

ISSUE #1

Section 1: [Article VI, Section 6] Perpetual Continuing Lien for Assessments Without Time Limit

All unpaid common expense assessments, fines, and interest shall constitute a perpetual and continuing lien upon the Unit until paid in full, which lien shall never expire by passage of time and shall have priority over all mortgages except a first mortgage recorded prior to the date the delinquent assessment became due.

MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. Article VI, Section 6 (p. 1): Claiming a perpetual assessment lien that never expires and failing to recognize Alaska's 3-year lien extinguishment and 6-month super-priority rules.

Statutory / Legal Reference: AS 34.08.470(b), (e)

Statutory Comparison: Under the Alaska Uniform Common Interest Ownership Act, AS 34.08.470(e), a lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the full amount of the assessments becomes due. Additionally, AS 34.08.470(b) establishes a statutory six-month super-priority for common expense assessments over first security interests.

CURRENT WORDING IN DOCUMENT:

[Article VI, Section 6] Perpetual Continuing Lien for Assessments Without Time Limit - All unpaid common expense assessments, fines, and interest shall constitute a perpetual and continuing lien upon the Unit until paid in full, which lien shall never expire by passage of time and shall have priority over all mortgages except a first mortgage recorded prior to the date the delinquent assessment became due.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section Article VI, Section 6 ([Article VI, Section 6] Perpetual Continuing Lien for Assessments Without Time Limit - All unpaid common expense assessments, fines, and interest shall constitute a perpetual and continuing lien upon the Unit until paid in full, which lien shall never expire by passage of time and shall have priority over all mortgages except a first mortgage recorded prior to the date the delinquent assessment became due.) to conform with AS 34.08.470(b), (e) and the manual attorney audit recommendations for Bootlegger Park Condominium Association.