

MARKUP #1 ->

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

ISSUE #1

by an officer of the Association, setting forth whether the assessments on a specified Lot have been paid.

“ (d) Notwithstanding anything in this Section 6.4 to the contrary, if any amount is assessed against a Lot in accordance with Section 7.2(b) as a result of damage that was caused to said Lot, or to some other part of the Property by the willful or negligent act(s) of the Owner of the assessed Lot, such amount shall not be considered or counted in determining whether a Regular Assessment or Neighborhood Assessment has been made against such assessed Lot under paragraphs (a) or (b) of this Section.

“ (e) The Association may serve as a conduit for payment of the Owners’ Master Assessments to the Master Association, which include, without limitation, a Community Enhancement Fee (as defined in the Master Declaration). At its sole discretion, the Board may (but is in no way obligated to) include the Owners’ collective obligation for Master Assessments to the Master Association in the Association’s annual operating budget to be paid by Regular Assessment, or as a separate dedicated assessment. If the Association levies a Master Assessment, the Association must disclose the Master Assessment in Resale Certificates prepared by the Association. If the Association collects money from the Owners for the Master Association, the Association is not required to make payment to the Master Association for the account of an Owner who is delinquent in payment of Assessments to the Association. Money received by the Association from such Owner will be applied first to cure the Owner’s account with the Association. Any surplus may be paid to the Master Association for the Owner’s account. Effective as of the filing date of this Declaration, Master Assessments under the Master Declaration are equal to Nine Hundred and No/100 Dollars (\$900.00) per Lot per year, plus the Community Enhancement Fee equal to one-tenth of one percent (0.1%) of the Transfer Price (as defined in the Master Declaration), subject to modification in accordance with the terms of the Master Declaration. If and to the extent not levied as part of the Regular Assessment, the Regular Assessment due under this Declaration shall be in addition to the Master Assessments or other fees and charges levied by the Master Association under the Master Declaration, to the extent not levied as part of the Regular Assessment.”

(f) Section 6.5 of the Declaration is hereby modified and amended to add the following as an additional sentence at the end of such section

“The Association may also levy a special assessment against the Lots within any Neighborhood (a “Special Neighborhood Assessment”) to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Declaration, any applicable Supplemental Declaration, the Bylaws, Documents, and rules or to cover the costs associated with maintenance, repair, replacement and insurance of any

Sec. (a) (p. 7): Resale certificate fee provision exceeds the SB 1588 statutory cap of \$375 for a resale certificate (or \$75 for an updated resale certificate) under Tex. Prop. Code § 207.003(c).

Statutory / Legal Reference: Tex. Prop. Code §§ 207.003(a), 207.003(c) & 207.004 (SB 1588)

Statutory Comparison: Under Tex. Prop. Code § 207.003(a) and (c) (as amended by SB 1588, effective September 1, 2021), a property owners' association must deliver a resale certificate not later than the 10th business day after receiving a written request, and may charge a reasonable and necessary fee not to exceed \$375 for assembling, copying, and delivering the resale certificate and not to exceed \$75 for preparing and delivering an updated resale certificate.

CURRENT WORDING IN DOCUMENT:

or (b) of this Section. " (e) The Association may serve as a conduit for payment of the Owners' Master Assessments to the Master Association, which include, without limitation, a Community Enhancement Fee (as defined in the Master Declaration). At its sole discretion, the Board may (but is in no way obligated to) include the Owners' collective obligation for Master Assessments to the Master Association in the Association's annual operating budget to be paid by Regular Assessment, or as a separate dedicated assessment. If the Associati

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to Tex. Prop. Code § 207.003(a) and (c) (as amended by SB 1588), the Association or its managing agent shall deliver a completed Resale Certificate within ten (10) business days after receipt of a written request, and the fee charged shall not exceed \$375.00 for a Resale Certificate or \$75.00 for an updated Resale Certificate.