Section 10. - Sample Provision Excerpt (Public Preview)

prior notice to the Members, consider or vote on fines; damage assessments; initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety; increases in assessments; levying of special assessments; or the suspension of a right of a particular Member before the Member has an opportunity to...

ISSUE #1

MARKUP #1 ->

MARKUP #1 · POTENTIAL ISSUE FOR REVIEW

BOARD & COUNSEL REVIEW

Sec. 10. (p. 5): 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:
prior notice to the Members, consider or vote on fines; damage assessments; initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety; increases in assessments; levying of special assessments; or the suspension of a right of a particular Member before the Member has an opportunity to...

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...