

Section 1: [Amended and Restated Declaration of Covenants, Article VI & Article VII] Annual and Special Assessments

Each Owner of a Lot, by acceptance of a deed therefor, covenants and agrees to pay to the Association annual assessments and special assessments fixed and established by the Board of Directors. All unpaid assessments, together with interest, late charges, fines, and reasonable attorneys' fees and costs of collection, shall be a continuing lien upon the Lot against which the assessment is made and the personal obligation of the Owner. The Board may suspend the voting rights and amenity/lake privileges of any Owner whose account is delinquent for more than thirty (30) days.

ISSUE #1

MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. Amended and Restated Declaration of Covenants, Article VI & Article VII (p. 1): IL Manual Attorney Audit Finding (Amended and Restated Declaration of Covenants, Article VI & Article VII - [Amended and Restated Declaration of Covenants, Article VI & Article VII] Annual and Special Assessments, Continuing Lien, and Collection Remedies - Each Owner of a Lot, by acceptance of a deed therefor, covenants and agrees to pay to the Association annual assessments and special assessments fixed and established by the Board of Directors. All unpaid assessments, together...

Statutory / Legal Reference: 765 ILCS 160/ (Common Interest Community Association Act); 765 ILCS 605/ (Illinois Condominium Property Act)
Statutory Comparison: 1. Pre-Fine Notice & Opportunity to Be Heard Defect under the Illinois Common Interest Community Association Act (765 ILCS 160/1-30(g)): The Rules and Regulations on Citations and Fines allow Association Security/Code Enforcement to immediately assess a monetary fine upon issuing a citation, placing the burden on the owner to appeal within 14 days or else the fine becomes final. Under the Illinois Common Interest Community Association Act (CICAA), 765 ILCS 160/1-30(g), the board may levy a reasonable fine for violation of the declaration, bylaws, or rules and regulations of the community association ONLY 'after notice and an opportunity to be heard.' Assessing a fine first and offering only a post-assessment appeal reverses the mandatory statutory pre-deprivation sequence under 765 ILCS 160/1-30(g).

CURRENT WORDING IN DOCUMENT:

The Board may suspend the voting rights and amenity/lake privileges of any Owner whose account is delinquent for more than thirty (30) days.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section Amended and Restated Declaration of Covenants, Article VI & Article VII ([Amended and Restated Declaration of Covenants, Article VI & Article VII] Annual and Special Assessments, Continuing Lien, and Collection Remedies - Each Owner of a Lot, by acceptance of a deed therefor, covenants and agrees to pay to the Association annual assessments and special assessments fixed and established by the Board of Directors. All unpaid assessments, together with interest, late charges, fines, and reasonable attorneys' fees and costs of collection, shall be a continuing lien upon the Lot against which the assessment is made and the personal obligation of the Owner. The Board may suspend the voting rights and amenity/lake privileges of any Owner whose account is delinquent for more than thirty (30) days.) to conform with 765 ILCS 160/ (Common Interest Community Association Act); 765 ILCS 605/ (Illinois Condominium Property Act) and the manual attorney audit recommendations for Apple Canyon Lake Property Owners Association.