



OPEN MEETING

REGULAR MEETING OF THE UNITED LAGUNA WOODS MUTUAL
GOVERNING DOCUMENTS REVIEW COMMITTEE

Monday, March 25, 2019 – 1:30 p.m.
Laguna Woods Village Community Center, Sycamore Room
24351 El Toro Road, Laguna Woods, CA 92637

NOTICE & AGENDA

1. Call to Order
2. Acknowledgment of Media
3. Approval of the Agenda
4. Approval of the Report from February 25, 2019
5. Chair's Remarks
6. Member Comments (Items Not on the Agenda)

Consent:

All matters listed under the Consent Calendar are considered routine and/or informational and will be enacted by the Committee by one motion. In the event that an item is removed from the Consent Calendar by members of the Committee, such item(s) shall be the subject of further discussion and action by the Committee.

None.

Reports:

7. Review and Discuss Fees for Golf Cart Charging Violations

Items for Discussion and Consideration:

8. Review and Discuss the Possibility of Allowing Roommates
9. Review and Discuss the Election Rules as They Relate to the Bylaws
10. Review and Discuss the New State Law Regarding the Canvassing Policy

Concluding Business:

11. Committee Member Comments
12. Future Agenda Items
 - Review and Discuss a Policy for Approving Lenders
13. Date of next meeting is April 22, 2019
14. Adjournment

Maggie Blackwell, Chair
Siobhan Foster, Staff Officer



OPEN MEETING

**REGULAR MEETING OF THE UNITED LAGUNA WOODS MUTUAL
GOVERNING DOCUMENTS REVIEW COMMITTEE**

Monday, February 25, 2019 – 1:30 PM
Laguna Woods Village Community Center, Sycamore Room
24351 El Toro Road, Laguna Woods, CA 92637

- MEMBERS PRESENT:** Maggie Blackwell – Chair, Andre Torng, Juanita Skillman, Advisors Bevan Strom and Mary Stone
- MEMBERS ABSENT:** Anthony Liberatore
- OTHERS PRESENT:** Dick Rader, Cash Achrekar, Gary Morrison, Attorney Jeff Beaumont, Sherri Davis, Kay Anderson
- STAFF PRESENT:** Siobhan Foster, Susan McInerney, Pamela Bashline, Eve Morton, Christine Spahr

REPORT

1. Call to Order

Chair Blackwell called the meeting to order at 1:50 p.m.

2. Acknowledgement of Press

No press was present.

3. Approval of the Agenda

Director Torng moved to approve the agenda. The committee was in unanimous support.

4. Approval of Report from the December 18, 2018, Meeting

The Report was approved by acclamation.

5. Chair's Remarks

None.

6. Member Comments (Items not on the agenda)

None.

Consent Calendar:

All matters listed under the Consent Calendar are considered routine and will be enacted by the Committee by one motion. In the event that an item is removed from the Consent Calendar by members of the Committee, such item(s) shall be the subject of further discussion and action by the Committee.

None.

Reports:

None.

Items for Discussion and Consideration:

7. Review and Discuss Updates to Possible Guarantor Agreement

The updates to the Guarantor Agreement, which were requested at the last meeting, were discussed. Several other changes were requested.

If guarantors are reinstated, the Financial Requirements must be amended to reflect guarantor requirements.

Director Achrekar made a motion to adopt this document as amended and send it on to the Board. Director Torng seconded. The vote was four in favor and one against. The motion passed.

8. Review and Discuss Possibility of Updating Co-Occupancy Permit to Allow Roommates

President Skillman suggested a separate application form for renters which requires age qualification, a background check, and to re-qualify annually. A renter would not be considered a co-occupant. The Shareholder would pay the extra occupancy fee of \$140 a month for their renter; \$50 to United and \$90 to GRF for use of the GRF facilities.

Chair Blackwell suggested calling it a Room Sublet Application.

Several concerns were discussed. Does this create a tenancy? What about evictions? What about parking? Staff was asked to compile a list of concerns for the next meeting.

President Skillman moved to include this item on a future agenda and to invite Security Director, Tim Moy, to the meeting. The committee was in unanimous support.

9. Review and Discuss the Private Caregiver Policy

Information only was provided to the committee about the current procedures in place when people apply to be a caregiver in the Village.

Ms. Bashline went over the Caregiver Application Checklist which Staff uses when processing a caregiver.

Mr. Beaumont stated that the 55 and over age restriction in the Village will be preserved when allowing private caregivers who are under 55 and provide medical treatment or help with a major daily activity to be residents.

Concluding Business:

10. Committee Member Comments

Several comments were made.

11. Future Agenda Items

- Canvassing Policy
- Discuss Possibility of Allowing Roommates

12. Date of next meeting is March 25, 2019

13. Adjournment at 3:45 p.m.

DRAFT

Maggie Blackwell, Chair



UNITED LAGUNA WOODS
 M U T U A L
STAFF REPORT

DATE: March 25, 2019
FOR: Governing Documents Review Committee
SUBJECT: Golf Cart Violation Fine

RECOMMENDATIONS

Staff recommends that the Board approve the proposed amendment to the Golf Cart Policies and Procedures to include a separate fine for golf carts cited using Mutual electricity without an Annual Electric Golf Cart decal.

BACKGROUND

On October 17, 2017, United Laguna Woods Mutual (United) approved revisions to the Golf Cart Policies and Procedures, adopted by Resolution 01-17-136. One provision in the policy allows golf cart plug in vehicles to charge batteries using common area electricity for a fee. When properly registered, golf carts are issued a rectangular yellow decal to indicate that they have paid the annual Electric Golf Cart fee, currently set at \$120 per cart, per year.

Included in the policies and procedures is the ability for United Mutual to impose a Notice of Violation and other enforcement actions when a golf cart is connected to common area electricity without proper permits. The current policy imposes a \$50 monetary penalty for golf carts that use Mutual electricity without a permit.

DISCUSSION

Staff recommends amending the Schedule of Traffic and Monetary Penalties to increase the fine for unpermitted golf carts using common-area electricity, to \$100 for the first violation with increments of \$50 for subsequent occurrences, capping the fine at \$250. In addition, the Member must obtain the Annual Electric Golf Cart charging decal within 10 days of the violation. The proposed increase will promote a fine schedule that is fair and objective but is also a clear deterrent to help enforce community rules and regulations.

