



OPEN MEETING

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

Monday, July 22, 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 June 24, 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 Allowing Guarantors

Items for Discussion and Consideration:

None.

Concluding Business:

8. Committee Member Comments
9. Future Agenda Items
  - a. A Member Guide to United Governance
  - b. Executive Committees and how the word "charter" is currently used
10. Date of next meeting is August 26, 2019
11. Adjournment

Maggie Blackwell, Chair  
Siobhan Foster, Staff Officer





UNITED LAGUNA WOODS  
M U T U A L

**OPEN MEETING**

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

Monday, June 24, 2019 – 1:30 P.M.  
Laguna Woods Village Community Center, Sycamore Room  
24351 El Toro Road, Laguna Woods, CA 92637

**MEMBERS PRESENT:** Maggie Blackwell - Chair, Juanita Skillman, Andre Tornig, Anthony Liberatore, Advisor Bevan Strom

**MEMBERS ABSENT:** Advisor Mary Stone

**OTHERS PRESENT:** Roy Bruninghaus, Cash Achrekar, Roberta Berk, Mary Wall

**STAFF PRESENT:** Siobhan Foster, Jacqueline Kupfert, Francis Gomez, Blessilda Wright

**REPORT**

**1. Call to Order**

Chair Blackwell called the meeting to order at 1:31 p.m.

**2. Acknowledgement of Press**

No press was present.

**3. Approval of the Agenda**

President Skillman moved to approve the agenda. The committee was in unanimous support.

**4. Approval of Report from the May 28, 2019 Meeting**

Director Tornig made a motion to approve the Report. President Skillman seconded. The Report was approved by consensus. Director Tornig inquired as to the removal of guarantors on Future Agenda Items. It will be moved to Future Agenda Items for the future.

**5. Chair's Remarks**

Chair Blackwell stated the meeting began with adversarial comments and requested respect as to conduct in the meeting without combativeness.

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

Mary Wall (239-D) presented a copy of the Village Breeze which stated Mutual CCRs are available and she would like a copy. Director Skillman stated that United has no CCRs. Ms. Wall inquired as to who will correct the Breeze. Director Skillman stated Marketing and Communications will correct the misinformation.

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:

**7. Review and Discuss Enforcement of Move In and Move Out Rules and**

Ms. Wright presented the proposed change requiring that any moves into the Village may not start after 4 p.m., instead of the current time of 6 p.m.

Per Chair Blackwell, there will be an article in the Breeze to indicate changes in these rules and remind those moving of the current policies to assist in notification of new/current residents.

Advisor Strom inquired as to posting donation site contacts to remove large items. Chair Blackwell will request assistance with the Communication Committee.

Director Skillman made a motion to accept the change to a 4 p.m. start time for any move-ins. Director Liberatore seconded. Motion passed 3-0-1 (Director Torng abstained).

Advisor Strom suggested that Social Services should be aware of the moving process. Chair Blackwell will contact Communications Committee.

**8. Discuss Laundry Rooms in Regards to Overnight Access**

This year, eleven coin boxes in laundry rooms have been damaged, and five of them have had money removed.

Ms. Gomez presented the recommendation to purchase Coin Box Guards for the United laundry rooms, with the supplemental appropriation of \$20,000 to be funded from the Equipment Fund.

Chair Blackwell inquired if this includes the installation as well. Per staff, yes.

Director Torng inquired as to this being an M&C committee issue. Staff explained how Security is involved, making this a Documents Committee issue as well. Per Director Skillman, this will go to Finance next for ruling. Director Liberatore stated he has been discussing this with residents and requested an Ad Hoc committee to respond to this issue.

The committee took an informal vote regarding the locking of the laundry rooms and no one was favor.

Director Skillman inquired as to ease of transfer. Staff stated easy transfer.

Advisor Strom inquired as to use of a bolt cutter to steal the coins. Staff stated new equipment is resistant to average bolt cutters.

