



OPEN MEETING

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

Monday, January 28, 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 December 18, 2018
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:

None.

Items for Discussion and Consideration:

7. Review and Discuss Community Property Issues
8. Review and Discuss Possibility of Allowing Guarantors
9. Review and Discuss Updating of the Caregivers Policy

Concluding Business:

10. Committee Member Comments
11. Future Agenda Items
12. Date of next meeting is February 25, 2019
13. Adjournment

Maggie Blackwell, Chair
Siobhan Foster, Staff Officer



UNITED LAGUNA WOODS
MUTUAL

OPEN MEETING

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

Tuesday, December 18, 2018 – 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,
and
MEMBERS ABSENT: Anthony Liberatore, Advisors Bevan Strom and Mary Stone
OTHERS PRESENT: Sherri Davis, Dick Rader, Attorney Jeff Beaumont via phone
STAFF PRESENT: Francis Rangel, Pamela Bashline, Eve Morton

REPORT

1. Call to Order

Chair Blackwell called the meeting to order at 1:39 p.m.

2. Acknowledgement of Press

No press was present.

3. Approval of the Agenda

The committee requested adding an agenda item #10, Review Payment Plan for Delinquent Assessments. Director Torng made a motion to approve the agenda, with the addition. President Skillman seconded. There were no objections.

4. Approval of Report from the November 26, 2018, meeting

Director Torng moved to approve the report. President Skillman seconded. There were no objections.

5. Chair's Remarks

Chair Blackwell said this committee needs to be sure to read everything carefully so any agenda items sent to Board are worded correctly so as to not cause confusion by residents or media of the topic being discussed.

6. Member Comments (Items not on the agenda)

Ms. Davis wanted to wish everyone a happy holiday and will see you all next year.

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 Traffic (Mutual Parking) Rules Regarding Commercial Vehicles

Ms. Rangel stated that she made the changes the Board requested. She reviewed the updates with the committee. The committee made some additional changes.

President Skillman moved to send this on to the Board for approval. Director Tornig seconded. The committee was in unanimous support.

8. Discuss Possibility of Allowing Guarantors

Discussion ensued.

Pros:

- increased number of people able to buy in the Village which will in turn increase property values.
- People may have sufficient assets, but not qualifying income, so a guarantor would allow them to live here.
- Previously, no one had defaulted when they had a guarantor.

In the past, realtors were acting as a guarantor to several people to sell homes. That is why a rule was put into place that a guarantor may only guarantee one Village property.

Always the possibility that something could happen to a guarantor so they would no longer be a guarantor...may have died, financial situation may have changed, etc.

Discussion about limiting guarantors to family members only.

Discussion regarding taking into account *future* retirement income when people apply to live here such as Social Security, retirement account distributions, etc.

Chair Blackwell moved to send to United Mutual's attorney United's last version of the Guarantor Agreement along with Third Mutual's updated version of their Guarantor Agreement and to ask him to draft an updated Guarantor Agreement document for the committee to review for further consideration of allowing guarantors again. The financial requirements for a guarantor is \$90K per year and \$250K in assets and whoever they are guaranteeing must have income of \$24K and assets of at least \$75K. This draft was requested for the next committee meeting.

The committee also requested that the United attorney consider the following when drafting the document:

- Should the guarantor live in CA?
- Should a guarantor only be allowed to guarantee one unit in the Village? Or just one unit in United?
- Make sure there is language from the financial qualifications policy regarding perjury into this updated document.

9. Review and Discuss Community Property Issues

Discussion ensued.

The committee requested that Ms. Morton ask the Mutual attorney if community property laws are applicable to shares in United.

10. Review Payment Plan for Delinquent Assessments

The committee reviewed and made some changes to the Staff Report and Payment Plan for Delinquent Assessments Agreement.

The committee requested the updates by given to Financial Services Director, Betty Parker, to make the updates.

Concluding Business:

11. Committee Member Comments

Director Torng is hoping his contribution is accepted by this committee.