#	Type of Violation	1st	2nd	3rd	4th
	Unpermitted Golf Cart Using Mutual Electricity	\$100	\$150	\$200	\$250

FINANCIAL ANALYSIS

Monetary penalties are imposed in accordance with Civil Code §5850 for violations. Fines are designed primarily as a deterrent to help enforce community rules and regulations. The revenue collected is used to partially offset the administrative costs associated with a citation such as patrolling, filing, data entry, correspondence with the driver/owner, and scheduling traffic hearings.

Prepared By: Jacob M Huanosto, Compliance Supervisor

Golf Cart Violation Fine

March 25, 2019

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Reviewed By:

Tim Moy, Chief of Security

Siobhan Foster, Chief Operating Officer

Betty Parker, Chief Financial Officer

ATTACHMENT(S)

Attachment 1: Schedule of Traffic Monetary Penalties

Security Division

SCHEDULE OF TRAFFIC MONETARY PENALTIES

Moving Violations	1st	2nd	3rd	4th (or more)
600 - Speeding (6 - 10 MPH)	\$25.00	\$50.00		
601 - Speeding (11 - 15 MPH)	\$50.00	\$100.00		
602 - Speeding (16 MPH and Over)	\$100.00	\$200.00		
610 - Failure to Stop	\$50.00	\$100.00	\$200.00	
620 - Right of Way	\$25.00	\$50.00		
630 - Turn Signal	\$25.00	\$50.00		
640 - Left of Center	\$25.00	\$50.00		
650 - Hit and Run	\$200.00	\$400.00		
660 - Valid Driver's License Not Produced	\$200.00	\$400.00		
680 - Reckless	\$150.00	\$300.00	\$300.00	\$300.00
690 - Headlight Violation	\$25.00	\$25.00	\$25.00	\$25.00
691 - Riding a Bicycle on Sidewalk	\$25.00	\$25.00	\$50.00	\$50.00
695 - Other Moving	\$25.00	\$50.00		
Parking Violations	1st	2nd	3rd	4th (or more)
010 - Abandoned Vehicle	\$25.00	\$25.00	\$50.00	\$50.00
700 - No Parking Zone	\$25.00	\$50.00	\$75.00	\$100.00
714 - Unpermitted Plug-In Using Mutual Electricity	\$240.00	\$480.00	\$480.00	\$480.00
716 - Unattended Extension Cords & Battery Charger	\$50.00	\$100.00	\$150.00	\$150.00
720 - Limited Time Parking	\$25.00	\$25.00	\$50.00	\$75.00
721 - Recreational Vehicle Parked over 6 Hr. Limit	\$25.00	\$25.00	\$50.00	\$75.00
722 - Advertising on Vehicle Parked Overnight	\$25.00	\$25.00	\$50.00	\$75.00
723 - Vehicle Used for Storage	\$50.00	\$100.00	\$150.00	\$200.00
724 - Parked on sidewalk or Grass	\$25.00	\$25.00	\$50.00	\$75.00
725 - Expired Vehicle Registration	\$50.00	\$100.00	\$150.00	\$150.00
726 - Parked Obstructing Access	\$25.00	\$25.00	\$50.00	\$75.00
727 - No Valid GRF Vehicle Decal or Parking Permit Displayed	\$25.00	\$25.00	\$50.00	\$50.00
800 - Fire Hydrant	\$25.00	\$50.00	\$50.00	\$50.00
730 - Other Parking Violations	\$25.00	\$25.00	\$50.00	\$50.00
Handicap Parking Violations	1st	2nd	3rd	4th (or more)
810 - Handicapped Parking				
With Placard & Handicap I.D. verification	\$0.00	\$25.00	\$50.00	\$75.00
811 - Handicapped Parking				
No Placard or Handicap I.D. Displayed	\$150.00	\$200.00	\$250.00	\$275.00
Pedestrian Violations	1st	2nd	3rd	4th (or more)
750 -Pedestrian Violations	\$25.00	\$25.00	\$50.00	\$50.00
RV Parking Violations	1st	2nd	3rd	4th (or more)
820 - Hazardous Material	\$75.00	\$100.00	\$150.00	
830 - Wheel Block	\$25.00	\$50.00	\$75.00	\$100.00
840 - Jack Support (R & R Section "W" Violation)	\$25.00	\$50.00	\$75.00	\$100.00
850 - Maintenance or Repair	\$25.00	\$50.00	\$75.00	\$100.00
860 - Miscellaneous (Minor)	\$25.00	\$50.00	\$75.00	
870 - Miscellaneous (Major)	\$50.00	\$100.00	\$150.00	

RV Lot Parking Violations

Miscellaneous (Minor)	Miscellaneous (Major)	Miscellaneous (Major)
Flat Tires	Expired Registration	Unauthorized vehicle in space
Failure to provide Registration paperwork	Utilizing RV vehicle as living quarters	Vehicle utilized for storage
	Clutter	Generator running unattended
	Storage outside of vehicle	Portable sheds or tents erected outside of vehicle
	Wash-rack violation	Illegal Jack (R & R Section "X" Violation)

Checks Payable to "GRF" w/ reference# in memo box
 Pay in person by leaving check in "Payment box"
 or mailing to:

Attention: Security Division
 24351 El Toro Road
 Laguna Woods, CA 92637

From Staff – Items to Consider Regarding Allowing Roommates in United

Susan McInerney, Manager, Social Services Department

Pros:

- Helps to subsidize income for residents
- Provides socialization
- Provides extra safety

Cons:

- Potential abuse
- Difficulty evicting, if needed

From Tim Moy, Security Director

- Parking is a significant concern and will only continue to worsen with additional residents and their guests.
- Renters are not invested in the community to the extent of an owner or long-term lessee. Renters tend to be more transient and less concerned about community upkeep and adherence to GRF or Mutual rules. This could potentially result in an increase in the following:
 - Clutter violations (Balcony, Breezeway, Carport, Common Area, Interior)
 - Animal nuisances
 - Neighborhood disputes
 - Nuisance violations
 - Increased thefts
- Increase in Illegal Occupancy violations requiring time consuming and expensive landlord-tenant evictions
- Additional burden on staff in both Compliance and Security to conduct follow-up investigations

From Pamela Bashline, Community Services Manager

A room sublet suggests to me that this scenario falls into the realm of leasing [*Room Sublet Application*] rather than a standard co-occupancy matter. I believe a legal opinion is needed with respect to CCC 51.3 and Qualified Permanent Resident provisions. (Jeff's legal opinion attached)

- A formalized room sublet application *may* protect the estate in the event the member passes away; estate representative would have to provide legal/sufficient notice so room renter had time to vacate.
- The Member or estate representative is responsible to initiate eviction proceedings when needed; United would not be a party to the sublease.

