

ISSUE #1

MARKUP #1 ->

.4. Powers and Duties of the Board of Directors. All of the powers and duties of the Association existing under the Condominium Act, Declaration of Condominium, Articles of Incorporation, and these By-Laws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by condominium-unit owners where such approval is specifically required.

4.1 The Board of Directors may levy a fine against an owner, not to exceed the amount permitted by law from time to time, for any violation or continuing violation by the owner, or his or her tenants, guests, visitors, occupants, licensees or invitees of the Declaration, Articles, By-Laws or rules or regulations, with a separate fine for each repeat or continued violation; provided, however, written notice of the nature of the violation and a reasonable opportunity to attend a hearing shall be given prior to the levy of the initial fine. Said hearing shall be had before sa committee of unit owners other than the Board of Directors, and if the committee does not agree with the fine, the fine shall not be levid. No written notice or hearing shall be necessary for the levy of a separate fine for repeat or continued violations if substantially similar to the initial violation for which notice and a hearing was provided. The Board of Directors shall have the authority to adopt rules, regulations and policies to fully implement its fining authority.

.5. Officers.

.5.1~~The executive officers~~ of the Association shall be a President, who shall be a Director, a Vice President, a Treasurer and a Secretary, all of whom shall be elected annually by the Board of Directors, and there may also be such Assistant Secretaries and Assistant Treasurers as the Board of Directors may from time to time determine upon. Any person may hold two or more offices except that the same person shall not hold the office of President and Vice President, nor shall the President or a Vice President also be Secretary or an Assistant Secretary. Any officer may be removed ~~peremptorily~~ by a vote of two-thirds (2/3) of the Directors present at any duly constituted meeting~~., excepting for a Vice President, who may be removed only by the vote of the other Directors, if any, elected from his condominium at any duly constituted meeting.~~ A vacancy

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 4.1 (p. 10): Clause permits disqualified persons (directors, officers, employees, or their immediate relatives) or fewer than 3 members on the fining committee.

Statutory / Legal Reference: Fla. Stat. § 720.305(2)(b)

Statutory Comparison: Under Fla. Stat. § 720.305(2)(b), a fine or suspension levied by the board may not be imposed unless approved by a majority vote of a committee of at least three (3) members appointed by the board who are NOT officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the committee does not approve the proposed fine or suspension, it may not be imposed.

CURRENT WORDING IN DOCUMENT:

The Board of Directors may levy a fine against an owner, not to exceed the amount permitted by law from time to time, for any violation or continuing violation by the owner, or his or her tenants, guests, visitors, occupants, licensees or invitees of the Declaration, Articles, By-Laws or rules or regulations, with a separate fine for each repeat or continued violation; provided, however, written notice of the nature of the violation and a reasonable opportunity to attend a hearing shall be given prior to the levy of the initial fine.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to Fla. Stat. § 720.305(2)(b), the covenant enforcement/fining committee shall consist of at least three (3) members who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the committee does not approve a proposed fine or suspension by majority vote, the fine or suspension may not be imposed.