Advisor Strom stated roll out should start with laundry rooms in troubled areas. Staff agreed.

Director Skillman motioned to accept Staff recommendation of purchasing the locked Coin Boxes and make this recommendation to the Maintenance and Construction committee. Chair Blackwell seconded. Motion approved 2-1-1 (Director Torng abstained).

## **9. Discuss Traffic School Eligibility**

Ms. Wright presented the Staff recommendation regarding traffic school eligibility.

Director Torng asked if education of wrongful action is presented. Staff stated there are repeat offenders and Staff is looking at ways to make traffic school more effective at this time. Staff explained that they are categorizing the traffic school requirements and proposing restricting those who may attend traffic school due to the severity of the citation. Director Torng stated that education is better than fines.

Director Skillman moved to accept Staff's recommendation and endorse amending the current rules to specify the types of traffic violations eligible for Traffic School. Chair Blackwell seconded. Motion passed 3-1. (Director Torng was against.)

### Items for Discussion and Consideration:

None.

### Concluding Business:

## **10. Committee Member Comments**

Director Torng stated that he is trying to assist residents by not fining at first offense; he would also like guarantors to be added on future agenda items.

Director Skillman suggested Rules for New Lenders be put onto future agenda items.

Advisor Strom stated there should be a consideration of including "Policy" into the Governing Documents Review Committee charter.

Chair Blackwell asked that a Guarantor discussion be added to future agenda items.

The committee voted (3-1) against adding Advisor Policy to future agenda.

#### **11. Future Agenda Items**

- a. A Member Guide to United Governance
- b. Executive Committees and how the word "charter" is currently used
- c. Further review and discussion of the possibility of a lender application
- d. Discussion of Guarantors

**12. Date of next meeting is July 22, 2019**

**13. Adjournment at 2:35 p.m.**

  
Maggie Blackwell, Chair



## STAFF REPORT

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**DATE:** July 22, 2019  
**FOR:** Governing Documents Review Committee  
**SUBJECT:** Allowing Guarantors For Prospective Members

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### **RECOMMENDATION**

Approve the Guaranty and Security Agreement.

### **BACKGROUND**

On December 18, 2018, January 28, 2019, and February 25, 2019, the Governing Documents Review Committee reviewed and discussed the possibility of reinstating the option of allowing guarantors for prospective Members in order to meet United's financial qualifications for membership. On February 25, 2019, the United Governing Documents Review Committee had a final review of a proposed Guaranty and Security Agreement. The Committee voted to recommend the item for approval by the Board. At the April 9, 2019, Board meeting, this item was not approved.

You may be aware that guarantors were previously allowed for prospective Members who were otherwise unable to meet United's financial qualifications through 2017. Thereafter, the Board determined to disallow guarantors. As a practical matter, there were valid concerns that prospective Members who were otherwise unable to meet United's financial qualifications could not afford to be Members and would be more likely to default on financial obligations owed to United.

### **DISCUSSION**

The Committee has revisited the prospect of allowing guarantors proposing to put into place measures that protect United in case of default, while intending to attract prospective Members that may not otherwise qualify for membership. To this end, the attached Guaranty and Security Agreement (Attachment 1) is drafted to both allow for guarantors and balance the risk of defaults by putting security measures in place to protect United.

A guarantor is a third party that "guarantees" to pay someone else's financial obligations, i.e., promises to repay a debt if the debtor, or in United's case, the member cannot or will not pay. A guarantor's agreement to pay is established by a Guaranty Agreement. Keep in mind, however, without an underlying security agreement and a mechanism to perfect United's interest in the guarantor's assets, a Guaranty is merely a promise to pay that is confirmed in the Guarantee Agreement. United has no security in its debt against the guarantor, just the guarantor's promise to pay.

