Section VI - Sample Provision Excerpt (Public Preview)

Owners (including Declarant) of lots (with one vote to be cast for each lot so owned) evidenced by a document in writing bearing each of their signatures; provided, however, that any amendment after the First Lot Sale which materially changes the use to be made of any portion of

ISSUE #1

ninety percent (90%) Common Areas shall require the approval of of the then...

MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. VI (p. 22): Declaration amendment provision requires 75% approval, which is overridden and capped at 67% of total allocated votes by Tex. Prop. Code § 209.0041(h-1).

Statutory / Legal Reference: Tex. Prop. Code § 209.0041(h)-(h-1)

Statutory Comparison: Under Tex. Prop. Code § 209.0041(h) and (h-1), a residential subdivision declaration may be amended only by a vote of 67 percent of the total votes allocated to property owners in the property owners' association; if the declaration contains a lower percentage, that lower percentage controls, and if the declaration specifies a percentage higher than 67%, the statutory 67% ceiling overrides the...

CURRENT WORDING IN DOCUMENT:

Owners (including Declarant) of lots (with one vote to be cast for each lot so owned) evidenced by a document in writing bearing each of their signatures; provided, however, that any amendment after the First Lot Sale which materially changes the use to be made of any portion of the ninety percent (90%) Common Areas shall require the approval of of the then...

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to Tex. Prop. Code § 209.0041(h)-(h-1), this Declaration may be amended by the affirmative vote of Owners holding at least sixty-seven percent (67%) of the total votes allocated in the Association, following at least ten (10) to twenty (20) days' written notice of the meeting at which the amendment will be considered.