Section 5. - Sample Provision Excerpt (Public Preview)

Exterior Antennas: states "Without prior approval of the (Architectural) Committee, no exterior television antenna, television satellite, reception disc or radio antenna of any sort shall be placed, a] lowed or maintained upon any portion of the improvements and structures to be located in the Subdivision or upon any Lot, if it is visible from the street".

ISSUE #1

MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. 5. (p. 3): Provision authorizes holding regular Board of Directors meetings "without notice" or taking Board action by written consent outside a noticed open meeting, conflicting with Tex. Prop. Code §§ 209.005, 82.1141 & 1 TAC § 70.3 (Open Records Cost Schedule).

Statutory / Legal Reference: Tex. Prop. Code Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules); Tex. Prop. Code § 209.005 & 1 TAC § 70.3 (Open Records Cost Schedule)

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:

Exterior Antennas: states "Without prior approval of the (Architectural) Committee, no exterior television antenna, television satellite, reception disc or radio antenna of any sort shall be placed, a] lowed or maintained upon any portion of the improvements and structures to be located in the Subdivision or upon any Lot, if it is visible from the street".

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Exterior Antennas: states "Without prior approval of the (Architectural) Committee, no exterior television antenna, television satellite, reception disc or radio antenna of any sort shall be placed, a] lowed or maintained upon any portion of the improvements and structures to be located in the Subdivision or upon any Lot, if it is visible from the street". [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...