ISSUE #1

Section II - Sample Provision Excerpt (Public Preview)

(d) The right of the Association tJ suspend the voting rights and right to use the recreational facilities by an Owner for any period during which any assessment against his Lot or Living Unit remains unpaid; and for a period not to exceed 60 days for any infraction of this Declaration or the Association Rules;

MARKUP #1 ->

MARKUP #1 · STATUTORY FINING & HEARING DEFECT

BOARD & COUNSEL REVIEW

Sec. II (p. 1): Voting rights suspension clause authorizes suspending a member's voting rights for assessment delinquency or rule infractions without incorporating the mandatory statutory delinquency thresholds, prior written notice, and pre-suspension hearing safeguards required under Va. Code § 55.1-1819 (Corporate Voting Entitlement & Charter Delegation) & 18 VAC 48-70; Va. Code Ann. § 55.1-1800 to 55.1-1836 (Virginia Property Owners' Association Act) & 18 VAC 48-50 / 48-60 / 48-70 (Virginia CIC Board & Ombudsman Regulations); Va. Code Ann. §...

Statutory / Legal Reference: Va. Code Ann. § 13.1-846(A) (Virginia Nonstock Corporation Act - Corporate Voting Entitlement)

Statutory Comparison: Under Va. Code § 55.1-1819 (Corporate Voting Entitlement & Charter Delegation) & 18 VAC 48-70; Va. Code Ann. § 55.1-1800 to 55.1-1836 (Virginia Property Owners' Association Act) & 18 VAC 48-50 / 48-60 / 48-70 (Virginia CIC Board & Ombudsman Regulations); Va. Code Ann. § 13.1-801 to 13.1-946 (Virginia Nonstock Corporation Act), member voting rights are appurtenant to lot or unit ownership and may not be summarily suspended upon default or for non-monetary rule infractions without strict compliance with statutory delinquency periods, advance written notice, and an opportunity to be heard.

CURRENT WORDING IN DOCUMENT:

(d) The right of the Association tJ suspend the voting rights and right to use the recreational facilities by an Owner for any period during which any assessment against his Lot or Living Unit remains unpaid; and for a period not to exceed 60 days for any infraction of this Declaration or the Association Rules;

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Notwithstanding any contrary provision in this section, this covenant shall be administered and enforced strictly in accordance with Va. Code Ann. § 13.1-846(A) (Virginia Nonstock Corporation Act - Corporate Voting Entitlement). Association counsel should review this provision and adopt a conforming amendment or board policy resolution to align with Va. Code Ann. § 13.1-846(A) (Virginia Nonstock Corporation Act - Corporate Voting Entitlement).