ISSUE #1

Section 3.6 - Sample Provision Excerpt (Public Preview)

(0) No exterior radio, television, microwave or other antenna or antenna dish or signal capture and distribution device shall be installed or erected by or at the direction of a Homeowner. Notwithstanding the foregoing, the Association may install one or more exterior radio, television, microwave or other antenna or antenna dish or signal capture...

MARKUP #1 ->

MARKUP #1 · POTENTIAL FED LAW CONFLICT

BOARD & COUNSEL REVIEW

Sec. 3.6 (p. 1): 47 C.F.R. § 1.4000 (FCC OTARD Rule)

Statutory / Legal Reference: 47 C.F.R. § 1.4000 (FCC OTARD Rule)

Statutory Comparison: Under the FCC Over-the-Air Reception Devices (OTARD) Rule, 47 C.F.R. § 1.4000, promulgated under § 207 of the Telecommunications Act of 1996, any covenant or rule that prohibits, requires prior architectural approval before installation, or restricts satellite dishes/antennas measuring one meter (39.37 inches) or less in diameter on property within the owner's exclusive use or control is federally preempted and void.

CURRENT WORDING IN DOCUMENT:

(0) No exterior radio, television, microwave or other antenna or antenna dish or signal capture and distribution device shall be installed or erected by or at the direction of a Homeowner. Notwithstanding the foregoing, the Association may install one or more exterior radio, television, microwave or other antenna or antenna dish or signal capture...

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Notwithstanding the foregoing, Owners and residents may install and maintain a direct-broadcast satellite (DBS) dish, MMDS antenna, or television broadcast antenna one meter (39.37 inches) or less in diameter on property within their exclusive use or control without prior architectural approval or application fees, in accordance with the FCC OTARD Rule (47 C.F.R. § 1.4000).