

Section 6.6 - Sample Provision Excerpt (Public Preview)

Declaration, the Bylaws or the rules, regulations, or for fines levied for said violations, or where the Board has purchased a Lot on behalf of one or more Owners. The period of assessment and manner of payment of such assessment shall be determined by the Board.

ISSUE #1



MARKUP #1 ->



MARKUP #1 · STATUTORY FINING & HEARING DEFECT

BOARD & COUNSEL REVIEW

Sec. 6.6 (p. 19): **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:

Declaration, the Bylaws or the rules, regulations, or for fines levied for said violations, or where the Board has purchased a Lot on behalf of one or more Owners. The period of assessment and manner of payment of such assessment shall be determined by the Board.

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).