

ISSUE #1

MARKUP #1 ->

Section 1: [Article V, Section 13(f)] Prohibition on Visible Exterior Antennas Without Written Board Consent

f) No antennas that are visible from the exterior of any Unit may be erected or maintained except upon the written consent of the Board of Directors.

Section 2: [Article III, Section 2(j)] Daily Fining and Mandatory Compliance Bond Without Md. Code Real Prop. § 11-113

In this connection, the Board of Directors shall have the power to levy fines against Unit owners for violations of the Rules and Regulations. No fine may be levied for more than five dollars (\$5.00) for any one (1) violation; but for each day that a violation continues after notice, it shall be considered a separate violation. Collection of fines may be enforced against the Unit owner or Unit owners involved as if the fines are a common charge owed by the particular Unit owner or Unit owners. Where a Unit owner persists in violating the Rules and Regulations, the Board of Directors may require him to post a bond, satisfactory to it, to secure future compliance with the Rules and Regulations.

MARKUP #1 · CONFLICTS WITH FED LAW

BOARD & COUNSEL REVIEW

Sec. Article V, Section 13(f) (p. 1): Blanket ban, sub-1-meter size cap, or prior approval requirement on satellite dishes or antennas is preempted by federal FCC OTARD regulations.

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

Statutory Comparison: The FCC Over-the-Air Reception Devices rule (47 C.F.R. § 1.4000) preempts community association restrictions that prohibit, require prior architectural approval for, or impose sub-1-meter (39.37-inch) diameter caps on the installation, maintenance, or use of antennas and satellite dishes 1 meter or less in diameter situated on property within the exclusive use or control of the owner/tenant.

CURRENT WORDING IN DOCUMENT:

[Article V, Section 13(f)] Prohibition on Visible Exterior Antennas Without Written Board Consent - f) No antennas that are visible from the exterior of any Unit may be erected or maintained except upon the written consent of the Board of Directors.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Provided that this restriction shall not prohibit or require prior approval for any owner or occupant installing an antenna or satellite dish of one meter (39.37 inches) or less in diameter within areas under the owner's or occupant's exclusive use or control, in accordance with FCC OTARD regulations (47 C.F.R. § 1.4000).