CONFIDENTIAL – ATTORNEY CLIENT PRIVILEGED

MEMO

To: Board of Directors, c/o Governing Documents Review Committee
UNITED LAGUNA WOODS MUTUAL

From: Jeffrey A. Beaumont, Esq., BEAUMONT TASHJIAN

Date: March 14, 2019

Subject: Possibility of Allowing Roommates

* As you are aware, the purpose of United is to provide housing to its members on a stock cooperative basis, and in accordance with Civil Code Section 51.3 et seq. Only persons 55 and older can occupy a manor. (Bylaws, Art. III, Section 2.) Certain qualified residents, such as care-givers and spouses, may also occupy a manor, as outlined below. Additionally, qualified residents must be approved by the Board of Directors.

* At all times, United, its Board of Directors and members are bound by the restrictions in their governing documents, which include, but are not limited to, the Bylaws, Articles of Incorporation, Occupancy Agreement and Board adopted Rules.

* Article 5 of the Occupancy Agreement provides, in relevant part, as follows: "The Member shall use the dwelling unit covered by this Occupancy Agreement as a dwelling unit for those authorized to occupy it by the Corporation and for no other purpose ... The Member agrees to reside in, occupy and use the dwelling unit in conformity with the age restrictions sanctioned by California Civil Code Section 51.3." (Emphasis added.)

* Section 51.3, subdivision (b)(2) defines the term "**Qualified Permanent Resident**," and provide as follows:

"Qualified permanent resident" means a person who meets both of the following requirements: (A) Was residing with the qualifying resident or senior citizen prior to the death, hospitalization, or other prolonged absence of, or the dissolution of marriage with, the qualifying resident or senior citizen, and (B) Was 45 years of age or older, or was a spouse, cohabitant, or person providing primary physical or economic support to the qualifying resident or senior citizen.

* “Qualified permanent resident” also means a disabled person or person with a disabling illness or injury who is a child or grandchild of the senior citizen or a qualified permanent resident. (Civil Code Section 51.3(b)(3).)

* Article II, Section 4(b) of the Bylaws defines a “Co-Occupant” as follows:

“Co-occupant – Any person who seeks to reside with a Qualifying Resident, who is approved by the Board of Directors for occupancy, and who shall certify on the application submitted to the Corporation that he or she satisfies at least one of the following criteria and shall provide such additional certification or information as the Corporation or its managing agent may require:

- (i) at least forty-five years of age; or
- (ii) a spouse of a Qualifying Resident; or
- (iii) a co-habitant of a Qualifying Resident, or
- (iv) a provider of primary economic support to a Qualifying Resident; or
- (v) a provider of primary physical support to a Qualifying Resident.”

Article III, Sections 2 and 3 of the Bylaws also state, respectively:

“A person may reside in a Unit as a Qualifying Resident or a Co-Occupant. No person shall be approved as a Co-Occupant unless another person with whom he or she seeks to reside has been approved as a Qualifying Resident. No person, except a temporary guest pursuant to Section 3 below, may reside in a Unit without the prior written approval of the Corporation. A guest may be permitted temporary occupancy in accordance with Section 3 below, and in accordance with the Rules and Regulations of the Corporation.

The number of persons seeking to reside in the same Unit shall not exceed the maximum permissible number permitted by the Rules and Regulations of the Corporation.

...

Guest occupancy is permitted for a maximum period of 60 days per year, per guest, solely in conjunction with the occupancy by a Qualifying Resident or Co-Occupant.”

(Civil Code Sections 51.3(b)(2).)

* Section 51.3, subdivision (c) of the Civil Code provides that the “covenants, conditions, and restrictions and other documents or written policy shall set forth the

limitations on occupancy, residency, or use on the basis of age.” (Emphasis added.) Thus, Section 51.3 authorizes United to restrict “occupancy, residency, or use” based on age.

* Based on Section 51.3, subdivision (c) of the Civil Code, it is also my opinion that United’s Board of Directors can adopt written policies governing occupancy subject to Civil Code Sections 4340-4370.

* Civil Code Section 4350 requires that all such policies be: (i) written; (ii) made within the authority of the Board of Directors; (iii) adopted, amended, or repealed in good faith and in substantial compliance with other provisions of the Civil Code and governing documents; and (iv) **reasonable**.

* In determining whether a written policy is “reasonable,” the courts will often look to see if it is considered arbitrary (there’s no rational relationship to the protection, preservation, operation or purpose of the community), whether it imposes burdens on that substantially outweigh the restriction’s benefits to the development’s residents, or whether it violates a fundamental public policy.

* Based on the above, United’s policy on roommates must have a rational relationship to the protection, preservation, operation or purpose of the community, not impose burdens that substantially outweigh the restriction’s benefits to the community, or otherwise be in conflict with applicable law (i.e., Civil Code Section 51.3)

* A roommate is not only a co-occupant, but also likely a sub-tenant. Bylaws, Article II, subsection 4(g) states:

“Sub-Lessee – Any person or persons who sub-leases a Unit from a Member for such period of time and on such forms as authorized by the Board of Directors, as shall be permitted by the Rules and Regulations adopted by the Board of Directors from time to time.”

* Bylaws, Article II, subsection 4(k) provides:

“Qualifying Resident – Any person who is at least 55 years of age and who has been approved by the Board of Directors for occupancy of a Unit.”

* It is my opinion that a roommate should not be considered a Co-occupant or a Qualified Permanent Resident, but rather treated as a sub-tenant, who must meet the requirements of a “Qualifying Resident.” This is related to United’s interest in preserving the character of the community, i.e., a senior housing development.