Chair Blackwell stated she had forwarded information she had found regarding caregivers to Pamela Bashline and to Social Services. She asked Ms. Morton to check on status of their updates to the Caregiver Policy to see if they are ready for the January meeting.

12. Future Agenda Items

- a. Policies for Non-Medical Caregivers and Medically Necessary Caregivers
- b. Discuss and Consider Modifying the Co-Occupancy Agreement to Allow Roommates

13. Date of next meeting is January 28, 2019

14. Adjournment at 3:58 p.m.



Maggie Blackwell, Chair

UNITED LAGUNA WOODS MUTUAL

RESOLUTION X-XX-XX

Policy Regarding Estate Planning Issues, i.e., Community Property Consideration, Rental Property Depreciation, Capital Gains Consideration

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 consistent policies regarding community property consideration, reporting rental property depreciation, and capital gains consideration;

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

1. Regarding community property, as set forth in the Financial Qualifications Policy (rev. 5-23-18) marital community property is excluded from assets to be considered in order to meet financial qualifications. Likewise, community property is not considered if a prospective member is purchasing a unit as his/her sole property. Consideration of community property assets or community property contributions to purchase a unit albeit as sole property may transmute the intended sole property into community property.

2. Regarding depreciation for rental properties, rental property depreciation should be consistently reported to the Corporation, as well as, to state and federal taxing entities. In general, members are not required to recognize rental property depreciation during a given rental period. Members are required to “recapture” depreciation allowed or allowable when the

property is sold. Accordingly, rental property depreciation is to be reported at the time of sale and, as such may be a taxable event, whether or not depreciation was claimed during the rental period.

3. Regarding capital gains, capital gains are not taken into consideration when considering whether an owner meets the requisite income qualifications set forth in the Financial Qualifications Policy (rev. 5-23-18). Capital gains are profits from a sale of an asset, or, otherwise the rise in value of an asset when it is sold, which triggers a taxable event. Capital gains are not considered for income qualifications because if an asset is not sold, then there is no realized capital gain.

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

The purpose of this email is to provide my findings and recommendations regarding allowing guarantors for prospective members who are otherwise unable to meet the established financial qualifications.

To respond, I have reviewed United's governing documents, specifically, prior Board Resolutions and policies regarding guarantors, as well as the Bylaws, Occupancy Agreement and applicable laws. My findings and recommendations follow.

FINDINGS

As a matter of policy, I understand that guarantors were previously allowed by United for prospective members who were unable to meet the established financial qualifications. Subsequently, the Board resolved to prohibit guarantors. I am advised that the Board is now considering allowing guarantors.

As you know, 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 independent of the member.

If the Board proceeds with reinstating guarantors, and the Guarantor Agreement, there are ways to increase United's security. However, doing so may act as a significant deterrent and result in a policy that nobody uses. If the Board proceeds, this option will need to be tested.

Specifically, a Guaranty typically does not only include a promise to pay, but it identifies the guarantor's means to pay (the security or collateral), includes a security agreement, 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. I have included a redline Guaranty and Security Agreement for your review and consideration.

Should the Board determine and resolve to allow guarantors, the Financial Qualification Policy (revised as of February 13, 2018) should be revised to indicate that guarantors are allowed and provide guarantor requirements. Previous guarantor requirements included:

- Satisfactory verification of annual income of at least \$90,000 and marketable or income producing assets of at least \$250,000 plus the manor 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 above, to identify assets from which the financial obligation may be satisfied and authorize UCC financing statements to be filed.

Note, Third Laguna Hills Mutual ("Third Mutual") allows guarantors and requires a guarantor to submit proof of the following:

- Primary residence is located in California
- Satisfactory verification of a net worth of at least \$125,000 in acceptable assets (although at Section IV, Paragraph d, net worth is equal to the sum of the purchase price of the unit plus \$200,000 in acceptable assets is noted)
- Satisfactory verification of guarantor's annual income is greater than or equal to the sum of the total of the unit's annual mortgage payment plus \$80,000 per year.
- A credit report

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. The use of a UCC financing statement may or may not be practical, from an administration statement and from a deterrent standpoint. Staff will need to evaluate whether it is equipped to file UCC statements, or work through my office to file them, and whether prospective members and guarantors will be willing to complete same.

