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MARKUP #1 ->

Section 8. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

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 the use of any recreational facility situated upon the Common Area;**
- (b) the right of the Association to suspend the voting rights and right to use of 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 or to mortgage all or any part of the Common Area (no such dedication, transfer or mortgage shall be effective unless an instrument agreeing to such dedication, transfer or mortgage signed by two-thirds (2/3) of each class of members has been recorded); and**

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 1. (p. 3): 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 of 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 .

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.