

ISSUE #1

Section 1: [Article VI, Section 3] Architectural Control Approval and Automatic Denial

MARKUP #1 ->

No building, fence, wall, deck, or other structure shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors or an Architectural Control Committee appointed by the Board.

Section 2: [Article IV, Section 9] Remedies for Non-Payment of Assessments; Attorneys' Fees

If any assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and there shall be added to the amount of such assessment all actual attorneys' fees and collection costs incurred by the Association without limitation.

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

**Sec. Article VI, Section 3 (p. 1): Architectural restriction relies on subjective aesthetic discretion, neighbor pocket-veto signatures, or standardless finality without objective guidelines.**

**Statutory / Legal Reference:** Boiling Spring Lakes Division of Reeves Telecom Corp. v. Coastal Services Corp., 218 S.E.2d 476 (N.C. Ct. App. 1975); Raintree Homeowners Ass'n, Inc. v. Bleimann, 463 S.E.2d 72 (N.C. 1995)

**Statutory Comparison:** Under North Carolina precedent (Boiling Spring Lakes v. Coastal Services), an architectural control covenant requiring plan approval based purely on subjective "harmony" without objective standards or criteria in the recorded instrument is unenforceable unless tied to clear architectural standards.

**CURRENT WORDING IN DOCUMENT:**

[Article VI, Section 3] Architectural Control Approval and Automatic Denial - No building, fence, wall, deck, or other structure shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors or an Architectural Control Committee appointed by the Board.

**SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):**

**All architectural review decisions shall be governed by and strictly evaluated against the written, objective Architectural Planning Criteria adopted by the Association and recorded in the public records. The Board or Committee may not deny applications on subjective aesthetic grounds or delegate veto power to adjoining neighbors outside published criteria.**