ISSUE #1

Section 3.8B.8 - Sample Provision Excerpt (Public Preview)

Restrictions: Solar panel installation shall be roof-mounted, ground mounted solar panels are not permitted without express, prior written permission from the ARC. Panels must not be on Association property.

MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. 3.8B.8 (p. 1): Solar energy restriction prohibits solar devices outside the recorded Declaration or imposes placement limits without the mandatory 5% cost / 10% efficiency safe harbor under Va. Code Ann. § 55.1-1820.1.

Statutory / Legal Reference: Va. Code Ann. § 55.1-1820.1

Statutory Comparison: Under Va. Code Ann. § 55.1-1820.1, no association shall prohibit an owner from installing a solar energy collection device on that owner's property unless the recorded declaration for the association establishes such a prohibition. While an association may establish reasonable restrictions concerning the size, place, and manner of placement of solar energy collection devices on property designated and intended for individual ownership and use, provided such restrictions do not increase installation cost by more than 5% or decrease energy production by more than 10%.

CURRENT WORDING IN DOCUMENT:

Restrictions: Solar panel installation shall be roof-mounted, ground mounted solar panels are not permitted without express, prior written permission from the ARC. Panels must not be on Association property.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to Va. Code Ann. § 55.1-1820.1, unless expressly prohibited by the recorded Declaration, an Owner may install a solar energy collection device on property designated and intended for individual ownership and use. The Association may enforce reasonable restrictions on the size, place, and manner of placement, provided that no restriction shall be enforced if an independent solar panel design specialist certifies that the restriction increases the installation cost by more than five percent (5%) or decreases energy production by more than ten percent (10%) compared to the initially proposed installation.