

Section 3.8. - Sample Provision Excerpt (Public Preview)

Any suspension of the voting rights of any Member for non-payment of any assessment shall not constitute a waiver or discharge of the Member's obligations to pay the assessments provided for herein. Suspension of a-Class A Member's voting rights shall result in suspension of such Member's vote by the applicable Delegate.
Direct Vote of Members Required For...

ISSUE #1



MARKUP #1 ->



MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. 3.8. (p. 28): 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:

Any suspension of the voting rights of any Member for non-payment of any assessment shall not constitute a waiver or discharge of the Member's obligations to pay the assessments provided for herein. Suspension of a-Class A Member's voting rights shall result in suspension of such Member's vote by the applicable Delegate. Direct Vote of Members Required For...

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.