Section 10.17 - Sample Provision Excerpt (Public Preview)

~ . No sign, advertisements, billboards or advertising structure of any kind may be erected, maintained or disJJlayed to public view on any Lot without the written consent of the Architectural Review Board (the "ARB") ru1d/or Declarant approving the de.,ign, constmction materials, colors, content and time period of display, all determined in the sole...

ISSUE #1

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 10.17 (p. 10): Protected Political/Real-Estate Signage, Flag, or Religious Display Restriction: Clause bans all yard signs without a statutory political/election sign carve-out or restricts protected U.S./military flags or religious displays under TX and federal law.

Statutory / Legal Reference: 4 U.S.C. § 5 Note (Freedom to Display the American Flag Act of 2005) & 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 §§ 202.012, 202.018; Tex. Elec. Code § 259.002; 4 U.S.C. § 5, associations may not prohibit the display of the United States flag (4 U.S.C. § 5) or enforce blanket bans on residential yard signs that fail to carve out statutorily protected political election signs, religious door displays, or owner "For Sale/For Lease" signs where preempted by TX statute.

CURRENT WORDING IN DOCUMENT:

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SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section 10.17 to carve out statutorily protected political signs during election periods, U.S./State/Military flags under 4 U.S.C. § 5, and religious displays in accordance with Tex. Prop. Code §§ 202.012, 202.018; Tex. Elec. Code § 259.002; 4 U.S.C. § 5.