* With respect to restrictions (such as a rule allowing roommates, but restricting the age of a roommate to 55 years of age or older), the restrictions are valid as long as the Board acts reasonably in approving the transfer (or withholding its

approval) but it violates the restraint on alienation if it withholds its consent in an arbitrary or unreasonable manner. (*Laguna Royale Owners Assn. v. Darger* (1981) 119 Cal.App.3d 670, 680.)

* The Board can and should establish a policy, via a rule change, regarding roommates and create a "Room Sublet Application". A formalized room sublet application may protect the estate in the event the member passes away; estate representative would have to provide legal/sufficient notice so room renter had time to vacate. The Member or estate representative is responsible to initiate eviction proceedings when needed; United would not be a party to the sublease.

Please review this memorandum and contact me should you need further information or guidance, or should you wish to talk through this in greater detail. Thank you and take good care.

End of Memo.



**UNITED MEMBERSHIP ELECTIONS
STANDARD OPERATING PROCEDURE**

Adopted May 14, 2013 RESOLUTION 01-13-90

Revised March 10, 2015 RESOLUTION 01-15-33

Revised September 13, 2016 RESOLUTION 01-16-97

1. **Definitions**

- a. "Corporation" shall refer to the United Laguna Woods Mutual Corporation.
- b. "Election Records" shall include tabulated ballots, voided ballots, voided Pre-addressed Return Envelopes, Eligible Voter List(s), tally sheets, returned ballot packages, ballots received after the election deadline, and any other used and unused ballots.
- b. "Secretary" shall mean an elected member of the Board of Directors who has been elected as a Corporate officer as Secretary.
- c. "Authorized Agent" shall refer to a Staff member appointed by the Board of Directors.
- d. "Inspector(s) of Elections" shall refer to an independent third party appointed by the Board of Directors to perform duties and acts to facilitate voting and elections as set forth herein.
- e. "SOP" shall mean and refer to this policy, known as the United Membership Elections Standard Operating Procedure.
- f. "Submit" shall refer to delivery of a document to the Authorized Agent at the Corporate address: **24351 El Toro Road, Laguna Woods, California.**
- g. "Qualified Member" shall mean a member qualified to nominate himself or herself as a candidate for the Board of Directors as set forth herein.

2. **Nominating Committee** – The law is clear in that a Member must be able to nominate himself or herself for election to the Board. (California Civil Code § 5105(a)(3).) Accordingly, United does not utilize a Nominating Committee to limit candidates to run for a position on the Board; that practice has been

superseded by state statute. That said, the Board reserves the right to establish committees as permitted by law and pursuant to the governing documents to assist with nominations and/or director candidacy. Therefore, the provisions regarding nominating procedures set forth in this SOP shall control over the nomination procedures set forth in the Bylaws, which may be contrary to relevant law. (See, Bylaws, Article VIII.)

3. **Nomination Process**

- a. **Qualifications.** Only “Qualified Members” are eligible for candidacy to the Board. All candidates seeking to run in any Election of Directors shall meet the following criteria in order to be considered a Qualified Member for purposes of this SOP:
 - i. Shall be Members of record as defined under Article II, Section 4(h) of the United Laguna Woods Mutual Bylaws
 - ii. Shall not be shown on the books of account of the Corporation to be more than thirty (30) days delinquent in payment of any sums due to the Corporation under his or her Occupancy Agreement or otherwise, and who has been given notice thereof and the opportunity for a hearing concerning the delinquency (Bylaws: Art. VI Sec. 2(b)).
 - iii. Shall not be an employee of the Corporation (Bylaws: Art. VI, Sec. 2(b)).
 - iv. While a candidate for the Board and during their term as a Director, if elected, the Candidate shall be obligated to be a current member of United having resided in his/her unit, as their primary residence, for a minimum of six months..
 - v. Further, the Board may disqualify any candidate where the candidate or the candidate’s spouse has a conflict of interest with the Corporation, financial or otherwise, which engages in business transactions with the Corporation, if such candidate does not immediately disclose such relationship to the Board of Directors upon its occurrence pursuant to United’s Bylaws (Bylaws: Art. VI, Sec. 2(c)), and applicable provisions of the Davis-Stirling Act.
 - vi. A convicted felon may not serve as a Director.
 - vii. Related persons, by blood, may not serve as a Director at the same time.

- b. Any Member may nominate any Qualified Member as a candidate, including himself or herself, by submitting a written application and candidate statement to the Secretary or Authorized Agent of the Corporation that states his or her intention to run for the Board of Directors at least sixty (60) days prior to the annual meeting of the Members at which the election will be held. (Bylaws: Art. VI, Sec. 2, California Civil Code § 5105(a)(3).). Nominations for the Board shall close sixty (60) days before the date of the annual election. No nominations for the Board can be made after the closing date.

****EXCEPTION:** Should California Civil Code Section 5105 be amended at any time in such a way that nomination by petition as provided for in California Corporations Code Section 7521 (b) is allowed, the previous statement shall be replaced by the following: “Any Member who satisfies the qualification of directors (Bylaws: Art. VI, Sec. 2) may nominate himself or herself by submitting a petition signed by Members representing one hundred (100) current memberships to the Secretary of the Corporation at least sixty (60) days before the annual meeting.”

- c. Any committee established by the Board to assist the Board shall submit a final report of all candidates to the Board upon the close of nominations.
- d. Each candidate shall submit to the Secretary or Authorized Agent a statement of background and qualifications not to exceed two hundred fifty (250) words in length not less than sixty (60) days prior to the annual meeting.
 - i. The following are guidelines for the preparation of the statement of candidate’s background and qualifications:
 1. The statement may include: education, business background, civic, social, and community activities;
 2. “Activities” may include organized events, clubs, hobbies or any unique activity;
 3. Date and place of birth shall be considered optional information
 4. Length of residency in United; and
 5. Statement of personal philosophy (optional).
- e. Each candidate for a Director position is responsible to directly forward their candidate statement, electronically, to the Inspector of Election and Corporate Secretary and is solely responsible to ensure the accuracy of the information and transmission of the candidate’s statement. Once the candidate’s statement is submitted, as set forth herein, it is irrevocable

and cannot be changed or modified. ***United is not responsible for the content of any candidacy statement***

