

Section 2 - Sample Provision Excerpt (Public Preview)

COMMITTEE, or its designated representatives as to the harmony of external design with the existing structures on PARCELS in the SUBDIVISION, as to type of exterior materials and exterior paint colors, as to quality of workmanship and materials, and as to locations with respect to topography and finished ground elevations, and compliance with all applicable provisions of this document, and general compatibility within the SUBDIVISION.

ISSUE #1



MARKUP #1 ->



MARKUP #1 · STATUTORY FINING & HEARING DEFECT

BOARD & COUNSEL REVIEW

Sec. 2 (p. 15): Fining or suspension provision omits modern statutory due-process safeguards (advance written notice specifying the violation and curing window, formal hearing procedure, and statutory fine caps) required under Tex. Prop. Code §§ 209.006, 209.0061, 82.102(d).

Statutory / Legal Reference: Tex. Prop. Code Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules); Tex. Prop. Code § 209.006, 209.0061

Statutory Comparison: Under Tex. Prop. Code §§ 209.006, 209.0061, 82.102(d) and Tex. Prop. Code Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules), an association cannot impose a fine or suspend common-area or voting rights without first providing written notice of the specific covenant violation, a reasonable opportunity to cure, and a formal opportunity to be heard in accordance with statutory timelines and fine limitations.

CURRENT WORDING IN DOCUMENT:

COMMITTEE, or its designated representatives as to the harmony of external design with the existing structures on PARCELS in the SUBDIVISION, as to type of exterior materials and exterior paint colors, as to quality of workmanship and materials, and as to locations with respect to topography and finished ground elevations, and compliance with all applicable provisions of this document, and general compatibility within the SUBDIVISION.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Update the fining and suspension procedure to require advance written notice of the specific violation, an opportunity to cure, a formal hearing procedure, and adherence to statutory fine limits under Tex. Prop. Code §§ 209.006, 209.0061, 82.102(d).