

ISSUE #1

MARKUP #1 ->

Section 1: [Covenants and Restrictions, Article VII & Policy Handbook Section 3.2] Mandatory Lien and Foreclosure for

Any fine or penalty levied by the Board of Directors or Citation Committee for a violation of the Policy Handbook shall be added to the Member's annual assessment account and, if not paid within thirty (30) days, shall become a continuing lien on the Lot enforceable by foreclosure in the same manner as a mortgage.

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. Covenants and Restrictions, Article VII & Policy Handbook Section 3.2 (p. 1): Enforcement assessment/fining clause permits fines without prior written notice specifying a cure date and the statutory right to request a board hearing within 10 days.

Statutory / Legal Reference: Ohio Rev. Code § 5312.11(C) - (D) (Ohio Planned Community Law)

Statutory Comparison: Under Ohio Rev. Code § 5312.11(C) - (D) (Ohio Planned Community Law), before imposing a charge for damages or an enforcement assessment, the board of directors must give the owner a written notice that includes: (1) a description of the property damage or violation; (2) the amount of the proposed charge or assessment; (3) a statement that the owner has a right to a hearing before the board to contest the proposed charge or assessment; (4) a statement setting forth the procedures to request a hearing (giving at least 10 days to deliver written notice requesting a hearing); and (5) a reasonable date by which the owner must cure the violation to avoid the proposed charge or assessment. If a hearing is requested, the board must provide written notice of the date, time, and location at least 30 days prior to the hearing.

CURRENT WORDING IN DOCUMENT:

[Covenants and Restrictions, Article VII & Policy Handbook Section 3.2] Mandatory Lien and Foreclosure for Unpaid Rule Fines Without Hearing - Any fine or penalty levied by the Board of Directors or Citation Committee for a violation of the Policy Handbook shall be added to the Member's annual assessment account and, if not paid within thirty (30) days, shall become a continuing lien on the Lot enforceable by foreclosure in the same manner as a mortgage.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to Ohio Rev. Code § 5312.11(C) - (D) (Ohio Planned Community Law), prior to imposing any enforcement assessment or charge for damages, the Board shall deliver written notice to the Owner specifying the violation, the proposed assessment amount, a reasonable date by which the Owner may cure the violation to avoid the assessment, and the Owner's right to request a hearing before the Board within ten (10) days after receiving the notice. If a hearing is requested, the Board shall not levy the assessment before holding the hearing (upon at least 30 days' prior written notice) and delivering written notice of the Board's determination within 30 days after the hearing.