



OPEN MEETING

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

Wednesday, June 27, 2018 – 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 May 30, 2018
5. Chair's Remarks
6. Member Comments (Items Not on the Agenda)
7. Department Head Update

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:

Items for Discussion and Consideration:

8. Discuss and Review How Harassment, Nuisance, and Clutter are Defined in the Village and in the Law

Concluding Business:

9. Committee Member Comments
10. Future Agenda Items
11. Date of next meeting - July 25, 2018
12. Adjournment

Juanita Skillman, Chair  
Siobhan Foster, Staff Officer





UNITED LAGUNA WOODS  
MUTUAL

**OPEN MEETING**

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

Wednesday, May 30, 2018 – 1:30 PM  
Laguna Woods Village Community Center, Willow Room  
24351 El Toro Road, Laguna Woods, CA 92637

**MEMBERS PRESENT:** Juanita Skillman – Chair; Gary Morrison, Maggie Blackwell, Carl Randazzo and Advisors Bevan Strom and Mary Stone

**MEMBERS ABSENT:** Cash Achrekar

**OTHERS PRESENT:** VMS Director Dick Rader, Steve Leonard, Sherri Davis, Attorney Jeff Beaumont via phone

**STAFF PRESENT:** Siobhan Foster, Betty Parker, Pamela Bashline, and Eve Morton

**REPORT**

**1. Call to Order**

Chair Skillman called the meeting to order at 1:30 p.m.

**2. Acknowledgement of Press**

No press was present.

**3. Approval of the Agenda**

Director Blackwell made a motion to approve the agenda. Director Morrison seconded. There were no objections.

**4. Approval of Report from the April 23, 2018, meeting**

Director Blackwell moved to approve the report. Director Morrison seconded. There were no objections.

**5. Chair's Remarks**

None.

**6. Member Comments (Items not on the agenda)**

There were no Member comments.

**7. Department Head Update**

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:

Items for Discussion and Consideration:

**8. Review Draft of the Resolution to Accompany Updated Resale Documents to Board**

Discussion ensued regarding the "Intent to Leave the Corporation" process.

Staff was asked to update the proposed resolution with an August 1, 2018, effective date to allow staff ample time to inform the real estate community of the updates made to the documents.

**9. Review and Discuss Status of Senate Bill 1128 – Elections by Acclamation**

Mr. Beaumont reported that this Bill has reached the Senate floor which is good news. There was a 6 to 0 vote at the Senate Judiciary Committee and the Bill has a lot of momentum. No modifications to the Bill so far. Some groups are very much against electronic voting. This Bill will be voted on, will hopefully pass, and then go the Governor.

Discussion ensued.

**10. Review and Discuss Director Qualifications - Senate Bill 1265**

Mr. Beaumont reported that this Bill is on its way to Senate floor but poses some significant problems. This Bill would invalidate any qualifications in the United bylaws regarding eligibility to be a Director such as living in the Village no less than ten months. Even a felony involving crime, moral turpitude, or fraud would not prevent someone from becoming a Director. There would be no grandfathering of any rules. It would allow people who own here but don't live here to serve on the Board.

Director Rader asked whether a letter writing campaign would help. Mr. Beaumont suggested sending a call to action email he has to our Senators. He will send it to Chair Skillman and Ms. Morton and they will forward it to committee members.

#### **11. Review and Discuss the Financial Qualifications Policy – Single Person vs. Couple**

Steve Leonard reported that he has worked on a historical report of what had been changed by the Boards in past years involving the financial qualifications to live in in United Mutual. He has compared expenses for a single person versus a couple. Many expenses don't change. Many people in United aren't burdened by a mortgage because they pay cash for their home. Food and medical costs double for a couple. Housing increases by only 12%. Transportation costs doubles and "other" category doubles for couples. He feels people are being locked out of qualifying to live in United when they shouldn't be. He suggested that an applicant's liabilities should be taken into account.

Director Blackwell stated that a person's entire financial situation changes once they need a live-in.

If applicants are qualified only on income, not assets, should there be separate requirements for couples versus singles? Discussion ensued.

Many people move in when they are still working and then retire once they are here.

