

MARKUP #1 ->

of an obligation. When more than one person or entity has an interest in the fee simple title to any Lot, the interest of all such persons collectively shall be that of a single Owner.

Section 3. "Property" shall mean and refer to that certain real property hereinbefore described comprising Meadowglen Subdivision (and all parks contained therein).

Section 4. "Lot" shall mean and refer to any plot of land shown upon the recorded subdivision plat of the Property.

Section 5. "Subdivision" shall mean and refer to the recorded 254 Lot subdivision plat of the Property.

Section 6. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association is described as follows:

Meadowglen Parks 1, 2, 3, 4 and 5 (Private Parks) being part of Meadowglen Subdivision according to the plat thereof as recorded in Liber 159, Pages 28 through 31 inclusive.

ARTICLE II
PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment: 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 Areas;
- (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. No such dedication or transfer shall be effective ~~unless an instrument agreeing to such dedication or transfer signed by two-thirds of the members has been recorded;~~

Section 2. Delegation of Use: Any Owner may delegate in accordance with the Bylaws, his rights of enjoyment in and to the Common Area and facilities to the members of his family, his tenants, or contract purchasers all who must reside on the Property.

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 1. (p. 2): Voting rights suspension clause lacks Michigan statutory notice, hearing due process, or delinquency safeguards (MCL § 559.206(c) (Notice & Hearing Required Before Fine)).

Statutory / Legal Reference: MCL § 559.206(c) (Notice & Hearing Required Before Fine); MCL Ch. 559 & MCL Ch. 450; MCL §§ 450.2101 - 450.3192 (Michigan Nonprofit Corporation Act)

Statutory Comparison: Under Michigan community association and nonprofit corporation statutes (MCL § 559.206(c) (Notice & Hearing Required Before Fine); MCL §§ 450.2101 - 450.3192 (Michigan Nonprofit Corporation Act)), member voting rights are a fundamental corporate governance right and may not be summarily suspended without strict compliance with statutory delinquency thresholds, prior written notice, and an opportunity to be heard.

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 published rules and regulations; 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.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Provided that any suspension of voting or membership privileges (to the extent permitted by Michigan law) shall require prior written notice to the Owner, a reasonable opportunity to be heard, and strict compliance with MCL § 559.206(c) (Notice & Hearing Required Before Fine) and MCL §§ 450.2101 - 450.3192 (Michigan Nonprofit Corporation Act).