

Effective 5/8/2018

57-8-10.7 Board action to enforce governing documents -- Parameters.

- (1)
 - (a) The management committee shall use the management committee's reasonable judgment to determine whether to exercise the association of unit owners' powers to impose sanctions or pursue legal action for a violation of the governing documents, including:
 - (i) whether to compromise a claim made by or against the management committee or the association of unit owners; and
 - (ii) whether to pursue a claim for an unpaid assessment.
 - (b) The association of unit owners may not be required to take enforcement action if the management committee determines, after fair review and acting in good faith and without conflict of interest, that under the particular circumstances:
 - (i) the association of unit owners' legal position does not justify taking any or further enforcement action;
 - (ii) the covenant, restriction, or rule in the governing documents is likely to be construed as inconsistent with current law;
 - (iii)
 - (A) a technical violation has or may have occurred; and
 - (B) the violation is not material as to a reasonable person or does not justify expending the association of unit owners' resources; or
 - (iv) it is not in the association of unit owners' best interests to pursue an enforcement action, based upon hardship, expense, or other reasonable criteria.
- (2) Subject to Subsection (3), if the management committee decides under Subsection (1)(b) to forego enforcement, the association of unit owners is not prevented from later taking enforcement action.
- (3) The management committee may not be arbitrary, capricious, or act against public policy in taking or not taking enforcement action.
- (4) This section does not govern whether the association of unit owners' action in enforcing a provision of the governing documents constitutes a waiver or modification of that provision.

Enacted by Chapter 395, 2018 General Session