ISSUE #1

Section 9.4.2 - Sample Provision Excerpt (Public Preview)

revised to read as follows: "If the assessment is not paid in full within fifteen (15) days after giving owner written notice of delinquency, the Board may disconnect water service under its control to the premises. The assessment amount shall bear interest from the date of delinquency at an annul interest rate of twelve percent (12%) per annum until...

MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING — BOARD & COUNSEL REVIEW

Sec. 9.4.2 (p. 1): Covenant authorizes unlawful self-help termination of essential residential utilities, warrantless self-help lot/unit entry or demolition, lockouts, or denial of ingress/egress.

Statutory / Legal Reference: ORS § 94.630(1)(n) (Written Schedule of Fines & Hearing); ORS Ch. 94 (§ 94.550 - 94.783 Oregon Planned Community Act) & OAR Ch. 863, Div. 25 (Oregon Real Estate Agency Association Rules); Restatement (Third)...

Statutory Comparison: Under Oregon law (ORS §§ 94.630(1)(n), 100.405(4)(k) (Written Schedule of Fines & Hearing); ORS Ch. 94 (§§ 94.550 - 94.783 Oregon Planned Community Act) & OAR Ch. 863, Div. 25 (Oregon Real Estate Agency Association Rules)), an association may not impair an owner's appurtenant right of vehicular and pedestrian ingress and egress to their residence or engage in non-judicial self-help termination of essential residential utilities (water, electricity, gas, sewer).

CURRENT WORDING IN DOCUMENT:

revised to read as follows: "If the assessment is not paid in full within fifteen (15) days after giving owner written notice of delinquency, the Board may disconnect water service under its control to the premises. The assessment amount shall bear interest from the date of delinquency at an annul interest rate of twelve percent (12%) per annum until...

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Under no circumstances shall any suspension of privileges impair the right of an Owner or occupant to have vehicular and pedestrian ingress to and egress from their Lot or Unit, nor shall the Association disconnect essential residential utility services, execute non-judicial self-help entry/demolition, or conduct non-judicial lockouts, in accordance with ORS §§ 94.630(1)(n), 100.405(4)(k) (Written Schedule of Fines & Hearing); ORS Ch. 94 (§§ 94.550 - 94.783 Oregon Planned Community Act) & OAR Ch. 863, Div. 25 (Oregon Real Estate Agency Association Rules); Restatement (Third) of Property: Servitudes § 4.9 (Oregon Prohibition on Self-Help Lockout & Utility Termination).