Further, in regards to the Third Mutual's guarantor requirements, you have asked the following questions. Below are responses to your questions in the order in which you posed them.

• **Should the guarantor be required to live in California?**

A guarantor need not live in California if the guarantor has demonstrated sufficient assets and income to guarantee the member's financial obligations. The guarantor, however, should be present at the Guaranty signing. Becoming a guarantor is a significant responsibility and may have significant consequences in the event the member defaults. It may, however, be more difficult to collect a debt against an out of state guarantor. With that the most conservative approach is to require the guarantor to reside in California or have assets in California. However, this isn't a necessity.

• **Should there only be one guarantor for only one unit in the Village?**

There can be more than one guarantor; in fact, the advantage to having more than one guarantor is that there are more resources from which the member's financial obligations may be satisfied. Additionally, guarantors are joint and severally liable, which means although there may be more than one guarantor, United may look to only one guarantor for full satisfaction of the member's debt.

- **Can a guarantor only guarantee one unit in the Village? Or can they guarantee a unit in United and be a guarantor in the Third?**

If the guarantor has the means to serve as a guarantor for more than one unit in United and/or United and Third Mutual, and otherwise is an acceptable guarantor, then the guarantor may guarantee more than one unit. Such may be the case if the prospective member uses an institutional guarantor, which may be a financial institution. Requiring a UCC financing statement filing would put others on notice that United has priority in assets of the guarantor in case the guarantor serves as guarantor in another instance, and thereby may disqualify the guarantor from serving as a guarantor for another unit, (unless the guarantor has demonstrated that it has sufficient means (assets) to serve as a guarantor for more than one unit).

RECOMMENDATIONS

Should the Board determine and resolve to allow guarantors, next steps would include:

- Drafting a Board Resolution,
- Approving a Guaranty and Security Agreement, and
- Revising the 2018 Financial Qualifications Policy (contained in the Resale Package and elsewhere).

Please review this and let me know if you have any questions. I can certainly walk you through this and answer any questions during the next Governing Documents Review Committee meeting.

Very truly yours,

Jeffrey A. Beaumont, Esq.

**PERSONAL UNCONDITIONAL CONTINUING
GUARANTY & SECURITY AGREEMENT**

MANOR NO.

This Personal Unconditional Continuing ~~Guarantee~~ Guaranty and Security Agreement (hereinafter "~~Guarantee~~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:

[_____] United Laguna Woods Mutual, a California nonprofit mutual benefit corporation (hereinafter the "Corporation" or "United").

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

~~the undersigned~~ 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 (hereinafter called "Members") to the Corporation, 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 Members to the Corporation, all assessments levied in the name of the Corporation pursuant to the applicable Declaration of Covenants, Conditions and Restrictions, Occupancy Agreement, Bylaws or other governing documents of the Corporation, and California law, all as now existing or as may be hereafter amended, any and all advances, debts, obligations and liabilities of Members 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 Members 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 GuaranteeGuaranty 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 the Corporation, which consent may be withheld in any circumstances. However, Guarantor agrees that this GuaranteeGuaranty shall inure to the benefit of and may be enforced by the Corporation 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 Members. A separate action or actions may be brought and prosecuted by Corporation against Guarantors whether action is brought against Members or whether Members be joined in any such action or actions; and Guarantors waive the benefit of any statute of limitations affecting their liability hereunder or the enforcement thereof.

Guarantors authorize Corporation, without notice or demand and without affecting Guarantors' 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 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 Guarantors. Corporation may, without notice, assign this Guaranty in whole or part. Without limiting the foregoing, Guarantors hereby waive the rights and benefits under California Civil Code ("CC") Section 2819, and agree that Guarantors' liability shall continue even if Corporation allows any Indebtedness of Members in any respect or Corporation's remedies or rights against Members are in any way impaired or suspended without the Corporation's consent.

