Section 6 - Sample Provision Excerpt (Public Preview)

2ND AMENDED COVENANT ENFORCEMENT AND FINING POLICY- Page 2

a.

The description of the Violation, including any property damage caused by the Owner.

b.

The proposed sanction to be imposed, including, but not limited to, the

ISSUE #1

y fine, suspension of rights to use Common Area, or the amount claimed to be due from the owner for property damage.

MARKUP #1 ->

MARKUP #1 · POTENTIAL ISSUE FOR REVIEW

BOARD & COUNSEL REVIEW

Sec. 6 (p. 6): 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:

2ND AMENDED COVENANT ENFORCEMENT AND FINING POLICY- Page 2 a. The description of the Violation, including any property damage caused by the Owner. b. The proposed sanction to be imposed, including, but not limited to, the amount of any fine, suspension of rights to use Common Area, or the amount claimed to be due from the owner for property damage.

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: below. Notice of Violation. If the Violation is not corrected or eliminated within the time period specified in the Courtesy Notice, or if the Board or its delegate deems it appropriate to proceed without the...