ISSUE #1

Section 3.2 - Sample Provision Excerpt (Public Preview)

Authority to Cast Vote. At any meeting of the Owners, an Owner included on the voting register presented by the Secretary in accordance with Section 4.6, or the holder of such Owner s proxy, shall be entitled to cast the vote which is allocated to the Unit owned by the Owner. If there is more than one Owner of a Unit, only one of the Owners may cast the vote allocated to the Unit. If the Owners of a Unit fail to agree as to who shall cast the vote, or fail to register pursuant to Section 2.2, the vote shall not be cast.

MARKUP #1 ->

MARKUP #1 · STATUTORY MEETING & OWNER RIGHTS DEFECT

BOARD & COUNSEL REVIEW

Sec. 3.2 (p. 2): Illegal Voting Restriction for Administrative Failure

Statutory / Legal Reference: Minn. Stat. § 515B.3-110(a)

Statutory Comparison: Under Minn. Stat. § 515B.3-110(a), any provision in the bylaws restricting a unit owner's right to vote by reason of a violation of the governing documents is void. Requiring registration as a prerequisite to voting constitutes such a restriction. (Authority excerpt: "Any provision in the articles of incorporation, bylaws, declaration, or other document restricting a unit owner's right to vote, or affecting quorum requirements, by reason of nonpayment of assessments, or a purported violation of any provision of the documents governing the common interest community, shall be void.")

CURRENT WORDING IN DOCUMENT:

Authority to Cast Vote. At any meeting of the Owners, an Owner included on the voting register presented by the Secretary in accordance with Section 4.6, or the holder of such Owner s proxy, shall be entitled to cast the vote which is allocated to the Unit owned by the Owner. If there is more than one Owner of a Unit, only one of the Owners may cast the vote allocated to the Unit. If the Owners of a Unit fail to agree as to who shall cast the vote, or fail to register pursuant to Section 2.2, the vote shall not be cast.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Notwithstanding any contrary provision in this section, this covenant shall be administered and enforced strictly in accordance with Minn. Stat. § 515B.3-110(a). Association counsel should review this provision and adopt a conforming amendment or board policy resolution to align with Minn. Stat. § 515B.3-110(a).