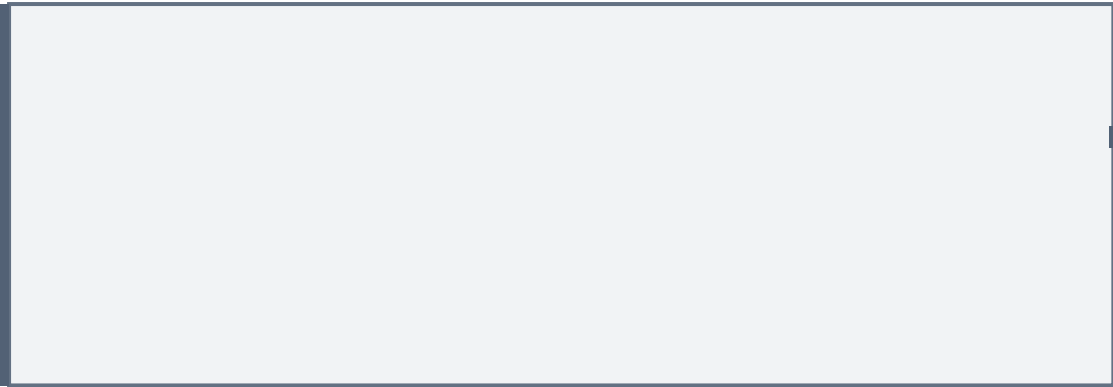


Section 3.4. - Sample Provision Excerpt (Public Preview)

of the ACC to place any decorations, sculptures, fountains, flags and similar items on any portion of such Owner's Lot except the interior of the Residence, unless (i) such item is placed within a backyard completely enclosed by a solid fence which blocks the view of the item at ground level; and (ii) such item is no taller than the fence.

ISSUE #1



MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. 3.4. (p. 22): 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:

of the ACC to place any decorations, sculptures, fountains, flags and similar items on any portion of such Owner's Lot except the interior of the Residence, unless (i) such item is placed within a backyard completely enclosed by a solid fence which blocks the view of the item at ground level; and (ii) such item is no taller than the fence.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to Tex. Prop. Code § 202.012, Owners are permitted to display the flag of the United States (in accordance with 4 U.S.C. §§ 5-10), the flag of the State of Texas (in accordance with Tex. Gov't Code Ch.