## Section 5.10 - Sample Provision Excerpt (Public Preview)

Fines and Damages Assessment. The Board may assess fines against an Owner for violations of any restriction set forth in this Declaration, the Design Guidelines, or any rules adopted by the Board which have been committed by an Owner, an occupant of the Owner's Lot, or the Owner or occupant's family, guests, employees, contractors, agents or invitees.

ISSUE #1

MARKUP #1 ->



MARKUP #1 · POTENTIAL ISSUE FOR REVIEW

BOARD & COUNSEL REVIEW

**Sec. 5.10 (p. 41): 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:

Fines and Damages Assessment. The Board may assess fines against an Owner for violations of any restriction set forth in this Declaration, the Design Guidelines, or any rules adopted by the Board which have been committed by an Owner, an occupant of the Owner's Lot, or the Owner or occupant's family, guests, employees, contractors, agents or invitees.

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...**