

Section 5. - Sample Provision Excerpt (Public Preview)

exercisable at its discretion, to grant variances to the architectural restrictions in specific instances where the Committee in good faith deems that such variance does not adversely affect the architectural and environmental integrity of the Subdivision orthe common scheme of the development.

ISSUE #1



MARKUP #1 ->



MARKUP #1 · HIGH LEGAL & ENFORCEMENT RISK

BOARD & COUNSEL REVIEW

Sec. 5. (p. 14): Architectural control provision sets an extended 45 - 90 day review timeline, deems applications denied by silence, or vests sole subjective aesthetic discretion without requiring a written denial citing specific published guidelines under Tex. Prop. Code Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules).

Statutory / Legal Reference: Tex. Prop. Code Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules)

Statutory Comparison: Under Tex. Prop. Code Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules) and modern common-interest servitude law, architectural review authority must be exercised reasonably, in good faith, and in accordance with objective published architectural standards.

CURRENT WORDING IN DOCUMENT:

exercisable at its discretion, to grant variances to the architectural restrictions in specific instances where the Committee in good faith deems that such variance does not adversely affect the architectural and environmental integrity of the Subdivision orthe common scheme of the development.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Require the Architectural Review Committee to issue a written decision within 30 days citing the specific published design standard for any disapproval, and provide a right of reconsideration before the Board of Directors under Tex. Prop. Code Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules).