

MARKUP #1 ->

ARTICLE 3
MEMBERSHIP; VOTING RIGHTS

Section 3.1 Membership.

(A) Qualifications. All Lots within the Development are eligible for membership in the Association. Any Owner who became an Owner of a Lot in the Development on or after October 9, 1996 is a Mandatory Member. Any Owner who became an Owner of a Lot in the Development prior to October 9, 1996 may choose to become a Voluntary Member in accordance with the Association Rules. Each Voluntary Member shall remain a Member in the Association until the end of the fiscal year for which such Voluntary Member has paid his or her Regular Assessment. A Member is not intended to include (A) persons or entities who hold an interest merely as security for performance of an obligation, (B) contract purchasers not qualifying as Owners under the definition contained in Article 2 of these Bylaws, or (C) trustees under any instrument securing performance of an obligation.

(B) Member Rights and Duties. Each Member shall have the rights, duties and obligations set forth in the Governing Documents, as they may be amended from time to time.

(C) Transfer of Membership. The Association membership of each person or entity who owns, or owns an interest in, one or more Lots shall be appurtenant to each such Lot, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon a transfer of title to each such Lot or interest therein and then only to the transferee. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot or interest therein shall operate automatically to transfer the membership rights in the Association appurtenant thereto to the new Owner thereof except that the transferee may be obligated to pay a reasonable fee to the Association for transfer of a certificate evidencing membership in the Association.

Section 3.2 Single Class of Membership. The Association shall have one class of voting membership.

Section 3.3 Members' Voting Rights. Each Mandatory Membership Lot and each Voluntary Membership Lot whose Owner is a Member shall have one vote on matters to be voted upon by the membership.

ISSUE #1

Section 3.4 Eligibility to Vote. Only Members in Good Standing shall be entitled to vote on any issue or matter presented to the Members for approval. Eligibility for voting with respect to Mandatory-Membership Lots shall be on a per-Lot basis, meaning that if a Member owns more than one Mandatory-Membership Lot and is not in Good Standing with respect to *all* such Mandatory-Membership Lots, the Member may vote *only* with respect to those Mandatory-Membership Lots for which the Member is in Good Standing.

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 3.4 (p. 8): Unlawful Voting Suspension or "Good Standing" Disqualification: Clause strips member voting rights without statutory authority/due process or conditions records inspection/meeting notice on assessment "Good Standing" in violation of CA law.

Statutory / Legal Reference: Cal. Civ. Code § 5105(g)(1)

Statutory Comparison: Under Cal. Civ. Code § 5105(g)(1), associations may not strip member voting rights (prohibited outright in TX, CA, and NJ elections, and subject to strict statutory delinquency floors and prior written notice/hearing in FL, GA, and other states), and may never condition statutory records inspection or meeting notices on assessment "Good Standing."

CURRENT WORDING IN DOCUMENT:

Eligibility to Vote. Only Members in Good Standing shall be entitled to vote on any issue or matter presented to the Members for approval. Eligibility for voting with respect to Mandatory-Membership Lots shall be on a per-Lot basis, meaning that if a Member owns more than one Mandatory-Membership Lot and is not in Good Standing with respect to all such Mandatory-Membership Lots, the Member may vote only with respect to those Mandatory- Membership Lots for which the Member is in Good Standing.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section 3.4 to preserve member voting rights, meeting notices, and records inspection rights in compliance with Cal. Civ. Code § 5105(g)(1).