

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE BOARD & COUNSEL REVIEW

ARTICLE FIVE

SECTION 1. MEMBERSHIP. Every person or entity who is the owner of a fee or of the equitable title in a lot or living unit, when purchasing under a contract, and who is subject to assessment, either present or future, by the Corporation, pursuant to the provisions of any recorded instrument relating to such assessment, shall be a member of the Corporation. For the purpose of determining membership, such ownership will be deemed to have vested upon delivery of a duly executed deed or contract to the grantee or vendee. The legal title retained by a vendor selling under a contract shall not qualify such vendor for membership. Foreclosure of a contract or repossession for any reason of a lot or unit sold under contract shall terminate the vendee's membership, whereupon all rights to such membership shall revert in the vendor.

SECTION 2. VOTING RIGHTS. Members shall be all the owners as defined in Section 1 of this Article, including the developer. Members shall be entitled to one (1) vote for each lot or living unit in which they hold the interest required for membership by Section 1 as shown by the records of the Corporation as of the last day of the third month preceding the next membership annual meeting. When more than one person holds such interest or interests in any lot or living unit, all such persons shall be members and the vote for such lot or living unit shall be exercised as they may among themselves determine, but in no event shall more than one vote be cast with respect to any such lot or living unit. Provided, however, that regardless of the number of lots any member may own, such member, including the developer, shall not after the date payments on assessments are to commence, be eligible to cast a number of votes in excess of the aggregate, less one, of the number of votes available to the other members of the corporation.

For the purpose of determining the votes allowed under this section, when living units are counted, the lot or lots upon which such living units are situated shall not be counted.

ISSUE #1

SECTION 3. SUSPENSION OF MEMBERSHIP RIGHTS. The membership rights (including voting rights) of any Member may be suspended by action of the Board of Directors if such Member shall have failed to pay when due any assessment or charge lawfully imposed upon him or any property owned by him, or if the Member, his family, his tenants, or guest of any thereof, shall have violated any rule or regulation of the Board regarding the use of any property or conduct with respect thereto.

ARTICLE SIX

The street address of the initial registered office of the Corporation is 220 W. Nopal Street, Uvalde, Texas 78801. The name of the initial registered agent of the Corporation in this state is Susie Nichols *et susie address.*

(2)

Sec. 1 (p. 3): Covenant suspending owner voting rights for delinquency or covenant violations is void under the Texas Property Code.

Statutory / Legal Reference: Tex. Prop. Code § 209.0059(a) & § 209.00592

Statutory Comparison: Under Texas Property Code § 209.0059(a), a provision in a dedicatory instrument that would disqualify a property owner from voting in a property owners' association election of board members or on any matter concerning the rights or responsibilities of the owner is void.

CURRENT WORDING IN DOCUMENT:

rights (including voting rights) of any l*iember may be suspended by action of the Board of Directors if such Nember sl1all have failed to pay 1hen due any assessment or c..harge lawfully im-posed upon him or any proper.;y 01med by him, or if the 1*iember, his family, his tenants, or gUe3t of .

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to Tex. Prop. Code § 209.0059(a), no Owner may be disqualified from voting in an Association election or on any matter concerning the rights or responsibilities of the Owner for nonpayment of assessments or covenant violations.