Section 7.28 - Sample Provision Excerpt (Public Preview)

Flags, Flagpoles. Except as permitted herein, without the approval of the ACA an Owner may not install a flagpole or fly a flag or banner on such Owner's Lot. Without the approval of the ACA an Owner may display (i) a flag of the United States of America in accordance with U.S.C. Sections 5-10, (ii) a flag of the State of Texas in accordance with Chapter 3100, Texas Government Code, and (iii) an official or replica flag of any branch of the United States armed forces.

ISSUE #1

MARKUP #1 ->

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

Sec. 7.28 (p. 29): Flag or flagpole restriction conflicts with statutory protections for U.S., Texas, and Armed Forces flags and 20-foot flagpoles under Tex. Prop. Code § 202.012.

Statutory / Legal Reference: Tex. Prop. Code § 202.012

Statutory Comparison: Under Tex. Prop. Code § 202.012, a property owners' association may not enforce or adopt a provision that prohibits the outdoor display of the flag of the United States of America, the flag of the State of Texas, or an official or replica flag of any branch of the U.S. Armed Forces, nor may it prohibit an owner from installing at least one freestanding flagpole up to 20 feet in height in the front yard (subject to building setback lines and easements).

CURRENT WORDING IN DOCUMENT:

Flags, Flagpoles. Except as permitted herein, without the approval of the ACA an Owner may not install a flagpole or fly a flag or banner on such Owner's Lot. Without the approval of the ACA an Owner may display (i) a flag of the United States of America in accordance with U.S.C. Sections 5-10, (ii) a flag of the State of Texas in accordance with Chapter 3100, Texas Government Code, and (iii) an official or replica flag of any branch of the United States armed forces.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Flags, Flagpoles. Except as permitted herein, without the approval of the ACA an Owner may not install a flagpole or fly a flag or banner on such Owner's Lot. Without the approval of the ACA an Owner may display (i) a flag of the United States of America in accordance with U.S.C. Sections 5-10, (ii) a flag of the State of Texas in accordance with Chapter 3100, Texas Government Code, and (iii) an official or replica flag of any branch of the United States armed forces. [SAMPLE DISCUSSION WORDING - FOR TEXAS HOA COUNSEL REVIEW]: Pursuant to Tex. Prop.