

RSPOA DECLARATMARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE BOARD & COUNSEL REVIEW

Sec. 2. (p. 4): Voting rights suspension threshold fails to meet Florida statutory \$1,000 and 90-day delinquency requirements.

Statutory / Legal Reference: Fla. Stat. § 720.305(3) (HOA) / § 718.303(5) (Condo)
Statutory Comparison: Under Fla. Stat. § 720.305(3) and § 718.303(5), an association may only suspend the voting rights of a parcel or unit owner if the member is more than 90 days delinquent in paying any fee, fine, or other monetary obligation to the association, and the delinquent amount exceeds \$1,000.

CURRENT WORDING IN DOCUMENT:
(b) The right of the Association to suspend the voting rights and right to use the Common Areas and facilities by an Owner for any period during which any assessment against his property remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its lawfully adopted and published rules and regulations.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
Provided that an owner's voting rights may only be suspended if the owner is more than 90 days delinquent in paying a monetary obligation to the Association and the delinquent balance exceeds \$1,000, pursuant to Fla. Stat. § 720.305(3) / § 718.303(5).

TrueHOA · Not legal advice; consult your HOA attorney · Doc p. 4/50 (PDF p. 5)

upon any other property as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the covenants established by this Declaration within the Properties.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every Owner shall be a member of the Association. Membership in the Association is not severable from ownership and no member may resign from the Association. The Declarant shall be a member of the Association.

Section 2. Voting Rights. Each Member shall have the following voting rights:

- (a) Owners of Residential Lots and Family Dwelling Units shall be entitled to one vote for each Residential Lot or Family Dwelling Unit owned. Provided however, that the construction of a Family Dwelling Unit upon a Residential Lot shall not increase the number of votes for the ownership of such Lot.
- (b) Owners of Multifamily Lots, Public and Commercial Lots and Industrial Lots shall be entitled to one vote for each .5 of an acre contained in such Lot; provided, however, that in computing the number of votes, such member shall have the area contained in such property rounded off to the nearest .5 of an acre.
- (c) Owners of Public and Commercial Units and Industrial Lots shall be entitled to one vote for each 1,500 square feet of area covered by roof, awning, or canopy or similarly protected from the elements, (this shall hereafter be called "Covered Area"), contained in the Unit which he owns; provided, however, that in computing the number of votes such member shall have, the square footage of covered area rounded off to the nearest 1,500 square feet.

Declarant shall have the right to elect one (1) member of the board of directors until such time as Declarant no longer holds the title to any portion of the properties.

ARTICLE IV
PROPERTY RIGHTS IN THE COMMON AREAS

Section 1. Ownership. The Common Areas shall not be conveyed to any entity or person other than the Association. Beginning upon the date this Declaration is recorded, the Association shall be responsible for the maintenance of the Common Areas in a continuous and satisfactory manner and for the payment for licenses and permits and of taxes assessed against the Common Areas and any improvements and any personal property thereon accruing from and after the date this Declaration was recorded. Declarant shall have the right time to time to enter upon the Common Areas during periods of construction upon adjacent properties and for the purpose of construction of any facilities on the Common Areas that Declarant elects to build, such election being at Declarant's sole option with no warrants or representations being made thereto.

Section 2. Owner's Easements. Each Owner and each tenant, agent and invitee of such Owner shall have a permanent and perpetual easement for the use of all Common Areas in common with all other Owners, their tenants, agents and invitees, subject to the following:

ISSUE #1

- (a) The right and duty of the Association to levy assessments against each Lot for the purpose of maintaining the Common Areas and facilities in compliance with the provisions of this Declaration and with any restrictions on the various plats of the Properties from time to time recorded.
- (b) The right of the Association to suspend the voting rights and right to use the Common Areas and facilities by an Owner for any period during which any assessment against his property remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its lawfully adopted and published rules and regulations.
- (c) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated on the Common Areas.
- (d) The right of the Association to adopt and enforce rules and regulations governing the use of the Common Areas and all facilities at any time situated thereon.

The right of an Owner to the use and enjoyment of the Common Areas and facilities thereon shall extend to the members of his immediate family who reside with him, subject to the regulations from time to time adopted by the Association in its lawfully adopted and published rules and regulations.

Section 3. Maintenance. The Association shall at all times maintain in good repair, and shall replace as often as necessary, any and all improvements situated on the Common Areas (upon completion of construction by Declarant), including, but not limited to, all recreational facilities, landscaping, paving, drainage structures, street lighting fixtures and appurtenances. The Declarant and the Association shall have the right to protect the Common Area erosion by planting trees, plants, and shrubs where and to the extent necessary or by such mechanical means as seawalls, bulkheading, or other means, deemed expedient or necessary. The Association shall take necessary steps to provide and insure adequate drainage ways, canals or lagoons in Common Areas