

ISSUE #1

Section 1: [Use and Maintenance Covenants, Enforcement Resolution Section 5] Recording Notice of Claimed Violation

MARKUP #1 ->

If an Owner fails to cure a cited violation of the Use and Maintenance Covenants or Design Guidelines within the time specified by the Covenants Committee, the Association may record a formal 'Notice of Claimed Violation of Use of Property Covenant' against the Owner's Lot in the land records of Fairfax County, Virginia, and may assess the Owner \$250.00 for the administrative and legal cost of preparing and recording such Notice.

Section 2: [Design Guidelines, Home-Based Business & Child Day Care Policy] Prohibition on Family Day Homes and

Lots shall be used exclusively for residential purposes, and no commercial enterprise or home occupation that generates client or customer traffic, including any commercial child day care center or family day home caring for non-resident children for compensation, shall be operated within any residential dwelling without prior approval of the Design Review Board and Cluster Association.



MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. Use and Maintenance Covenants, Enforcement Resolution Section 5 (p. 1): Recording Unadjudicated 'Notice of Claimed Violation' Clouding Title and Assessing \$250 Administrative Fee Exceeds VPOAA Remedies

Statutory / Legal Reference: Va. Code Ann. § 55.1-1819(B) & § 55.1-1833

Statutory Comparison: Under the Virginia Property Owners' Association Act (Va. Code Ann. § 55.1-1819(B) and § 55.1-1833), an association's statutory lien and land-record recording authority is strictly limited to filing a Memorandum of Lien for unpaid assessments (including properly assessed violation charges capped at \$50/\$10 per day up to 90 days), and reporting uncured violations on a statutory Resale Certificate under Va. Code § 55.1-2310. Recording a unilateral 'Notice of Claimed Violation' in the county land records outside a lis pendens in a pending lawsuit and charging a \$250 administrative fee exceeds § 55.1-1819(B).

CURRENT WORDING IN DOCUMENT:

[Use and Maintenance Covenants, Enforcement Resolution Section 5] Recording Notice of Claimed Violation in Fairfax County Land Records - If an Owner fails to cure a cited violation of the Use and Maintenance Covenants or Design Guidelines within the time specified by the Covenants Committee, the Association may record a formal 'Notice of Claimed Violation of Use of Property Covenant' against the Owner's Lot in the land records of Fairfax County, Virginia, and may assess the Owner \$250.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section Use and Maintenance Covenants, Enforcement Resolution Section 5 ([Use and Maintenance Covenants, Enforcement Resolution Section 5] Recording Notice of Claimed Violation in Fairfax County Land Records - If an Owner fails to cure a cited violation of the Use and Maintenance Covenants or Design Guidelines within the time specified by the Covenants Committee, the Association may record a formal 'Notice of Claimed Violation of Use of Property Covenant' against the Owner's Lot in the land records of Fairfax County, Virginia, and may assess the Owner \$250.00 for the administrative and legal cost of preparing and recording such Notice.) to conform with Va. Code Ann. § 55.1-1819(B) & § 55.1-1833 and the manual attorney audit recommendations for Reston Association.