Further, a Guaranty and the Shareholder Application and Occupancy Agreement evidence separate obligations. To this end, the Shareholder Application and Occupancy Agreement should be entered into by and between United and the Member. The Guaranty Agreement, on the other hand, is entered into between United and the guarantor. Thereby, in accordance with United's governing documents, a noncomplying Member's interest may be terminated for failure to pay, without United having received payment. Short of or separate and apart from

terminating membership interest, United would be able to enforce the Guaranty and thereby satisfy the financial obligation (through the guarantor) independent of the Member.

If the Board proceeds with reinstating guarantors, pursuant to the revised Guaranty and Security Agreement, there are ways to perfect United's interest in the guarantor's asset(s) pledged in for purposes of assisting prospective Members with meeting United's financial obligations. Note, taking steps to perfect United's interest in a guarantor's asset(s) may act as a significant deterrent and result in prospective Members being unable to obtain guarantors. The revised Guaranty and Security Agreement includes not only a promise to pay, but it identifies the guarantor's means to pay (the security or collateral), and authorizes the creditor (i.e., United) to file UCC financing statements with respect to the security or collateral. This option, i.e., the filing of a UCC financing statement with the Secretary of State, creates collateral and secures United's debt. It is valid for 5 years, unless it is renewed. If a Member defaults in the payment of assessments, and the guarantor refuses to pay, United may collect against the guarantor by collecting against the assets listed in the UCC security statement (i.e., list specific assets, such as real estate, vehicles (owned, not leased), etc.) as filed with the Secretary of State. The revised Guaranty and Security Agreement is attached for your review and consideration.

Should the Board determine and resolve to allow guarantors, it will be necessary to revise the currently operative Financial Qualification Policy (rev. 5-23-18) in order to provide guarantor requirements. Previous guarantor requirements, which will, likewise, be reinstated included:

- Satisfactory verification of annual income of at least \$90,000 and marketable or income producing assets of at least \$250,000 plus the unit purchase price.
- This in addition to the prospective Member's minimum annual income of at least \$24,000 and marketable and/or income producing assets of at least \$75,000.

In addition to these requirements, the guarantor can be required, as set forth herein, to identify assets from which the financial obligation may be satisfied and authorize UCC financing statements to be filed.

Note, for your reference only, Third Laguna Hills Mutual ("Third Mutual") allows guarantors.

Third Mutual does not require a security agreement or UCC financing statement filings. As noted above, without same, although the guarantor may have demonstrated an ability to pay, there are no assurances as to what assets, if any, will be available to satisfy the financial obligation in case of the Member's default. From an administration standpoint, Staff will need to evaluate whether it is equipped to file UCC statements, or otherwise work through Beaumont Tashjian to file them.

## **FINANCIAL ANALYSIS**

As noted above, reinstating a policy to allow guarantors would require Staff time to process and vet guarantors and to annually verify Guarantor's financial information provided to United.

**Prepared By:** Jeff Beaumont, Attorney for United Laguna Woods Mutual

**Reviewed By:** Siobhan Foster, Chief Executive Officer

United Laguna Woods Mutual  
Allowing Guarantors for Perspective Members  
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**ATTACHMENT(S)**

Attachment 1 – Guaranty and Security Agreement

Attachment 2 – Resolution 01-19-XX

<b>PERSONAL UNCONDITIONAL CONTINUING GUARANTY &amp; SECURITY AGREEMENT</b>	<b>UNIT NO.</b>
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This Personal Unconditional Continuing Guaranty and Security Agreement (hereinafter "Guaranty") is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the undersigned, individually, jointly and severally if more than one (hereinafter individually and collectively the "Guarantor"), whose address(es) appear below their signatures hereon, to and for the benefit of: \_\_\_\_\_ ("Member") and United Laguna Woods Mutual, a California nonprofit mutual benefit corporation (hereinafter "United").

For purposes of this Guaranty, "Guarantor" is the undersigned who guarantees to pay for the Member's debt and/or obligations if Member should default or otherwise fail to pay a debt and/or obligations to United.

The undersigned Guarantor may only guarantee one (1) unit in the Village. For purposes of this Guaranty, Village means United Laguna Woods, Third Laguna Hills, and The Towers.

