ISSUE #1

Section 6 - Sample Provision Excerpt (Public Preview)

Article VI, Paragraph B, should be deleted in its entirety, and in its place the following inserted: B. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years fram the date this Declaration is recorded. This Declaratian may be amended Declarant, person, firm, ooxporation, partnership...

MARKUP #1 ->

MARKUP #1 · MRTA 30-YEAR COVENANT EXPIRATION RISK

BOARD & COUNSEL REVIEW

Sec. 6 (p. 1): Declaration duration/auto-renewal clause purports to extend covenants automatically or in perpetuity without referencing mandatory 22-year Marketable Record Title Act (MRTA) preservation recording requirements under Neb. Rev. Stat. §§ 76-288 to 76-298 (Nebraska Marketable Title Act - 22-Year Root of Title).

Statutory / Legal Reference: Neb. Rev. Stat. § 76-288 to 76-298 (Nebraska Marketable Title Act - 22-Year Root of Title)

Statutory Comparison: Self-executing perpetual or automatic-renewal duration clauses ("shall automatically extend for successive periods of 10 years" or "in perpetuity") DO NOT prevent statutory extinguishment under Neb. Rev. Stat. §§ 76-288 to 76-298 (Nebraska Marketable Title Act - 22-Year Root of Title). Unless the Board timely records a statutory Notice of Preservation in the county land records prior to the 22-year root-of-title deadline, the Declaration's covenants and assessment authority are extinguished by operation of law as to parcels whose root of title post-dates the original recording.

CURRENT WORDING IN DOCUMENT:

Article VI, Paragraph B, should be deleted in its entirety, and in its place the following inserted: B. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years fram the date this Declaration is recorded. This Declaratian may be amended Declarant, person, firm, ooxporation, partnership...

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 Neb. Rev. Stat. § 76-288 to 76-298 (Nebraska Marketable Title Act - 22-Year Root of Title). Association counsel should review this provision and adopt a conforming amendment or board policy resolution to align with Neb. Rev. Stat. § 76-288 to 76-298 (Nebraska Marketable Title Act - 22-Year Root of Title).