Section 6.6 - Sample Provision Excerpt (Public Preview)

(1) fines;
(2) damage assessments;
(3) initiation of foreclosure actions;
(4) initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety;
(5) increases in assessments;
(6) levying of special assessments; or
(7) a suspension of a right of a particular owner before the owner has an opportunity to attend a Board meeting to present the owner's position, including any defense, on the issue.

ISSUE #1

MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING — BOARD & COUNSEL REVIEW

Sec. 6.6 (p. 5): Enforcement/fining provision omits mandatory Texas Property Code § 209.006 certified mail notice, 30-day Board hearing request window, or HB 614 recorded fine schedule requirements.

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 after the notice was mailed.

CURRENT WORDING IN DOCUMENT:

(1) fines;
(2) damage assessments;
(3) initiation of foreclosure actions;
(4) initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety;
(5) increases in assessments;
(6) levying of special assessments; or
(7) a suspension of a right of a particular owner before the owner has an opportunity to attend a Board meeting to present the owner's position, including any defense, on the issue.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

(1) fines;
(2) damage assessments;
(3) initiation of foreclosure actions;
(4) initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety;
(5) increases in assessments;
(6) levying of special assessments; or
(7) a suspension of a right of a particular owner before the owner has an opportunity to attend a Board meeting to present the owner's position, including any defense, on the issue.