ISSUE #1

Section 5 - Sample Provision Excerpt (Public Preview)

The Board of Directors also has the authority to establish and immediate fine for any violation of the Association's parking and road usage restrictions.

MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. 5 (p. 1): Fining provision permits the imposition of fines without advance written notice and a statutory opportunity to be heard.

Statutory / Legal Reference: 68 Pa.C.S. § 3302(a)(11) (UCA)

Statutory Comparison: Under 68 Pa.C.S. § 3302(a)(11) (UCA), a Pennsylvania unit owners' association has the statutory power to levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association only "after notice and an opportunity to be heard." Provisions authorizing automatic, summary, or unilateral fines without prior notice and a hearing opportunity conflict with mandatory Pennsylvania statutory due process. Note for review: also look for any subsequent recorded amendment or standalone Fining/Enforcement Policy not included in the uploaded documents that may already supersede or cure this provision.

CURRENT WORDING IN DOCUMENT:

The Board of Directors also has the authority to establish and immediate fine for any violation of the Association's parking and road usage restrictions.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to 68 Pa.C.S. § 3302(a)(11) (UCA), no fine or disciplinary penalty shall be levied against any Unit Owner unless and until the Executive Board has provided the Unit Owner with prior written notice of the alleged violation and a reasonable opportunity to be heard before the Executive Board or its designated hearing tribunal.