

Documents, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings;

3.9.3. In the exercise of its discretion, enforce by legal means the provisions of the Project Documents;

3.9.4. Designate, hire and dismiss the personnel necessary for the maintenance and repair of the roadway easements and provide services for the Members, and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties;

3.9.5. Provide for the repair and maintenance of all of the roadway easements and borrow money on behalf of the Association when required in connection with any one (1) instance relating to the repair and maintenance of the roadway easements; provided, however, the consent of Members having at least two-thirds (2/3) of the total votes in the Association shall be obtained either in writing or at a meeting called and held for such purpose in accordance with the provisions of these Bylaws in order for the Association to borrow in excess of \$5,000.00;

3.9.6. Prepare and adopt an annual budget for the Association prior to the commencement of each fiscal year;

ISSUE #1

3.9.7. Suspend the voting rights of a Member during any period in which such Member shall be in default in the payment of any Assessment or other amounts due under the terms of the Project Documents for a period of fifteen days and for a period not to exceed sixty (60) days for any infraction of the Project Documents;

3.9.8. Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of the Project Documents;

3.9.9. Except with respect to members of the Board of Directors appointed by the Declarant, declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 3.9.7 (p. 8): Voting rights suspension clause lacks Arizona statutory notice, hearing due process, or delinquency safeguards (A.R.S. §§ 33-1803, 33-1242 (21-Day Certified Mail Notice & Hearing)).

Statutory / Legal Reference: A.R.S. §§ 33-1803, 33-1242 (21-Day Certified Mail Notice & Hearing); A.R.S. §§ 33-1801 to 33-1819 (Arizona Planned Communities Act); A.R.S. Title 10, Ch. 24 - 40 (Arizona Nonprofit Corporation Act)

Statutory Comparison: Under Arizona community association and nonprofit corporation statutes (A.R.S. §§ 33-1803, 33-1242 (21-Day Certified Mail Notice & Hearing); A.R.S. Title 10, Ch. 24 - 40 (Arizona Nonprofit Corporation Act)), member voting rights are a fundamental corporate governance right and may not be summarily suspended without strict compliance with statutory delinquency thresholds, prior written notice, and an opportunity to be heard.

CURRENT WORDING IN DOCUMENT:

Suspend the voting rights of a Member during any period in which such Member shall be in default in the payment of any Assessment or other amounts due under the terms of the Project Documents for a period of fifteen days and for a period not to exceed sixty (60) days for any infraction of the Project Documents;

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Provided that any suspension of voting or membership privileges (to the extent permitted by Arizona law) shall require prior written notice to the Owner, a reasonable opportunity to be heard, and strict compliance with A.R.S. §§ 33-1803, 33-1242 (21-Day Certified Mail Notice & Hearing) and A.R.S. Title 10, Ch. 24 - 40 (Arizona Nonprofit Corporation Act).