

ISSUE #1

MARKUP #1 ->

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

to be set by the Board of Directors from time to time. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Owner's Lot(s). No Owner may waive or otherwise escape liability for the Assessments, provided for herein by non-use of the Common Area or abandonment of his Lot.

4.9 Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any First Mortgage. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to Mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

ARTICLE V
PARTY WALLS

5.1 General Rules of Law to Apply. Each wall which is placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules at law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

5.2 Sharing of Repair and Maintenance.

5.2.1 Each of the Owners of Lots that abut a party wall has the right to use the wall as long as such use does not interfere with the rights of the other abutting Owners.

5.2.2 Each Owner must maintain the portion of the party wall that faces his Lot, including the application of weatherproofing or paint, as appropriate, to the wall or wood fence.

5.2.3 An Owner who negligently causes a party wall to be damaged or become unsightly will bear the entire cost of repairing the resultant damage.

5.2.4 The Association may, but is not required to, repair or maintain a party wall that the Owners fail to repair or maintain. In this event, the Association may levy a reimbursement assessment for the costs it incurs plus interest and attorney fees in accordance with Section 4.5 above.

5.3 Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any abutting Owner may restore it, and the other abutting Owner(s) shall contribute equally to the cost of restoration. However, any

Sec. 4.8 (p. 11): Assessment Lien Foreclosure Lacks Mandatory A.R.S. § 33-1807(A) Threshold: Clause authorizes lien foreclosure without the mandatory 1-year or \$1,200 principal-assessment threshold and exclusion of fines/late charges.

Statutory / Legal Reference: A.R.S. § 33-1807(A) (\$1,200 / 1-Year Assessment Foreclosure Floor)

Statutory Comparison: Under A.R.S. § 33-1807(A), a planned community association may not foreclose an assessment lien unless the owner has been delinquent in the payment of assessments for a period of one year or in the amount of \$1,200 or more (whichever occurs first), excluding reasonable collection fees, attorney fees, charges for late payment, and monetary penalties.

CURRENT WORDING IN DOCUMENT:

action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Owner's Lot(s). No Owner may waive or otherwise escape liability for the Assessments, provided for herein by non-use of the Common Area or abandonment 5 of his Lot. 1 2 J 6 7 8 9 10 11 t2

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section 4.8 to conform strictly to A.R.S. § 33-1807(A) (\$1,200 / 1-Year Assessment Foreclosure Floor).