- f. Any candidate or spouse of a candidate who has a direct or indirect financial interest in any business organization or who is a director, officer or employee of any business, or agency of any county, state or federal government (other than a charitable organization), incorporated or otherwise, which engages in business transactions with the Corporation, shall disclose such relationship to the Board of Directors at the time of their self-nomination.
 - i. Failing to disclose such relationship, termination or cessation of membership in United, or failure to reside full-time in the candidate's Manor, shall, when ascertained, immediately disqualify the candidate, or if ascertained after the candidate is elected as a Director to the Board of Directors of the Corporation, shall immediately disqualify the Director from further service on the Board thereby creating a vacancy to be filled by the Board of Directors as provided in Section 4(e) of Article VI (Bylaws, Art. VIII Sec. 3(d)).
 - g. Candidates must disclose the fact that they have significant outside, time-consuming commitments such as: (a) full time or significant employment responsibilities; (b) full time or significant time commitments to care for others; or (c) extensive travel plans which could impact the time available to conduct Board Business (Bylaws, Art. VIII Sec. 3(e)).
 - h. The candidates receiving the highest number of votes, up to the number of directors to be elected, shall be elected as directors and shall take office immediately following their election. Any tie vote shall be broken by lot, which may include any method of randomly deciding the issue as agreed by the candidates or adopted by the Board, including without limitation drawing names or straws, or use of a coin, die or other object, or a lottery, or any other random selection process.
4. **Eligibility to Vote**
- a. Only persons approved for Membership by the Board of Directors and to whom a membership certificate has been issued (or the Member's successor trustee) shall be entitled to vote (see Bylaws, Art. II Sec. 4(h)-(i)).
 - b. No Member shall be eligible to vote who is shown on the books of account of the Corporation to be more than thirty (30) days delinquent in payment of any sums due to the Corporation under his or her Occupancy

Agreement or otherwise, and who has been given notice thereof and the opportunity for a hearing concerning the delinquency and loss of voting rights (Bylaws: Art. V Sec. 8(a)(i)).

- c. Single Memberships in which two or more Members have a joint or undivided interest shall have only one (1) vote (Bylaws: Art. V Sec. 8(a)(ii)) and only one such Member may run for, and serve on, the Board at any one time.
- d. Record Date:
 - i. The record date for determining those Members entitled to receive Notice of a meeting of the Members shall be fifteen (15) days prior to the day that the notice of the meeting is mailed (the “Record Date for Notice”);
 - ii. The record date for determining those Members entitled to vote by secret ballot shall be fifteen (15) days prior to the day that the secret ballots are mailed (the “Record Date for Secret Ballots”);
 - iii. The record date for determining the Members entitled to vote by ballot on corporate action **without a meeting** shall be twenty (20) days before the day on which the first written ballot is mailed or solicited (Bylaws: Art. V Sec. 10(d)).
- e. a vote is being taken in connection with an annual meeting of the Members, the Inspector(s) of Election shall tabulate the ballots for the vote to approve assessments, amendments to the Articles of Incorporation, Bylaws or Occupancy Agreement, removal of directors and/or granting the exclusive use of common area to a member shall be tabulated at a duly noticed (regular or special) meeting of the Board of Directors. The Board of Directors shall determine the date, time and place of said Board meeting.

5. **Candidate Equal Access to Corporation Media**

- a. All candidates for a Director position shall have equal access to Corporation media for the purpose of campaigning for an election. . For purposes of this paragraph, “Corporation media” means the Corporation’s cable channel. No candidate may utilize Corporation media for the thirty (30) day period following the date the first election ballot material is sent to the membership for the election of the Board of Directors through the election date, even if for a period longer than thirty (30) days.
- b. In each election for the Board of Directors, the Corporation shall hold a forum (“Meet the Candidates”) for the nominees within a Golden Rain

Foundation (GRF) facility prior to the date that the ballot materials are sent to the Membership. Meet the Candidates will be for the purpose of allowing the Membership to meet and ask questions of all nominees. All nominees standing for election shall be invited to attend the forum and should appear in person.

- c. Golden Rain Foundation (GRF) meeting rooms shall be available to candidates free of charge for campaign purposes (California Civil Code Section § 5105(a)(2).).
- d. Any time a ballot measure is required to be sent to the Membership for approval which is unrelated to the election of directors, such as amending the Bylaws or the Occupancy Agreement, the Corporation may hold a town hall meeting – rather than a formal membership meeting – which is an informal gathering of members in which members can express their points of view. Further, if Corporation media is used in connection with such ballot measures, any Member advocating a point of view shall be permitted use of Corporation media, provided the Member’s purposes reasonably relate to the ballot measure. The Corporation shall not edit any such communications made by Members, but may include a statement specifying that the Member, and not United, is responsible for that content.

6. **Appointment of Inspectors of Election**

- a. The Board of Directors shall appoint one (1) or three (3) Inspectors of Election. An Inspector of Election shall, at the Board’s discretion, be a member of the Corporation as defined under Section 1.b of this SOP, an independent third party that specializes in the administration of elections with whom the Board executes a contract, or a combination of the two (see California Civil Code Section § 5110(b).).
- b. Inspectors of Election shall not be employees of the managing agent; however, employees of the managing agent may assist the Inspector(s) of Election with their duties except for the counting and tabulation of the votes.
- c. Inspectors of Election who are members of the Corporation must be prepared to commit to a substantial workload during preparation of the ballots for mailing and between the time the returned ballots are received and the time when they are counted and tabulated at an open meeting.
- d. If the Board contracts with an independent third party as an Inspector of Election pursuant to Section 6.a of this SOP, the provisions for verifying voter eligibility and for formatting of election materials contained in Section

7 of this SOP may be adapted to meet the requirements of an electronic processing system used by the contractor.

- e. An Inspector or Inspectors may appoint and oversee additional persons to assist as the Inspector or Inspectors deem appropriate.

