

ISSUE #1

Section 1: [Article VIII, Section 2] Enforcement, Fines, and Suspension of Privileges

MARKUP #1 ->

Upon determining that a Lot Owner is in violation of the Declaration or Architectural Guidelines, the Board of Directors may immediately levy a fine of \$100.00 per day and suspend the Lot Owner's voting rights without a prior hearing.

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. Article VIII, Section 2 (p. 1): Fining clause authorizes the imposition of fines or penalties without prior written notice and an opportunity to be heard before the Executive Board under 25 Del. C. § 81-302(a)(11).

Statutory / Legal Reference: 25 Del. C. § 81-302(a)(11)

Statutory Comparison: Under Section 81-302(a)(11) of the Delaware Uniform Common Interest Ownership Act (25 Del. C. § 81-302(a)(11)), an association may levy reasonable fines for violations of the declaration, bylaws, rules, and regulations only after notice and an opportunity to be heard.

CURRENT WORDING IN DOCUMENT:

[Article VIII, Section 2] Enforcement, Fines, and Suspension of Privileges - Upon determining that a Lot Owner is in violation of the Declaration or Architectural Guidelines, the Board of Directors may immediately levy a fine of \$100.00 per day and suspend the Lot Owner's voting rights without a prior hearing.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to 25 Del. C. § 81-302(a)(11), no fine or monetary penalty shall be levied against a Unit Owner unless the Executive Board first provides written notice of the alleged violation and a fair opportunity to be heard before the Executive Board.