Section 8.9.6 - Sample Provision Excerpt (Public Preview)

against regular or special assessments. Transfer-related fees do not apply to the following transfers unless a party to the transfer requests the corresponding documentation: (I) foreclosure of a deed of trust lien, tax lien, or the Association*s assessment lien; (2) transfer to, from, or by the Association; (3) voluntary transfer by an Owner to one or more...

ISSUE #1

MARKUP #1 ->

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

Sec. 8.9.6 (p. 37): Resale certificate fee provision exceeds the SB 1588 statutory cap of $375 for a resale certificate (or $75 for an updated resale certificate) under Tex. Prop. Code § 207.003(c).

Statutory / Legal Reference: Tex. Prop. Code § 207.003(a), 207.003(c) & 207.004 (SB 1588)

Statutory Comparison: Under Tex. Prop. Code § 207.003(a) and (c) (as amended by SB 1588, effective September 1, 2021), a property owners' association must deliver a resale certificate not later than the 10th business day after receiving a written request, and may charge a reasonable and necessary fee not to exceed $375 for assembling, copying, and delivering the resale certificate and not to exceed $75 for preparing...

CURRENT WORDING IN DOCUMENT:
against regular or special assessments. Transfer-related fees do not apply to the following transfers unless a party to the transfer requests the corresponding documentation: (I) foreclosure of a deed of trust lien, tax lien, or the Association*s assessment lien; (2) transfer to, from, or by the Association; (3) voluntary transfer by an Owner to one or more...

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
Pursuant to Tex. Prop. Code § 207.003(a) and (c) (as amended by SB 1588), the Association or its managing agent shall deliver a completed Resale Certificate within ten (10) business days after receipt of a written request, and the fee charged shall not exceed $375.00 for a Resale Certificate or $75.00 for an updated Resale Certificate.