ISSUE #1

MARKUP #1 ->

Section 1: [Residential Design Standards, Section 4.12] Covenants Hearing Panel Fines and Continuing Violation Charg

Following notice and a hearing before the Covenants Hearing Panel, the Panel may assess a monetary violation charge of up to $100.00 for a single offense or $25.00 per day for any offense of a continuing nature from the date of the initial violation notice until the violation is cured, and such charges shall be added to the Owner's assessment account.

Section 2: [Residential Design Standards, Section 6.8] Temporary and Seasonal Holiday Lighting and Yard Signs Regu

The Board of Directors and Architectural Review Board hereby prohibit the display of more than one (1) yard sign on any Lot and require that all seasonal and holiday decorations and lighting be installed no earlier than thirty (30) days before the holiday and removed within ten (10) days after the holiday, regardless of whether the recorded Covenants contain any express restriction on holiday lighting.

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE | BOARD & COUNSEL REVIEW

Sec. 1 (p. 1): Clause authorizes violation charges/fines exceeding Virginia's strict statutory caps of $50.00 for a single offense or $10.00 per day (up to 90 days maximum) for a continuing offense under Va. Code Ann. § 55.1-1819.

Statutory / Legal Reference: Va. Code Ann. § 55.1-1819

Statutory Comparison: Under Va. Code Ann. § 55.1-1819, the board of directors has no power to assess charges (fines) or suspend privileges for rule violations unless expressly provided in the declaration. Before any charge or suspension may be imposed, the owner must be given a reasonable opportunity to correct the alleged violation after written notice, followed by a hearing before the board or other tribunal specified in the instruments. Notice of the hearing, including the charges or other sanctions that may be imposed, must be hand delivered or mailed by registered or certified mail, return receipt requested, at least 14 days prior to the hearing. Within 7 days of the hearing, the hearing result must be hand delivered or mailed by registered or certified mail. The amount of any charges assessed shall not exceed $50.00 for a single offense or $10.00 per day for any offense of a continuing nature (for a period not to exceed 90 days).

CURRENT WORDING IN DOCUMENT:

[Residential Design Standards, Section 4.12] Covenants Hearing Panel Fines and Continuing Violation Charg Following notice and a hearing before the Covenants Hearing Panel, the Panel may assess a monetary violation charge of up to $100.00 for a single offense or $25.00 per day for any offense of a continuing nature from the date of the initial violation notice until the violation is cured, and such charges shall be added to the Owner's assessment account.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to Va. Code Ann. § 55.1-1819, only to the extent expressly authorized in the recorded Declaration, the Board may assess violation charges or suspend privileges after providing the Owner written notice and a reasonable opportunity to cure the violation. If the violation is not cured, the Owner shall be given at least fourteen (14) days' prior written notice of a hearing (hand delivered or mailed by registered or certified mail, return receipt requested), and the hearing result shall be delivered or mailed by registered or certified mail within seven (7) days after the hearing. Any charge assessed shall not exceed Fifty Dollars ($50.00) for a single offense or Ten Dollars ($10.00) per day for up to ninety (90) days for any offense of a continuing nature.