

ISSUE #1

MARKUP #1 ->

Section 1: [Spanish Cove Bylaws, Article V, Section 2 & Rules & Regulations to the Bylaws] Board Amendment of Rules

The Board of Directors shall have the power to adopt, amend, and repeal Rules and Regulations to the Covenants and Bylaws governing the use of Lots and Common Facilities, and to establish late charges, administrative fees, and disconnection or suspension of community utility/amenity access for any Member whose quarterly assessment remains unpaid for more than thirty (30) days.

Section 2: [Spanish Cove Bylaws, Article III, Section 6] Proxy Voting Restriction Limiting Member to Holding Only Two

At all meetings of the Members of the Association, each Member in good standing may vote in person or by written proxy filed with the Secretary at least forty-eight (48) hours prior to the meeting; provided, however, that no individual Member (other than the Board of Directors) may hold or vote more than two (2) proxies at any meeting.

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. Spanish Cove Bylaws, Article V, Section 2 & Rules & Regulations to the Bylaws (p. 1): Improper Modification of Substantive Lot Covenants via Board 'Rules and Regulations to the Covenants'

Statutory / Legal Reference: Alabama Supreme Court Precedent (Hall v. North Montgomery Materials, LLC; Willow Lake Residential Ass'n v. Juliano, 80 So. 3d 226 (Ala. Civ. App. 2010))

Statutory Comparison: Under Alabama law (Willow Lake Residential Ass'n v. Juliano, 80 So. 3d 226 (Ala. Civ. App. 2010)), an HOA board's rulemaking authority over common areas cannot be used to impose new substantive restrictions on privately owned lots ('Rules & Regulations to the Covenants') or alter the covenant amendment threshold required of the lot owners.

CURRENT WORDING IN DOCUMENT:

[Spanish Cove Bylaws, Article V, Section 2 & Rules & Regulations to the Bylaws] Board Amendment of Rules and Assessment Late Penalties Without Membership Vote - The Board of Directors shall have the power to adopt, amend, and repeal Rules and Regulations to the Covenants and Bylaws governing the use of Lots and Common Facilities, and to establish late charges, administrative fees, and disconnection or suspension of community utility/amenity access for any Member whose quarterly assessment remains unpaid for more than thirty (30) days.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section Spanish Cove Bylaws, Article V, Section 2 & Rules & Regulations to the Bylaws ([Spanish Cove Bylaws, Article V, Section 2 & Rules & Regulations to the Bylaws] Board Amendment of Rules and Assessment Late Penalties Without Membership Vote - The Board of Directors shall have the power to adopt, amend, and repeal Rules and Regulations to the Covenants and Bylaws governing the use of Lots and Common Facilities, and to establish late charges, administrative fees, and disconnection or suspension of community utility/amenity access for any Member whose quarterly assessment remains unpaid for more than thirty (30) days.) to conform with Alabama Supreme Court Precedent (Hall v. North Montgomery Materials, LLC; Willow Lake Residential Ass'n v. Juliano, 80 So. 3d 226 (Ala. Civ. App. 2010)) and the manual attorney audit recommendations for Property Owners Association of Spanish Cove, Inc..