Ms. Parker reported the amount of delinquencies in United is low.

Director Morrison made a motion to keep the current financial qualifications in place. Director Randazzo seconded. All were in favor.

What is our responsibility as a corporation for the well-being of our members?

#### Concluding Business:

#### **12. Committee Member Comments**

Several comments were made.

#### **13. Future Agenda Items**

Brainstorm ways to provide financial help for people who live here.

Discuss and review how harassment, nuisance, and clutter are defined and the federal law.

**14. Date of next meeting - Wednesday, June 27, 2018**

The committee requested that this committee monthly meeting date be moved to the fourth Wednesday of each month.

**15. Adjournment at 3:13 p.m.**

  
Juanita Skillman, Chair



**STAFF REPORT**

**DATE: June 27, 2018**  
**FOR: Governing Documents Review Committee**  
**SUBJECT: Harassment, Nuisance, and Clutter Defined**

**RECOMMENDATION**

Review and provide direction.

**BACKGROUND**

The member-discipline process is coordinated by the Compliance Division. Upon notice of an alleged violation, Staff investigates and should Staff identify objective evidence of a violation by a Member or their guests, Staff will send a courtesy notice to the offending party describing the allegation(s) and the disciplinary action that may ensue if not corrected. Staff then monitors the situation and if compliance is not achieved, Staff will send a final notice requesting compliance. Additionally, the matter is scheduled for a disciplinary hearing with the Board of Directors to determine if member-discipline is merited. If the alleged violation has been resolved, no further action is required.

If a disciplinary hearing is necessary, Staff will notice the Member for a hearing before the Board of Directors in Executive Session. If the Board finds the Member to be in violation of the governing documents, the Board may impose a fine based on the Monetary Fee Schedule, suspend Member privileges, and/or consider legal action.

There are currently 475 active disciplinary cases. Below is the breakdown for nuisance and clutter violations:

Nuisance Total:	17
Assault/Theft	0
Behavior/Disturbance	2
Noise/Hard Surface Flooring	4
Noise/Loud TV, Radio, Conversation	7
Odors	1
Other/Neighbor Disputes	3
Trespassing	0

Clutter Total:	157
Balcony Clutter	18
Breezeway Clutter	15
Carport Clutter	36
Common Area Clutter	51
Interior Clutter	14
Patio Clutter	23

## **DISCUSSION**

The Governing Documents Review Committee requested Staff gather the Village rules pertaining to harassment, nuisance, and clutter, as well as any applicable state or federal rules. Attached please find the following documents:

1. Harassment Defined (Attachment 1)
2. Nuisance Defined with excerpts from Occupancy Agreement (Attachment 2)
3. Clutter Defined (Attachment 3)

## **FINANCIAL ANALYSIS**

None.

**Prepared By:** Francis Rangel, Operations Manager

**Reviewed By:** Tim Moy, Chief of Security  
Siobhan Foster, Chief Operating Officer

## **ATTACHMENT(S)**

Attachment 1: Harassment Defined

Attachment 2: Nuisance Defined; Occupancy Agreement Excerpts

Attachment 3: Clutter Defined



Attachment 1

**Harassment Defined**

**Federal Law:** Under federal law, "harassment" is defined to mean "a course of conduct directed at a specific person that causes substantial emotional distress in such person and serves no legitimate purpose." (18 U.S.C.A. §1514(c) (1).)

**California Law:** California defines "harassment" as unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner. (Code Civ. Proc §527.6(b)(3).)

"Course of Conduct" is defined as a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an individual, making harassing telephone calls to an individual, or sending harassing correspondence to an individual by any means, including, but not limited to, the use of public or private mails, interoffice mail, facsimile, or computer email. (Code Civ. Proc §527.6(b)(1).)

"Credible threat of violence" is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose. (Code Civ. Proc §527.6(b)(2).)