In consideration of the mutual covenants and agreements herein, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor warrants to, and covenants with, United as follows:

**1. Personal Unconditional Continuing Guaranty**

Guarantor, individually, jointly and severally, unconditionally and absolutely guarantees the due and punctual payment of the Indebtedness, as hereinafter defined (without deduction for any claim, setoff or counterclaim of Guarantor, or for the loss of contribution of a co-guarantor, if any) of Member to United, on demand in lawful money of the United States. The term "Indebtedness" is used herein in its most comprehensive sense and includes the Monthly Carrying Charge payable by the Member to United, all assessments levied in the name of United pursuant to the applicable Occupancy Agreement, Bylaws or other governing documents of United, and California law, all as now existing or as may be hereafter amended, any and all advances, debts, obligations and liabilities of Member or any one or more of them, now or hereafter made, incurred or created, whether voluntary or involuntary, and however arising, whenever due, and whether absolute or contingent, liquidated or unliquidated, determined or undetermined, and whether Member may be liable individually or jointly with others, or whether recovery upon such Indebtedness may be or hereafter become barred by any statute of limitations, or whether such Indebtedness may be or hereafter becomes otherwise unenforceable.

The obligation of Guarantor is a primary, continuing and unconditional obligation of payment and performance. This Guaranty shall be effective regardless of the solvency or insolvency of Guarantor at any time or the subsequent incorporation, reorganization, merger or consolidation of Guarantor, or any other change in composition, nature, personnel, ownership or location of Guarantor.

The obligations of Guarantor herein cannot be assigned or transferred in any manner whatever, directly or indirectly, by operation of law or otherwise, without the prior written consent of United, which consent may be withheld in any circumstances. However, Guarantor agrees that this Guaranty shall inure to the benefit of and may be enforced by United and by any subsequent holder or assigned of any and all of the Indebtedness and shall be binding upon and enforceable against Guarantor and Guarantor's executors, administrators, legal representatives, successors and assigns.

The obligations hereunder are joint and several, and independent of the obligations of Member. A separate action or actions may be brought and prosecuted by Corporation against Guarantor whether action is brought against Member or whether Member be joined in any such action or actions; and Guarantor waives the benefit of any statute of limitations affecting their liability hereunder or the enforcement thereof.

Guarantor authorizes Corporation, without notice or demand and without affecting Guarantor's liability hereunder, from time to time to (a) renew, compromise, extend, accelerate, or otherwise change the time for payment of, or otherwise change the terms of the Indebtedness or any part thereof, including increase or decrease of the rate of interest thereon; (b) take and hold security for the payment of this guaranty or the Indebtedness guaranteed, and exchange, enforce, waive and release any such security; (c) apply such security and direct the order or manner of sale thereof as Corporation in its discretion may determine; and (d) release or substitute any one or more of the endorsers or Guarantor. Corporation may, without notice, assign this Guaranty in whole or part. Without limiting the foregoing, Guarantor hereby waives the rights and benefits under California Civil Code ("CC") Section 2819, and agrees that Guarantor's liability shall continue even if Corporation allows any Indebtedness of Members in any respect or Corporation's remedies or rights against Member are in any way impaired or suspended without United's consent.

Guarantor waives any right to require Corporation to (a) proceed against Member; (b) proceed against or exhaust any security held from Member; or (c) pursue any other remedy in Corporation's power whatsoever. Guarantor waives any defense arising by reason of any disability or other defense of Member or by reason of the cessation from any cause whatsoever of the liability of Members. Until all Indebtedness of Members to Corporation shall have been paid in full, even though such indebtedness is in excess of Guarantor's liability hereunder, Guarantor shall have no right of subrogation, and waives any right to enforce any remedy which Corporation now has or may hereafter have against Member, and waives any benefit of, and any right to participate in any security now or hereafter held by United. Guarantor waives diligence and all presentments, demands for performance, notices of nonperformance, protests, notices of protest, notices of dishonor, and notices of acceptance of this Guaranty and of the existence, creation, or incurring of new and additional Indebtedness. Notwithstanding, Guarantor will receive copies of Member's late payment notices.

