

Section 1: [Declaration of Covenants, Conditions and Restrictions, Article V, Section 5.08] Assessment Lien Enforcement

MARKUP #1 ->

All annual, special, and individual assessments, together with interest, late charges, costs, and reasonable attorney's fees, shall be a continuing charge and lien upon the Lot against which each such assessment is made from the due date thereof, and may be foreclosed by the Association in like manner as a mortgage on real estate, including by power of sale.



MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. Declaration of Covenants, Conditions and Restrictions, Article V, Section 5.08 (p. 1): Omission of Mandatory Recorded Notice of Lien and Judicial Foreclosure Requirement Under 60 O.S. § 852(C)

Statutory / Legal Reference: 60 O.S. § 852(C) (Oklahoma Real Estate Development Act - Enforcement of Liens)

Statutory Comparison: Under the Oklahoma Real Estate Development Act, 60 O.S. § 852(C), no assessment lien may be foreclosed unless the owners association first records a written notice of lien in the office of the county clerk of Oklahoma County stating the amount of the assessment and description of the property, and 60 O.S. § 852(C) provides that such lien 'may be foreclosed by an action in the district court' in the manner of a mortgage foreclosure - not by unilateral non-judicial power of sale without a signed power-of-sale mortgage notice conforming to 46 O.S. § 43.

CURRENT WORDING IN DOCUMENT:

[Declaration of Covenants, Conditions and Restrictions, Article V, Section 5.08] Assessment Lien Enforcement by Non-Judicial Power of Sale and Unrecorded Lien Priority - All annual, special, and individual assessments, together with interest, late charges, costs, and reasonable attorney's fees, shall be a continuing charge and lien upon the Lot against which each such assessment is made from the due date thereof, and may be foreclosed by the Association in like manner as a mortgage on real estate, including by power of sale.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section Declaration of Covenants, Conditions and Restrictions, Article V, Section 5.08 ([Declaration of Covenants, Conditions and Restrictions, Article V, Section 5.08] Assessment Lien Enforcement by Non-Judicial Power of Sale and Unrecorded Lien Priority - All annual, special, and individual assessments, together with interest, late charges, costs, and reasonable attorney's fees, shall be a continuing charge and lien upon the Lot against which each such assessment is made from the due date thereof, and may be foreclosed by the Association in like manner as a mortgage on real estate, including by power of sale.) to conform with 60 O.S. § 852(C) (Oklahoma Real Estate Development Act - Enforcement of Liens) and the manual attorney audit recommendations for Oak Tree Homeowners Association, Inc..