof Metal /Antennas All exposed stack vents, skylight curbs, attic ventilators, and other metal roof accessories shall match or closely resemble the roofing color. All stack vents and attic ventilators shall be located on the rear roof slopes perpendicular to the ground plane.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
Exposed Roof Metal /Antennas All exposed stack vents, skylight curbs, attic ventilators, and other metal roof accessories shall match or closely resemble the roofing color. All stack vents and attic ventilators shall be located on the rear roof slopes perpendicular to the ground plane. [FEDERAL OTARD CARVEOUT]: Provided that this restriction shall not prohibit or require prior approval for any owner or occupant installing an antenna, fixed wireless broadband hub/relay device, or satellite dish of one meter (39.37 inches) or less in diameter within areas under the owner's or occupant's exclusive use or control,...