**Governing Documents:** The Member shall not permit or suffer anything to be done or kept in or about the dwelling unit or other premises of the Corporation which will increase the rate of insurance on any building or other property of the Corporation or on the contents thereof or which will obstruct or interfere with the rights of other members of the Corporation or annoy them by unreasonable noises or otherwise nor will it commit or permit any nuisance in or about the dwelling unit or other premises of the Corporation or commit or suffer any immoral or illegal act to be committed thereon. (Occupancy Agreement, Article 5, Use of Premises)

**Investigating Harassment:** To determine if harassment is taking place, Staff evaluates the nature of the unwelcome conduct, the context in which the incidents occur, the severity, scope, frequency, duration, and location of the conduct, and the relationships of the people involved. Staff will inform the reporting parties to call the Orange County Sheriff's Department if and when the behavior occurs and that persons subjected to these type of harassment and threats of violence can seek a restraining order.

The above reported conduct constitutes violation of the Occupancy Agreement, Article 5, Use of Premises.

## Attachment 2

### **Nuisance Defined**

**Public Nuisance:** A public nuisance is a condition that interferes with the health or well-being of the community. To constitute a nuisance, the activity must be such that it causes an unreasonable disturbance or annoyance, be unreasonably injurious to health, be indecent, or be unreasonably detrimental to persons or property. (Civ. Code §3479.)

**Private Nuisance:** A private nuisance is a condition that interferes with an individual's use or enjoyment of their property. (Civ. Code §3479.)

**Governing Documents:** "The Member shall not permit or suffer anything to be done or kept in or about the dwelling unit or other premises of the Corporation which will increase the rate of insurance on any building or other property of the Corporation or on the contents thereof or which will obstruct or interfere with the rights of other members of the Corporation or annoy them by unreasonable noises or otherwise nor will it commit or permit any nuisance in or about the dwelling unit or other premises of the Corporation or commit or suffer any immoral or illegal act to be committed thereon." (Occupancy Agreement, Article 5, Use of Premises)

Below are examples of activities that fall into a nuisance category:

1. **Noise:** Things that interfere with quiet enjoyment such as improperly installed hardwood floors, neighbors playing their stereo or TV too loud, barking dogs, etc.
2. **Odors:** This includes second-hand smoke (cigarettes, cigars and marijuana), strong cooking odors, smoke from a BBQ grill entering other units, etc.
3. **Visual:** Draping towels and clothing over balcony rails, storing junk on balconies and patios, storing inoperable vehicles in parking spaces.
4. **Health/Safety:** Hoarders who allow unsanitary conditions to exist that attract insects and rodents, or residents who wash dog feces and urine off their balcony onto the property below them.
5. **Violation of Laws:** A violation of federal or state laws or local ordinances. An example would be public nudity or a resident engaged in drug dealing or prostitution.

**Investigating Nuisance:** To determine if nuisance is taking place, Staff evaluates the behavior and determines if the behavior or noise transferring to other units is deemed reasonable or unreasonable to an average reasonable person. Staff will inform the reporting parties to call the Security Department for documentation.

For hard surface flooring complaints: Staff will perform informal sound tests that include two Staff members in the downstairs unit at the same time that two Staff members are in the upstairs unit, with an attempt to replicate the alleged noise.

For odor complaints: Staff will perform an informal odor test that includes two Staff members in the suspects' unit at the same time that two Staff members are in the reporting parties unit, with an attempt to replicate the alleged odors. Staff also seeks assistance from the Maintenance Department to determine if the building structure is a factor that can be remedied.

For neighbor-to-neighbor disputes: Staff will offer informal mediation performed by the Compliance and Social Services Division. Staff will also offer professional mediation services offered by the County of Orange.

The above reported conduct constitutes violation of the Occupancy Agreement, Article 5, Use of Premises; Resolution U-01-82, Business in Manor; Resolution 01-07-36, Distribution of Publications; Resolution 01-14-58, Hard Surface Flooring Policy; Resolution 01-12-84, Interior Pest Control Policy; Resolution 01-11-46, Hoarding; Resolution U-76-44, Pet Restrictions; and/or Resolution 01-17-56, Non-Smoking Policy.

