Section 5.11. - Sample Provision Excerpt (Public Preview)

Exposed Roof Metal/ Antennas: All exposed stack vents, skylight curbs, attic ventilators, and other metal roof accesso
shall match or closely resemble the roofing color.

ISSUE #1

MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. 5.11. (p. 20): Enforcement/fining provision omits mandatory Texas Property Code § 209.006 certified mail notice, 30-day Board hearing request window, or HB 614 recorded fine schedule requirements.

Statutory / Legal Reference: Tex. Prop. Code § 209.006, § 209.0061 & § 209.007

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.

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. [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, in accordance with FCC OTARD regulations (47 C.F.R. § 1.4000).