

RCW 64.50.040 Construction defect action brought by a board of directors—Notice. (Effective until January 1, 2028.) (1) (a) In the event the board of directors, pursuant to RCW 64.34.304(1)(d) or 64.38.020(4), institutes an action asserting defects in the construction of two or more residences, common elements, or common areas, this section shall apply. For purposes of this section, "action" has the same meaning as set forth in RCW 64.50.010.

(b) The board of directors shall substantially comply with the provisions of this section.

(2) (a) Prior to the service of the summons and complaint on any defendant with respect to an action governed by this section, the board of directors shall mail or deliver written notice of the commencement or anticipated commencement of such action to each homeowner at the last known address described in the association's records.

(b) The notice required by (a) of this subsection shall state a general description of the following:

(i) The nature of the action and the relief sought;

(ii) To the extent applicable, the existence of the report required in RCW 64.50.020(1)(a), which shall be made available to each homeowner upon request;

(iii) A summary of the construction professional's response pursuant to RCW 64.50.020(3), if any; and

(iv) The expenses and fees that the board of directors anticipates will be incurred in prosecuting the action.

(3) Nothing in this section may be construed to:

(a) Require the disclosure in the notice or the disclosure to a unit owner of attorney-client communications or other privileged communications;

(b) Permit the notice to serve as a basis for any person to assert the waiver of any applicable privilege or right of confidentiality resulting from, or to claim immunity in connection with, the disclosure of information in the notice; or

(c) Limit or impair the authority of the board of directors to contract for legal services, or limit or impair the ability to enforce such a contract for legal services. [2023 c 337 s 5; 2002 c 323 s 5.]

Application—2023 c 337 ss 3-5: See note following RCW 64.50.010.

RCW 64.50.040 Construction defect action brought by a board—Notice. (Effective January 1, 2028.) (1) (a) In the event the board, pursuant to RCW 64.90.405(2)(d), institutes an action asserting defects in the construction of two or more units or common elements, this section shall apply. For purposes of this section, "action" has the same meaning as set forth in RCW 64.50.010.

(b) The board shall substantially comply with the provisions of this section.

(2) (a) Prior to the service of the summons and complaint on any defendant with respect to an action governed by this section, the board shall mail or deliver written notice of the commencement or anticipated commencement of such action to each homeowner at the last known address described in the association's records.

(b) The notice required by (a) of this subsection shall state a general description of the following:

(i) The nature of the action and the relief sought;

(ii) To the extent applicable, the existence of the report required in RCW 64.50.020(1)(a), which shall be made available to each homeowner upon request;

(iii) A summary of the construction professional's response pursuant to RCW 64.50.020(3), if any; and

(iv) The expenses and fees that the board anticipates will be incurred in prosecuting the action.

(3) Nothing in this section may be construed to:

(a) Require the disclosure in the notice or the disclosure to a homeowner of attorney-client communications or other privileged communications;

(b) Permit the notice to serve as a basis for any person to assert the waiver of any applicable privilege or right of confidentiality resulting from, or to claim immunity in connection with, the disclosure of information in the notice; or

(c) Limit or impair the authority of the board to contract for legal services, or limit or impair the ability to enforce such a contract for legal services. [2024 c 321 s 421; 2023 c 337 s 5; 2002 c 323 s 5.]

Effective dates—2024 c 321 ss 319 and 401-432: See note following RCW 64.90.485.

Application—2023 c 337 ss 3-5: See note following RCW 64.50.010.