ARTICLE 6
OWNER'S RIGHTS

6.1 Right to Use Common Property. Each Owner and members of such owner's family residing with the Owner or the tenant of a non-resident owner has the non-exclusive right to use Common Property for the purpose for which it is intended, which shall be appurtenant to and shall pass with title to the lot owned by the Owner, subject to the following provisions:

ISSUE #1

6.1.1 the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon Common Area;

6.1.2 the right of the Association to suspend the voting rights and right to use the recreational facilities by an Owner for any period during which any assessment against the Owner's Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

6.1.3 the right of the Association to mortgage the Common Area or dedicate or transfer all or part of the Common Area to any homeowners association, public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such mortgage, dedication, or transfer shall be effective unless an instrument agreeing to such mortgage, dedication or transfer approved by two thirds (2/3) of each class of Members has been recorded.

6.2 Utilities. Each Owner shall have access to the underground utility lines, lift and pumping stations, pipes, sewers and drainage lines constructed in the roads or other easements as shown on the Unit 1 Plat recorded for the Subdivision, as the same may be relocated from time to time, subject to regulations and ordinances of Brevard County.

6.3 Lot Easements. Unless the Association elects to maintain easement areas on the Property, each owner shall be responsible for the maintenance of all easements situated on their respective Lot or Lots for utility or drainage purposes.

ARTICLE 7
RIGHTS OF THE Subdivision Association

7.1 Enforcement Rights. The Subdivision Association, its agents or employees, shall have the right, but not the obligation, to enter upon any lot to cure any violation of these Covenants, including without limitation, the right to remove any structure which is in violation of these Covenants and to enforce maintenance and repair of lots and improvements. Any such removal, curing,

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE — BOARD & COUNSEL REVIEW

Sec. 6.1.2 (p. 13): Governing document purports to suspend a Member's voting rights for any unpaid assessment or covenant/rule violation without meeting the statutory threshold of more than $1,000 AND more than 90 days delinquent under Fla. Stat. § 720.305(4).

Statutory / Legal Reference: Fla. Stat. § 720.305(4)

Statutory Comparison: Under Fla. Stat. § 720.305(4), an association may suspend the voting rights of a unit or parcel or member only for the nonpayment of a fee, fine, or other monetary obligation due to the association that is more than $1,000 AND more than 90 days delinquent, and such suspension must be approved by the Board at a properly noticed Board meeting with proof of such monetary obligation provided to the owner 30 days before the suspension takes effect. Voting rights may never be suspended for non-monetary rule violations or minor assessment delinquencies of $1,000 or less.

CURRENT WORDING IN DOCUMENT:
the right of the Association to suspend the voting rights and right to use the recreational facilities by an Owner for any period during which any assessment against the Owner's Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations; the right of the Association to mortgage the Common Area or dedicate or transfer all or part of the Common Area to any homeowners association, public agency, authority or utility for such purposes and subject to such conditions as agreed the Members.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
Pursuant to Fla. Stat. § 720.305(4), a Member's voting rights may be suspended by the Board of Directors at a duly noticed Board meeting only if the Member is delinquent in the payment of a monetary obligation due to the Association of more than $1,000 AND more than ninety (90) days past due, following at least thirty (30) days' written notice of such monetary obligation. Voting rights shall not be suspended for non-monetary covenant or rule infractions.