ISSUE #1

Section 1: [Community Standards Guidelines, Section 4.18] Swimming Pool Enclosures and Safety Fencing

Mesh or removable child-safety swimming pool fences and transparent pool enclosures are prohibited in rear yards if visible through wrought-iron perimeter fencing from a golf course, lake, or greenbelt.

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 1 (p. 1): Clause prohibits swimming pool safety enclosures in conflict with Tex. Prop. Code § 202.022.

Statutory / Legal Reference: Tex. Prop. Code § 202.022

Statutory Comparison: Under Tex. Prop. Code § 202.023 (enacted by SB 1588), a subdivision property owners' association may not adopt or enforce any restrictive covenant that prevents a property owner from building or installing security measures, including but not limited to a security camera, motion detector, or perimeter fence (including front-yard security fencing) on the owner's private property, although the association may regulate the type of fencing material and appearance. Similarly, Tex. Prop. Code § 202.022 prohibits banning transparent mesh or black/clear pool safety enclosures.

CURRENT WORDING IN DOCUMENT:

[Community Standards Guidelines, Section 4.18] Swimming Pool Enclosures and Safety Fencing Mesh or removable child-safety swimming pool fences and transparent pool enclosures are prohibited in rear yards if visible through wrought-iron perimeter fencing from a golf course, lake, or greenbelt.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Notwithstanding the foregoing, pursuant to Tex. Prop. Code § 202.023 and § 202.022, the Association shall not prohibit an Owner from installing security measures on the Owner's private property (including security cameras, motion detectors, or perimeter security fencing) or compliant swimming pool safety enclosures, provided that such installations comply with reasonable architectural design, height, and material standards adopted by the Association and do not aim cameras onto neighboring private property.