Guarantor agrees to pay reasonable attorneys' fees and all other costs and expenses which may be incurred by Corporation in the enforcement of this Guaranty or any attempts to collect any of the obligations of Member whether or not Corporation files suit against Member and Guarantor.

In all cases where there is but a single Member or a single Guarantor, then all words used herein in the plural shall be deemed to have been used in the singular where the context and construction so require; and when there is more than one Member named herein, or when this Guaranty is executed by more than one Guarantor, the word "Members" and the word "Guarantors" respectively shall mean all and any one or more of them.

All obligations of Guarantor shall be performed at Laguna Woods, California. United may, from time to time, change or modify any obligation between Member and United in any manner it may deem fit and such change shall not affect the liability of Guarantor in any manner. Guarantor further waives any and all defenses of every kind which may be available by reason of any disability or defense of the Member.

Guarantor further waives all right to require United to proceed against the Member or any other person, firm or corporation, or to pursue any other remedy available to United. All rights of United herein or otherwise shall be cumulative and no exercise, delay in exercising, or omission to exercise any right of United shall be deemed a waiver and every right of this Corporation may be exercised repeatedly. Any and all property of the undersigned, whether community or separate or otherwise, may be applied to the payment of any obligation arising hereunder.

## **2. Security Interest; Financial Information**

Guarantor hereby grants to United a continuing first priority security interest in and to all Guarantor's assets set forth on the attached Exhibit A ("Secured Collateral"). Guarantor authorizes United to cause UCC financing statements to be filed, UCC financing statement amendments and UCC financing statement continuation statements with respect to the Secured Collateral. The collateral in which a security interest is hereby granted includes all of the rights, titles, and interests of Guarantor in and to the Secured Collateral.

Guarantor hereby authorizes United to cause at any time and from time to time filing in any filing office in any jurisdiction any initial financing statements and/or any amendments thereto required to perfect or continue the perfection in the security interests granted hereby, including financing statements that: (a) indicate the Secured Collateral as being of an equal or lesser scope or with greater detail and (b) provide any other information required by Part 5 of Article 9 of the UCC for the sufficiency or filing office acceptance of any financing statement or amendment, including whether Guarantor is an organization, the type of organization and any organizational identification number issued to Guarantor. Guarantor hereby authorizes United at any time and from time to time to correct or complete, or to cause to be corrected or completed, any financing statements, continuation statements or other such documents as have been filed naming Guarantor as debtor and United as secured party. United is hereby authorized to give notice to any creditor or any other person as may be necessary or desirable under applicable laws to evidence, protect, perfect, or enforce the security interest granted to United in the Secured Collateral.

United may on an annual basis verify Guarantor's financial information provided to United pursuant to this Guaranty.

## **3. Requirement of Guaranty**

Guarantor is executing and delivering this Guaranty in order to induce United to enter into an Occupancy Agreement and accept a Shareholder Application with Member. Guarantor acknowledges, agrees, represents and warrants that Guarantor benefits from same and that such benefit is sufficient consideration for the entry of Guarantor into this Guaranty.

IN WITNESS WHEREOF, this Guaranty has been duly executed and delivered as of the date first written above.

Guarantor

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Guarantor

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Accepted.