7. **Duties of Inspectors of Election**

- a. Determine the number of memberships entitled to vote and the voting power of each membership. (California Civil Code § 5110(c)(1).)
 - i. Eligible Voter List:

Pursuant to Section 4 of this SOP, the Inspectors will create or cause to be created an Eligible Voter List that identifies all Members who are eligible to vote. This list will be used to mail ballots only to those Members entitled to vote by ballot on corporate action without a meeting as of the Record Date specified herein.
- b. Determine when the polls shall close. (California Civil Code § 5110(c)(6).)
 - i. The Inspectors of Election shall determine the date that ballots must be received in accordance with California Civil Code § 5115(a.), which states “Ballots...shall be mailed not less than 30 days prior to the deadline for voting.” The deadline shall be incorporated into the voter instructions and adopted by the Board of Directors in the form of a resolution.
- c. Oversee the Mailing of the Ballot Package
 - i. Obtain certification from the preparer of the ballot packages that all necessary items were enclosed in each Ballot Package Mailing Envelope and that the envelopes were properly addressed to all members on the Eligible Voter list.
 - ii. Ensure that Ballot Package Mailing Envelopes are sent by first class mail to help ensure that all members receive ballots in a timely manner.
 - iii. Obtain a statement from the post office indicating the number of ballot packages mailed.
- d. Receive ballots. (California Civil Code § 5110(c)(3).)
 - i. Secret Ballot Return Instructions – If authorized by the California Legislature, the Corporation may utilize electronic “Secret Ballots.” Such procedure will be consistent with what is required in the

California Civil Code. For paper Secret Ballots, the following shall apply:

1. The Secret Ballot itself is not signed by the voter, but is inserted into the Secret Ballot Envelope, which is sealed. The Secret Ballot Envelope shall not have any identifiable markings and is then inserted into the Pre-Addressed Return Envelope, which is also sealed. In the upper left hand corner of the Pre-Addressed Return Envelope, the voter shall both print and sign his or her name, address, and the unit number that entitles him or her to vote (California Civil Code § 5115(a)(1).).
2. The Pre-Addressed Return Envelope is addressed to the Inspector or Inspectors of Election, who will tally the votes. The envelope may be mailed or delivered by hand to a location specified by the Inspector or Inspectors of Election. The member may request a receipt for delivery (California Civil Code § 5115(a)(2).).
 - a. Return by Mail
 - i. The Pre-Addressed Return Envelope shall be returned on or before the deadline date by mail to the address of the Inspector of Election c/o Ballot Collector as set forth in the voting or ballot return instructions or on the secret ballot.
 - ii. A second post office box may be used for Secret Ballot packages returned as undeliverable.
 - iii. Members who desire a receipt for delivery of a mailed Secret Ballot shall mail the Secret Ballot by Certified Delivery – Return Receipt Requested at the Member’s expense.
 - b. Return by Hand Delivery
 - i. Secret Ballots returned by hand shall be deposited by the Member into a locked and secure ballot box located in the lobby of the **Community Center, 24351 El Toro Road, Laguna Woods.**

- ii. At the request of the voting Member, the management staff shall provide a receipt for the hand delivered Secret Ballot.
 - iii. Inspectors shall retrieve Pre-Addressed Envelopes from the locked ballot box daily and date stamp them.
 - iv. Secret Ballots may also be hand delivered to the Inspector of Elections at the meeting to tabulate the ballots prior to the close of polls.
 - 3. All Pre-addressed Return Envelopes received shall remain sealed until they are opened and tabulated in public. The Corporation shall reserve a secure room at the **Community Center (24351 El Toro Road, Laguna Woods)** for use by the Inspector(s) of Election. Notwithstanding, the Inspector(s) of Election may establish a physical boundary or buffer around them during the tabulation of ballots.
 - ii. Ballot Return Instructions – The Ballot Return Instructions will be the same as the Secret Ballot Instructions, detailed herein above, with the exception that the Ballot will be inserted into the Pre-Addressed Return Envelope only inasmuch as non-Secret Ballots do not require the use of a double envelope system so the Secret Ballot Envelope will not be utilized.
- e. Determine the authenticity, validity, and effect of proxies, if any.
- f. Verify voter eligibility.
 - i. Count and record the number of Pre-addressed Return Envelopes received from the post office.
 - ii. Count and record the number of Pre-addressed Return Envelopes received by hand delivery.
 - iii. Place the Pre-addressed Return Envelopes in order by address, which corresponds with the Eligible Voter List. This process may be automated (i.e., barcodes).
 - iv. Void (but do not open) any Pre-addressed Return Envelopes, which does not contain information that identifies the member as an eligible voter (see Section 7.d.i.1 above).
 - v. Void (but do not open) any Pre-addressed Return Envelope that is a duplicate vote.

1. Revocation. No written ballot may be revoked after deposit in the mails or delivery to the Corporation. (Bylaws, Art. V Sec. 9(e))
 2. If a voter returns two Pre-addressed Return Envelopes, the Inspectors of Election shall determine which ballot to count. If it can be determined which is the first Pre-addressed Return Envelope sent or received, then it shall be deemed the original ballot, which shall be counted and the other Pre-addressed Return Envelope should be voided.
- vi. Resolve any challenged ballots. If possible, this should be done before any Pre-Addressed Return Envelope is opened and counting begins.
 - vii. Explain the reason for each voter eligibility decision made.
 - viii. The sealed ballots at all times shall be in the custody of the Inspector or Inspectors of Election or at a location designated by the Inspector or Inspectors of Election until after the tabulation of the vote, at which time the Inspector of Election can maintain custody of the Election Record pursuant to statute, or transfer custody shall be transferred to the Corporation (California Civil Code § 5125(a).).
- g. Count and tabulate the votes.
- i. All votes shall be counted and tabulated by the Inspector or Inspectors of Election in public at a properly noticed open meeting of the Board of Directors (Civil Code § 5120(a).).
 - ii. At a properly noticed open meeting of the Board of Directors, the seals of the Secret Ballot Envelopes shall be broken, and the Inspector(s) of Election shall prepare the ballots for tabulation, which may include electronic tabulation scanning. A third-party election services contractor who is not an inspector of election may be deputized by the Inspectors of Election to assist with the preparation and scanning of the ballots.
 - iii. A ballot shall be voided if it contains information identifying the voter (California Civil Code § 5115(a).).
- h. Determine the result of the election
- i. Once the ballots are scanned and tabulated, the Inspector(s) of Election shall certify the election by signing an official form. The tabulated results of the election shall be promptly reported to the

Board and shall be recorded in the minutes of the next meeting of the Board and shall be available for review by members of the Corporation.

