Section 4.11 - Sample Provision Excerpt (Public Preview)

1. fines;
2. damage assessments;
3. initiation of foreclosure actions
BYLAWS /NOV. 2011
4. initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety;

ISSUE #1

MARKUP #1 ->

MARKUP #1 · POTENTIAL ISSUE FOR REVIEW

BOARD & COUNSEL REVIEW

Sec. 4.11 (p. 14): Potential Issue for Review: Fining or enforcement clause grants authority to levy fines or penalties without spelling out the statutory notice, cure, fine schedule, and hearing procedures under Tex. Prop. Code § 209.006, § 209.0061 & § 209.007 - look for this language in other governing documents (such as a standalone Fining/Enforcement Policy, Rules & Regulations, Bylaws, or amendments) that were not included in this review.

Statutory / Legal Reference: Tex. Prop. Code § 209.006, § 209.0061 & § 209.007

Statutory Comparison: Under Tex. Prop. Code § 209.006 and § 209.007, an association may not levy a fine or suspend an owner's right to use a common area unless it first gives written notice by certified mail describing the violation, providing a reasonable period to cure (if curable and not a repeat violation within 6 months), and stating that the owner may request a hearing before the Board on or before the 30th day...

CURRENT WORDING IN DOCUMENT:

1. fines; 2. damage assessments; 3. initiation of foreclosure actions BYLAWS /NOV. 2011 4. initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety; 5.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Look for the required notice, cure, fine schedule, and hearing language in other governing documents not included in this review. If not already set forth in another document, incorporate: Before the Association levies a fine, suspends an Owner's right to use a common area, or files suit other than to collect regular or special assessments or foreclose a lien, the Association shall give written...