United Laguna Woods Mutual

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Exhibit A

Secured Collateral

Asset(s), Asset Location (i.e., Bank account, Bank Account Number, Name of bank; or Real property, Real property address)	Guarantor Name	Ownership Interest

# UNITED LAGUNA WOODS MUTUAL

## RESOLUTION 01-19-XX

### **Authorization to Accept Personal Unconditional Continuing Guaranty & Security Agreement and to Revise Financial Qualifications Policy (rev. 5-23-18)**

**WHEREAS**, United Laguna Woods Mutual (hereinafter “United” or “Corporation”), is a non-profit mutual benefit corporation, existing under and by virtue of the laws of the State of California, organized for the purpose of providing its Members with housing on a cooperative non-profit basis pursuant to the provisions set forth in its Articles of Incorporation and Bylaws and Board Resolutions (collectively referred to as the “Governing Documents”);

**WHEREAS**, the Corporation’s Amended and Restated Bylaws (“Bylaws”) provides the purpose of the Corporation is to, among other things, “manage, maintain, preserve, and administer the business of a common interest development, specifically, a stock cooperative”;

**WHEREAS**, the Bylaws provide that the Board of Directors of the Corporation is responsible for managing the business and affairs and exercising all corporate powers of the Corporation;

**WHEREAS**, United is a stock cooperative wherein each shareholder-member is granted the right to occupy a specific unit pursuant to an Occupancy Agreement together with ownership of one share in the cooperative, provided each shareholder-member meets the financial qualifications set forth in the Financial Qualifications Policy (rev. 5-23-18);

**WHEREAS**, the Board of Directors desires the ability to enter into Occupancy Agreement(s) with certain Members whereby same require guarantor(s) to meet the Corporation’s financial qualifications in order to qualify for membership and consistent policies regarding same;

**NOW, THEREFORE**, be it resolved that the following resolution is adopted by the Board of Directors:

- 1. Personal Unconditional Continuing Guaranty & Security Agreement.**  
The Corporation, by and through the Board of Directors, is authorized to enter into Personal Unconditional Continuing Guaranty & Security Agreement, in the manner and

form attached hereto as Exhibit A and incorporated herein by reference thereto, and such Personal Unconditional Continuing Guaranty & Security Agreement will bind the Corporation.

Specifically, the Corporation may accept from guarantor(s) a guarantee to pay a Member's debt and/or obligation should the Member default or otherwise fail to pay a debt and/or obligation owed to the Corporation pursuant to an executed Personal Unconditional Continuing Guaranty & Security Agreement, and to cause security documents, which the Corporation may require, which shall evidence the asset(s) pledge by such guarantor(s).

**2. Further Acts.** The Board of Director may do and perform such other acts and things as may be reasonably necessary and proper in order to carry into effect the provisions of this Resolution, including, but not limited to, revising the current operative Financial Qualifications Policy (rev. 5-23-18) to allow prospective Members to meet the Corporation's financial qualifications, and to revise such other documentation, as may be necessary and appropriate.

**BE IT FURTHER RESOLVED**, that the officers, directors and agents of this Corporation are authorized to carry out the purpose of this Resolution.

**UNITED LAGUNA WOODS MUTUAL**

By: \_\_\_\_\_  
Print Name  
Its: President

Dated: \_\_\_\_\_

**UNITED LAGUNA WOODS MUTUAL**

By: \_\_\_\_\_  
Print Name  
Its: Secretary

**CERTIFICATE OF SECRETARY**

I, the undersigned, being the duly elected and acting Secretary of **UNITED LAGUNA WOODS MUTUAL, a California Non-Profit Mutual Benefit Corporation**, do hereby certify that the foregoing Resolution was adopted on \_\_\_\_\_, 2019.

This Certificate is executed under penalty of perjury on \_\_\_\_\_, 2019, in \_\_\_\_\_, California.

**UNITED LAGUNA WOODS MUTUAL**

\_\_\_\_\_  
By: \_\_\_\_\_,  
Secretary

DRAFT

### Guarantor Information from Staff

- There have been 288 guarantors for 294 units.
- In May 2019, a collection letter went to guarantors for Unit XXX. Unfortunately, both guarantors are deceased.
- Also, a guarantor letter was mailed in January 2019 for a delinquent account and we received a check two days later from the owner. We cannot say the payment was due to the letter, because the check was dated 1/16/19 and the letter was mailed 01/20/19. However, the owner has not been delinquent since the letter was mailed in January.