

ARTICLE II
PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- ISSUE #1
- (a) the right of the Association to charge reasonable admission and other fees for special events and for the use by guests of members of any recreational facility situation upon the Common Area. Guests shall be permitted and fees for the admission of guests shall be set by rules and regulations adopted by the Board of Directors. Special events shall be limited to owners, tenants and guests of owners and/or tenants.
- (b) 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 his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations.
- (c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of the members has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchases who reside on the property.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have one class of voting membership.

Section 3. The election of the directors of the Association shall be in accordance with the Articles of Incorporation of the Association and the first Board of Directors shall remain until the earlier of the dates listed below:

- (a) the date when the last Lot has been sold to an initial Purchaser
- (b) when the Declarant elects to terminate his control of the Board of Directors.

On the occurrence of the earliest of one of the two dates set forth in (a) through (b) above, the Declarant hereby covenants that the majority control of the Association shall be in the Owners of Lots including those held by the developer and not sold. The Declarant hereby covenants and agrees that the Association will not convey or transfer (or enter into a contract for same) the Common Area prior to the date control of the Association is in Owners other than the Declarant.

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 1. (p. 2): 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:

(b) 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 his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations.

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.