

Section 7 - Sample Provision Excerpt (Public Preview)

days and a hearing before the Board in accordance with article XI, section 6 hereof. The Association's right hereunder shall include the right to suspend temporarily the voting rights and right to use any of the Common Areas and Common Facilities by an Owner for any period during which any Assessment against his Lot remains unpaid.

ISSUE #1



MARKUP #1 ->



MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. 7 (p. 8): 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...

CURRENT WORDING IN DOCUMENT:

days and a hearing before the Board in accordance with article XI, section 6 hereof. The Association's right hereunder shall include the right to suspend temporarily the voting rights and right to use any of the Common Areas and Common Facilities by an Owner for any period during which any Assessment against his Lot remains unpaid.

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.