ISSUE #1

MARKUP #1 ->

Section 1: [Declaration of Covenants, Conditions and Restrictions, Article VI, Section 12] Prohibition on Solar Energy C

No solar panels, solar collectors, wind turbines, or exterior clotheslines shall be installed, erected, or maintained upon any Lot or upon the roof of any dwelling within Wildflower Ridge Subdivision.

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 1 (p. 1): Clause prohibits or restricts the installation or use of a solar energy system in direct violation of W. Va. Code § 36-4-19.

Statutory / Legal Reference: W. Va. Code § 36-4-19

Statutory Comparison: Under W. Va. Code § 36-4-19(b), any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in real property, and any provision of a governing document of a housing association, that effectively prohibits or restricts the installation or use of a solar energy system is void and unenforceable (though an association may establish reasonable restrictions by majority vote that do not effectively prohibit installation or use).

CURRENT WORDING IN DOCUMENT:

[Declaration of Covenants, Conditions and Restrictions, Article VI, Section 12] Prohibition on Solar Energy C No solar panels, solar collectors, wind turbines, or exterior clotheslines shall be installed, erected, or maintained upon any Lot or upon the roof of any dwelling within Wildflower Ridge Subdivision.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to W. Va. Code § 36-4-19, any covenant or rule that effectively prohibits or restricts the installation or use of a solar energy system is void and unenforceable. Owners may install solar energy systems on their Unit or Lot subject only to reasonable guidelines adopted in accordance with W. Va. Code § 36-4-19(c) that do not effectively prohibit installation or use.