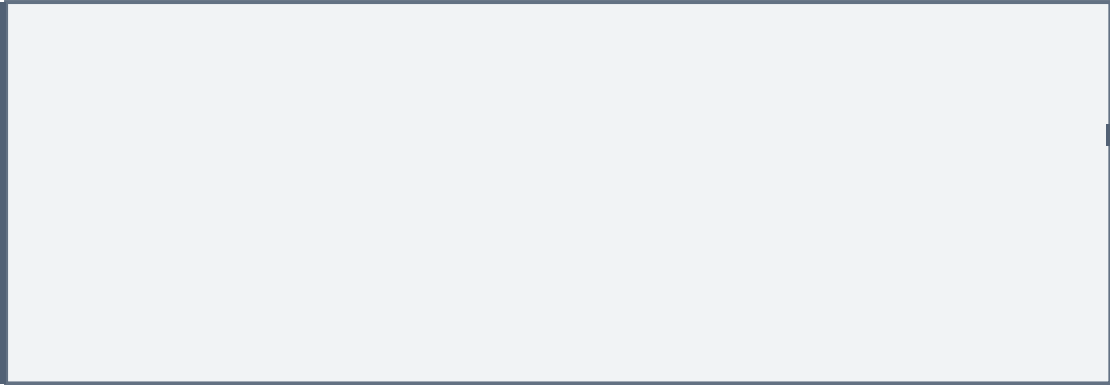


Section 4.2.1.1 - Sample Provision Excerpt (Public Preview)

The Board, after giving an Owner notice of a violation of the Governing Documents or Rules and an opportunity to be heard, shall have the right to suspend the voting rights and right to use the Common Area by an Owner and his tenants and Guests pursuant to Section 5.10 of this Declaration.

ISSUE #1



MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. 4.2.1.1 (p. 23): 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:

The Board, after giving an Owner notice of a violation of the Governing Documents or Rules and an opportunity to be heard, shall have the right to suspend the voting rights and right to use the Common Area by an Owner and his tenants and Guests pursuant to Section 5.10 of this Declaration.

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.