- ii. Within fifteen days of the election, the Board of Directors shall publicize the results of the election.
- iii. Tabulated ballots shall be packed and sealed, and the Inspectors of Election shall initial the seal to ensure that there is no tampering with the tabulated ballots.
- iv. The custody of the tabulated ballots and other Election Records as listed in Section 1.a of this SOP shall remain in the custody of the Inspector(s) of Election for not less than one (1) year after the tabulation of ballots, or until the time allowed by Civil Code Section 5145 for challenging the election has otherwise expired. Upon written request, ballots shall be made available for inspection and review by Members or their authorized representatives. Any recount shall be conducted in a manner that shall preserve the confidentiality of the vote.
- v. After the tabulation of ballots, the Board of Directors or its management agent shall return to the post office to pick up any ballots received after the deadline. These ballots shall not be opened and shall be marked "Void – received after deadline".
- vi. All written ballots and other Election Records as defined in Section 1.a of this SOP shall be filed with the Secretary of the Corporation and maintained in the corporate records at a secure location for a minimum period of one (1) year (see Bylaws, Art. V Sec. 9(f)).

8. **Election Mailing Materials**

- a. The Corporation shall conduct its election consistent with its Bylaws and state statutes (see Bylaws, Art. V Sec. 9(b)). The official election materials are to be prepared by the Inspector(s) of Election.
- b. As prescribed by law, secret ballot procedures shall be used when voting on the following issues: assessment increases; election and removal of directors; amendments to the Governing Documents (i.e., Articles of Incorporation, Bylaws and Occupancy Agreement); and the grant of exclusive use of Common Area property.
 - i. A "secret ballot" is a ballot which does not identify the voter by name, address, lot, unit or parcel number. The term "secret ballot" does not include a ballot for purposes of voting on any matter other

than assessments, election or removal of directors, amendments to the Governing Documents or the grant of exclusive use of Common Area property. All secret ballots, including for election of directors, must conform to the requirements of applicable law. Any Bylaws provision inconsistent with the law shall be void.

- ii. All secret ballots shall provide a reasonable time within which to return the ballot to the Corporation, which may be set at the discretion of the Board unless otherwise required by law. The time for the return of secret ballots may be extended for reasonable intervals at the discretion of the Board.
- iii. Any action requiring Member approval, other than those requiring a secret ballot, may be submitted for vote by written ballot without calling a meeting of the Members. The written ballot shall describe the proposed action(s), provide an opportunity to specify approval or disapproval of each proposal, and provide a reasonable time within which to return the ballot to the Corporation as set forth in Article V, Section 9 of the Bylaws.
 1. The determination to conduct a vote by written ballot shall be made by the Board or by members having 20% of the eligible voting power signing a written request and delivering same to any Corporation officer Per Bylaws, Section 9(c).
 2. The officer shall thereupon distribute a written ballot to every Member eligible to vote on the matter. A written ballot may not be revoked.
 3. All solicitations shall indicate the number of responses needed to meet the quorum requirement and the percentage of approvals needed to approve each proposal. The solicitation must specify the time by which the ballot must be received in order to be counted.
 4. Written ballots and solicitations shall be distributed in the same manner as notice of Member meetings. Approval by written ballot shall be valid only when the number of eligible ballots received meets the quorum required at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. Upon tabulation of the ballots, the Board shall promptly notify the

Members of the outcome of the vote or failure to meet quorum.

- c. Should state statute allow for electronic voting for those votes which previously required paper Secret Ballots, as referenced herein and in the state statute, then the Corporation may utilize such electronic system consistent with those Rules and Regulations, so long as the electronic voting is consistent with the terms of the applicable and statutory requirements.

9. **Secret Ballots: Removal of Directors by the Membership**

- a. The Members may remove directors by a vote of the majority of the eligible voting power of the Corporation, in accordance with the following procedures:
 - i. A petition must be presented, in person, to the President or Secretary of the Corporation, bearing the signatures of Members in good standing who represent at least five percent (5%) of the eligible voting power of the Corporation. The petition must state the reason(s) justifying the director's removal; the signature and address or Unit number of each petitioner in his or her own handwriting; the name(s) of the sponsor(s) of the petition; and fulfill all other legal requirements.
 - ii. Within twenty (20) days after receipt of such petition, the President, Secretary, or Board shall either call a special meeting or distribute secret ballots to the Members to vote upon the requested recall. Such meeting or vote by secret ballot shall be conducted not less than thirty-five (35) nor more than ninety (90) days after the petition is presented.
 - iii. The director(s) whose removal is being sought shall have the right to rebut the allegations contained in the petition orally, in writing or both. Any written rebuttal shall be mailed by the Corporation or otherwise provided to all Members, together with the recall ballot.
 - iv. If the quorum requirement for a valid membership action is not satisfied or if the recall vote results in a tie, the removal action will have failed.

- v. In the event the recall vote is successful, any vacancy must be filled by a vote of the Members following the nomination and election procedures set forth in this SOP, except that nominations to fill a vacancy shall close thirty (30) days before the date of special meeting to elect a director(s) to fill a vacancy(ies). Notice of the special meeting and secret ballots to elect directors to fill any vacancy created by the removal of one or more directors must be sent to Members not less than thirty (30) days before the deadline for voting. The successor director shall serve for the unexpired term of his or her predecessor.

10. **Secret Ballots: Amendments to Governing Documents.**

- a. Votes to amend the Articles of Incorporation, Bylaws, Occupancy Agreement or any other governing documents of the Corporation (“Governing Documents”) shall be done by secret ballot pursuant to the SOP. Secret ballots enclosing the text of the proposed amendment must be delivered to every Member not less than thirty (30) days prior to the deadline for voting.