### Attachment 3

#### **Clutter Defined**

**Clutter:** to fill or litter with things in a disorderly manner; a collection of things lying about in an untidy mass. (cluttered. (n.d.) Burton's Legal Thesaurus, 4E. (2007))

**Exclusive Use Common Area:** Exclusive use common area means a portion of the common area designated by the declaration for the exclusive use of one or more, but fewer than all, of the owners of the separate interests and which is or will be appurtenant to the separate interest or interests. Unless the declaration otherwise provides, any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, exterior doors, doorframes, and hardware incident thereto, screens and windows or other fixtures designed to serve a single separate interest, but located outside the boundaries of the separate interest, are exclusive use common area allocated exclusively to that separate interest. (Civil Code §4145)

**Common Area:** Common area means the entire common interest development except the separate interests therein. (Civil Code §4095)

**Governing Documents:** The walkway, breezeway, patio, and balcony areas are "common areas" or "limited common areas" with By-laws and Occupancy Agreement provisions for their management and care under the direction of the United Mutual Board.

Common areas are for the use and enjoyment of all residents and while limited common areas permit exclusive use of the area, it is essential that all residents be aware of the need for the safety, attractiveness, and the prevention of damage to the buildings by items placed by the residents in or on the common or limited common areas of the Mutual's multi-story buildings and where applicable to other residential buildings.

The following rules for residents address the safety, attractiveness, and prevention of damage issues. Residents should take whatever corrective action is necessary to manage those items they have placed outside their unit. Residents who disregard these guidelines will be given a citation to correct the problem, possibly followed with disciplinary action.

1. All plants must be suitably potted with adequately sized saucers to collect excess water and elevated by substantial caster or sturdy platforms. Care must be used to control the amount of water given to these plants so as not to run over the saucer and collect on the floor surface or fall to a lower level of the building on people, windows, or other objects belonging to neighbors.
2. Items, including plants, statues, furniture, etc., may be placed outside a unit's front door on the floor and shall be limited. Adequate clearance is required to allow for easy walkway access along the area (at least in number and size to allow for a 48-inch clearance as required by law.)
3. All plants shall be attractive and shall be maintained by the resident in a healthy, well cared for condition, properly watered and pruned. Non-plant items shall be maintained clean and in good repair.

4. Potted plants are not to be placed on railings in common or limited common areas. Hanging plants or hanging objects are prohibited in breezeway and walkways.
5. Items that constitute a nuisance to one's neighbors, should not be placed in common areas or limited common areas. Examples are intrusive wind chimes, food or water, which will attract birds, insects, or other animals. Residents are encouraged to resolve amicably differences or disputes involving such items.
6. A resident's balcony and patio area adjoining a manor is limited common area. This area needs the same care & protection as our walkways and breezeways to prevent dry rot, decay and mold of surfaces. Therefore only a limited number of potted plants on the balconies of multistory buildings is allowed, without the prior approval of the United Mutual Board. No more than 15% of the total floor area of a balcony may be used for potted plants.
7. Landscape crews will not care for a resident's personal items placed in common areas unless arranged through the Customer Service Department as a chargeable service.

Any building, by majority decision, may establish additional rules for its own use, providing the rules are not in conflict with the above guidelines. The United Mutual Board of Directors shall resolve any disputes or misunderstandings relating to common areas and limited common areas.

We ask each resident to read these guidelines and take whatever corrective action is necessary for the care and protection of property where plants and items have been placed outside manors/units.

The United Mutual Board shall have full authority to recommend remedial action or a hearing for disciplinary action. (Resolution 01-03-134, Care & Maintenance of Patios, Balconies, Breezeways & Walkways)

**Investigating Clutter:** A Security Inspector patrols the Village and should Staff identify objective evidence of clutter a Notice of Clutter Violation is issued. The Compliance Division will send a follow up notice advising the Member of the rules and requesting compliance.

For interior clutter: Staff will schedule an interior inspection to obtain photographs and determine the severity of the clutter, potential hazard, and damage to the property. Staff works closely with the Social Services Division and outside agencies on interior clutter violations.

The above reported conduct constitutes violation of the Occupancy Agreement, Article 5, Use of Premises; Resolution 01-03-134, Care & Maintenance of Patios, Balconies, Breezeways & Walkways; Resolution 01-11-46, Hoarding; and/or Resolution 01-07-59, Carport Use Restrictions.