

Section 5.13. - Sample Provision Excerpt (Public Preview)

Suspend the voting rights for a period not to exceed 60 days, of an Owner after notice and a hearing, for infractions of published rules or regulations, or during any period in which such Owner is in default in the payment of any assessment levied by the Association.

ISSUE #1



MARKUP #1 ->



MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. 5.13. (p. 12): Voting rights suspension clause lacks New York statutory notice, hearing due process, or delinquency safeguards (N.Y. Real Prop. Law § 339-j).

Statutory / Legal Reference: N.Y. Real Prop. Law § 339-j; N.Y. Not-for-Profit Corp. Law (N-PCL), Real Prop. Law Art. 9-B & 13 NYCRR Parts 18, 20, 21 & 22 (NY AG Real Estate Finance Bureau Offering Plan Regulations); N.Y. Bus. Corp. Law (BCL) §... Statutory Comparison: Under New York community association and nonprofit corporation statutes (N.Y. Real Prop. Law § 339-j; N.Y. Bus. Corp. Law (BCL) § 727, N-PCL § 621 & 13 NYCRR Part 18 (Cooperative Offering Plans)), 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...

CURRENT WORDING IN DOCUMENT:
Suspend the voting rights for a period not to exceed 60 days, of an Owner after notice and a hearing, for infractions of published rules or regulations, or during any period in which such Owner is in default in the payment of any assessment levied by the Association.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
Provided that any suspension of voting or membership privileges (to the extent permitted by New York law) shall require prior written notice to the Owner, a reasonable opportunity to be heard, and strict compliance with N.Y. Real Prop. Law § 339-j and N.Y. Bus. Corp. Law (BCL) § 727, N-PCL § 621 & 13 NYCRR Part 18 (Cooperative Offering Plans).