11. **Secret Ballots: Grant of Exclusive Use of Common Area.**

- a. The affirmative vote of at least sixty-seven percent (67%) of Members secret ballot pursuant to the procedures set forth herein is required before the Board may grant exclusive use of any portion of the Common Area to a Member, unless the grant of exclusive use of Common Area meets an exception provided by Civil Code Section 4600(b), or any superseding statute, which includes, but is not limited to any grant of exclusive use that is for any of the following reasons:
 - i. To eliminate or correct engineering errors in documents recorded with the county recorder or on file with a public agency or utility company;
 - ii. To eliminate or correct encroachments due to errors in construction of any improvements;
 - iii. To permit changes in the plan of development submitted to the Real Estate Commissioner in circumstances where the changes are the result of topography, obstruction, hardship, aesthetic considerations, or environmental conditions;

- iv. To fulfill the requirement of a public agency;
 - v. To transfer the burden of management and maintenance of any Common Area that is generally inaccessible and not of general use to the membership at large;
 - vi. To accommodate a disability;
 - vii. To install and use an electric vehicle charging station in a garage or a designated parking space that meets the requirements of Civil Code Section 4745, where the installation or use of the charging station requires reasonable access through, or across, the common area for utility lines or meters;
 - viii. To install and use an electric vehicle charging station through a license granted by an association under Civil Code Section 4745;
or
 - ix. To comply with governing law.
- b. Any measure placed before the members requesting that the Board grant exclusive use of any portion of the Common Area shall specify whether the Corporation will receive any monetary consideration for the grant and whether the Corporation or the transferee will be responsible for providing any insurance coverage for exclusive use of the Common Area.

CONFIDENTIAL – ATTORNEY CLIENT PRIVILEGED

MEMO

To: United Board of Directors, c/o Governing Document Review Committee
UNITED LAGUNA WOODS VILLAGE

From: Jeffrey A. Beaumont, Esq., BEAUMONT TASHJIAN

Date: March 14, 2019

Subject: Solicitation and Canvassing Policy (Civil Code §4515)

As you know, Civil Code Section 4515 went into effect January 1, 2018. In sum, it allows residents of common interest developments to peacefully participate in politically expressive activities related to common interest developments within their community. This includes, but is not limited to, the ability to peacefully assemble, utilize the common areas for meetings and gatherings, and to canvass and petition within the community pertaining to association elections and legislation.

The applicability of the law as to United, which has no common area meeting spaces, is limited; specifically, only Civil Code Section 4515, Subsections (b)(4) - (5) and (d) apply as follows.

Civil Code Section 4515(b)(4)-(5) provides:

“The governing documents, including bylaws and operating rules, shall not prohibit a member or resident of a common interest development from doing any of the following:

...

(4) Canvassing and petitioning the members, the association board, and residents for the activities described in paragraphs (1) and (2) at reasonable hours and in a reasonable manner.

(5) Distributing or circulating, without prior permission, information about common interest development living, association elections, legislation, election to public office, or the initiative, referendum, or recall processes, or other issues of concern to members and residents at reasonable hours and in a reasonable manner.”

Civil Code Section 4515(d) provides:

“A member or resident of a common interest development who is prevented by the association or its agents from engaging in any of the activities described in this

section may bring a civil or small claims court action to enjoin the enforcement of a governing document, including a bylaw and operating rule that violates this section. The court may assess a civil penalty of not more than five hundred dollars (\$500) for each violation.”

Therefore, Members must be allowed to circulate information of concern, including petitioning and canvassing members and/or the association’s board, in a reasonable manner. It is important to note, violations of the code by the association permit a member to recover up to five hundred dollars for each violation.

An operating rule must be reasonable, in writing, within the authority of the board conferred by law or other governing documents and consistent with same. (Civil Code §4350.) Rules and regulations are generally considered reasonable if they are rationally related to the protection, preservation and proper operation of the property and the purposes of the association as set forth in its governing instruments, and are fair and nondiscriminatory. (Friars Village Homeowners Assn. v. Hansing (2013) 220 Cal. App. 4th 405, 405.) An “unreasonable” rule/regulation is one that is arbitrary and capricious, violates the law or a fundamental public policy or imposes an undue burden on property. (Nahrstedt v. Lakeside Village Condominium Assn. (1994) 8 Cal. 4th 361, 377.) An operating rule must be “tethered to reasonableness,” which is defined as a standard for the development as a whole, not for an individual member.

Therefore, boards may adopt “reasonable” rules regarding these matters, including, without limitation, the following:

- Limiting/specifying the hours and days of the week when a member may solicit/canvas;
- Prohibiting soliciting on specified holidays;
- Wearing identification;
- Prohibiting contact with any members/residents whose units have “no soliciting” or similar signs;
- Prohibiting solicitors from leaving print material at doors, etc. (i.e., leafletting/door hangers).

There is little case law on the “reasonableness” of solicitation bans in common interest developments, but California law is generally deferential to boards when the rule or restriction is properly adopted and not arbitrary or capricious.

Currently, United does not have a canvassing policy enacted. I previously discussed this with the Board, and at the time the Board decided a canvassing policy was not needed. However, I understand GRF may have adopted its own canvassing policy. Since GRF will adopt their own canvassing policy, I previously recommended the Board reconsider adopting a canvassing policy analogous to the GRF policy, and to Third’s policy (assuming they have one). Passing a similar canvassing policy will allow residents to follow a uniform, fixed policy across all communities. Thus, residents will not have to distinguish between various sets of regulations when they are canvassing throughout the Village, giving standard and streamlined procedures for all members and the community at large.

If you and the Committee want to re-introduce this to the Board I recommend that you consider having me work with GRF and Third to finalize a draft policy applicable to the Village, as a whole. Otherwise, we can focus just on United.

GRF Resolution Regarding Canvassing

RESOLUTION 90-18-11 **Civil Code Section §4515**

WHEREAS, California Civil Code Section §4515 went into effect as of January 1, 2018; and

WHEREAS, Civil Code Section §4515 expresses the legislative intent that members and residents of common interest developments have the ability to exercise their rights under law to peacefully assemble and freely communicate with respect to common interest development living or for social, political or educational purposes; and

WHEREAS, Civil Code Section §4515 precludes the governing documents of common interest developments from prohibiting members or residents from those activities prescribed in Section §4515 (b)(1)-(5).

NOW THEREFORE, BE IT RESOLVED, March 6, 2018, that to the extent the

provision of any prior resolution violates Civil Code Section §4515, that Section §4515 supersedes the provision and the provision shall not be enforced; and

RESOLVED FURTHER; that the officers and agents of this Corporation are hereby authorized on behalf of the Corporation to carry out this resolution.