

Section 1.26 - Sample Provision Excerpt (Public Preview)

and Owner's Residence including but not limited to Fines and Damages Assessments as described in Article VII, Section 7.10(a).
"Lot": A fee simple lot that is part of the Property and shown on the Plat, intended for independent ownership, on which there is or will be constructed a Residence.

ISSUE #1



MARKUP #1 ->



MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. 1.26 (p. 4): Clause authorizes nonjudicial power-of-sale foreclosure without first obtaining a mandatory Tex. R. Civ. P. 736 court order under Tex. Prop. Code § 209.0092.

Statutory / Legal Reference: Tex. Prop. Code § 209.009 & 209.0092
Statutory Comparison: Under Tex. Prop. Code § 209.009, a property owners' association may not foreclose a property owners' association assessment lien if the debt securing the lien consists solely of: (1) fines assessed by the association, (2) attorney's fees incurred by the association solely associated with fines assessed by the association, or (3) copy/recount charges under § 209.005(i) or § 209.0057(b-4).

CURRENT WORDING IN DOCUMENT:
and Owner's Residence including but not limited to Fines and Damages Assessments as described in Article VII, Section 7.10(a). "Lot": A fee simple lot that is part of the Property and shown on the Plat, intended for independent ownership, on which there is or will be constructed a Residence.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
Pursuant to Tex. Prop. Code § 209.009, the Association shall not foreclose an assessment lien if the debt securing the lien consists solely of fines, attorney's fees solely associated with fines, or records/recount fees. Pursuant to Tex. Prop.