

ISSUE #1

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. i (p. 3): Enforcement, fining, interest, or foreclosure provision violates Colorado HB 22-1137 (C.R.S. § 38-33.3-209.5) limits on cure periods, \$500 fine cap, 8% interest cap, or prohibition on foreclosing fine liens.

Statutory / Legal Reference: C.R.S. §§ 38-33.3-209.5 & 38-33.3-316 (HB 22-1137)

Statutory Comparison: Under C.R.S. § 38-33.3-209.5 (as amended by HB 22-1137), for covenant violations that do not threaten public health or safety, the association must: (1) notify the unit owner by certified mail, return receipt requested; (2) grant two consecutive 30-day periods to cure before turning the matter over to an attorney or legal action; (3) cap total fines for a particular covenant violation at \$500; (4) cap delinquency interest at 8% per annum; and (5) refrain from foreclosing on any assessment lien consisting solely of fines, fees, or collection costs.

CURRENT WORDING IN DOCUMENT:

s made for the purpose of doing equity to persons who may have become property owners without realizing that steps h ad been taken to eliminate their lots from Class membership and the membership shall issue at the sole discretion of the Board of Directors.

(3) Membership certificates shall be issued to non-members of the Class , , owning lots in Lake Purgatory Unit Ion a basis of the lot owne r paying to the Corporation a sum in cash in the amounts provided for herein. , ASSESSMENT The Board of Directors shall have the power to estab

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to C.R.S. §§ 38-33.3-209.5 and 38-33.3-316 (HB 22-1137), for any covenant violation that does not threaten public health or safety: (a) the Association shall send written notice via certified mail, return receipt requested, providing the owner two (2) consecutive thirty (30) day cure periods; (b) the total amount of fines imposed for any single non-health/safety violation shall not exceed Five Hundred Dollars (\$500.00); (c) delinquent assessments shall bear interest at no more than eight percent (8%) per annum; and (d) the Association shall not foreclose an assessment lien consisting solely of fines, collection costs, or attorney fees.

setting forth the number of their lot owned and the complete names and addresses of the owners or contract purchasers of the lot and the name in which the member-ship should be issued and the address to which correspondence pertaining to the membership should be address and upon execution by the owners or contract purchasers of the lot of the instruments provided for hereinafter making the lot subject to a lien in favor of the Corporati6n for assessments adopted pursuant to these By-Laws .

(2) Certificate of membership may be issued to lot owners or contract purchasers of lots in Lake Purgatory Subdivision Unit I without further initial charge, if such was excluded from Class membership by request of the owner during litigation, and was sold to persons who supported the informal property owners association. This provision is made for the purpose of doing equity to persons who may have become property owners without realizing that steps had been taken to eliminate their lots from Class membership and the membership shall issue at the sole discretion of the Board of Directors.

(3) Membership certificates shall be issued to non-members of the Class owning lots in Lake Purgatory Unit Ion a basis of the lot owner paying to the Corporation a sum in cash in the amounts provided for herein.

, ASSESSMENT

The Board of Directors shall have the power to establish assessments to cover the costs of maintaining roads, water system, and any other common facilities, and the costs of other operating expenses. The annual assessment will be determined solely by estimated needs for annual operating expenses, and will cover only those maintenance and operating expenses. This fund will not be used for capital improvements. The Board of Directors shall from time to time adopt a budget for such purpose and upon adoption of such budget the amount thereof shall be apportioned among the members on either a lot by lot basis, an assessed valuation basis or on an improved as opposed to unimproved lot basis (improved lot shall mean a lot which: (a) is connected to a water source, or (b) has a sewage disposal system, or (c) has electrical connection, and whether a dwelling is constructed thereon or occupancy is by trailer, or tent or any other manner.)