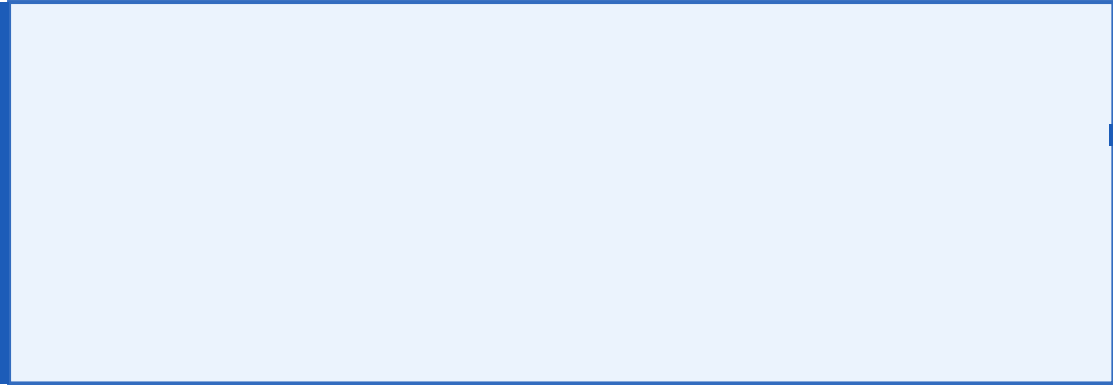




Section 5.7 - Sample Provision Excerpt (Public Preview)

from all cost and expense of that curative action and any cost or expense of penalty or fine levied by any governmental authority as a result of the act or failure to act of the Owner with respect to the Owner's Lot or the Subdivision. This remedy is cumulative of all other remedies for violations of provisions of these Restrictions.

ISSUE #1



MARKUP #1 ->

MARKUP #1 · POTENTIAL ISSUE FOR REVIEW

BOARD & COUNSEL REVIEW

Sec. 5.7 (p. 19): 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 Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules); Tex. Prop. Code § 209.006, 209.0061 - 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 Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules); Tex. Prop. Code § 209.006, 209.0061

Statutory Comparison: Under Tex. Prop. Code §§ 209.006, 209.0061, 82.102(d) and Tex. Prop. Code Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules), an association cannot impose a fine or suspend common-area or voting rights without first providing written notice of the specific covenant violation, a reasonable opportunity to cure, and a formal opportunity...

CURRENT WORDING IN DOCUMENT:

from all cost and expense of that curative action and any cost or expense of penalty or fine levied by any governmental authority as a result of the act or failure to act of the Owner with respect to the Owner's Lot or the Subdivision. This remedy is cumulative of all other remedies for violations of provisions of these Restrictions.

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: Update the fining and suspension procedure to require advance written notice of the specific violation, an opportunity to cure, a formal hearing procedure, and adherence to statutory fine limits under Tex.