ISSUE #1

Section 4.01. - Sample Provision Excerpt (Public Preview)

If requested by the Owner, to temporarily suspend the voting rights and right to the use of Common Area and/or recreational facilities by any Owner, the Owner's tenants and guests in accordance with Article XV, Section 15.

MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. 4.01. (p. 1): Election or voting provision conflicts with California Civil Code §§ 5100 - 5145 requirements for secret ballots, independent Inspector of Elections, non-suspension of member voting rights (§ 5105(g)(1)), or AB 2159 electronic voting safeguards.

Statutory / Legal Reference: Cal. Civ. Code §§ 5100, 5105, 5110 & 5115 (SB 323 / AB 2159)

Statutory Comparison: Under Cal. Civ. Code §§ 5100 - 5115, elections regarding directors, assessments legally requiring a vote, governing document amendments, and grants of exclusive use of common area must be conducted by secret ballot (double-envelope paper ballot or compliant electronic secret ballot under AB 2159, except that electronic secret ballots remain prohibited for votes on regular or special assessments under Cal. Civ. Code § 5105(i)). Under § 5110, the association must select 1 or 3 independent third-party Inspectors of Elections.

CURRENT WORDING IN DOCUMENT:

If requested by the Owner, to temporarily suspend the voting rights and right to the use of Common Area and/or recreational facilities by any Owner, the Owner's tenants and guests in accordance with Article XV, Section 15.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to California Civil Code §§ 5100 - 5145, all elections of directors, recall elections, governing document amendments, and assessment votes shall be conducted by secret ballot overseen by one (1) or three (3) independent Inspectors of Elections meeting the independence requirements of Civil Code § 5110.