Guarantors waive any right to require Corporation to (a) proceed against Members; (b) proceed against or exhaust any security held from Members; or (c) pursue any other remedy in Corporation's power whatsoever. Guarantors waive any defense arising by reason of any disability or other defense of Members 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, Guarantors shall have no right of subrogation, and waive any right to enforce any remedy which Corporation now has or may hereafter have against Members, and waive any benefit of, and any right to participate in any security now or hereafter held by the Corporation. Guarantors waive 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.

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

Guarantors further waive all right to require the Corporation to proceed against the Member or any other person, firm or corporation, or to pursue any other remedy available to the Corporation. All rights of the Corporation ~~herein~~herein or otherwise shall be cumulative and no exercise, delay in exercising, or omission to exercise any right of the Corporation 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

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.

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.

Signatures to follow

Guarantor

By: _____

Name: _____

Title: _____

Guarantor

By: _____

Name: _____

Title: _____

Accepted.

United Laguna Woods Mutual

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Exhibit A

Secured Collateral

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



STAFF REPORT

DATE: January 28, 2019
FOR: Governing Documents Review Committee
SUBJECT: Private Caregiver Policy

RECOMMENDATION

Approve the amended Private Caregiver Policy.

BACKGROUND

On February 14, 2017, the Board of Directors approved an amended Care Provider Policy to fairly and reasonably address home care aides that provide part-time, long-term, and terminal health services to residents. The amended policy included the following changes: registration with the California Department of Social Services (CDSS), finger printing, background checks, issuance of care provider photo identification (ID) cards and a requirement that care providers be registered for each resident receiving care (Resolution 01-17-28).

Since adoption of the amended policy, Staff has been approached by various residents who shared their concerns and challenges with the new requirements. These included, but were not limited to: the necessity of obtaining a physician's certification when non-medical service was needed; the cost of obtaining background and fingerprint clearance; emergency circumstances and quickly changing medical needs that could not reasonably wait for application processing; and request for licensed agency approval rather than individual caregivers.

On October 22 and November 26, 2018, the Governing Documents Review Committee reviewed and discussed the proposed amended policy. The Committee requested additional information and changes to the policy.

The Community Services Division, Resident Service Department, coordinates the Care Provider Process. As of July 31, 2018, fewer than 125 care providers were registered.

DISCUSSION

The purpose of the amendments (Attachment 1) is to address resident concerns and provide efficiencies. The proposed amendments maintain the requirement that all caregivers – whether private or agency employed – satisfy a background check, be fingerprinted and be registered with the CDSS.

Below is a breakdown of the recommended changes and justifications:

1. Clarification of Activities of Daily Living
 - a. Activities of Daily Living (ADL) are defined as a series of basic activities performed by individuals on a daily basis necessary for independent living at home or in the community. There are many variations on the definition of the activities of daily living.
 - i. Personal hygiene – bathing/showering, grooming, nail care, and oral care
 - ii. Dressing - the ability to make appropriate clothing decisions and physically dress/undress oneself

- iii. Eating - the ability to feed oneself, though not necessarily the capability to prepare food
 - iv. Maintaining continence/toileting - both the mental and physical capacity to use a restroom, including the ability to get on and off the toilet and cleaning oneself
 - v. Transferring/Mobility/ambulating - moving oneself from seated to standing, getting in and out of bed, and the ability to walk independently from one location to another
 - b. Instrumental Activities of Daily Living are not necessary for fundamental functioning, but they let an individual live independently in a Community.
 - i. Companionship and mental support
 - ii. Transportation and shopping
 - iii. Preparing meals
 - iv. Managing household
 - v. Managing medications and finances
 - vi. Communicating with other
- 2. Removal of Physicians Certification
 - a. Only needed for medical care. i.e., home health care – physical or occupational therapy, hospice care, in-home supportive services (IHSS), all in-home care requiring insurance billing, etc.
 - b. A Physician will never refuse to sign if patient requests it. They would not want to open themselves to liability.
 - c. Requires residents to make an appointment with their physician, transport to/from appointment and is a chargeable service (co-pay) for a non-medical service wanted.
 - d. Residents requiring medical care at home will be treated by a licensed professional who can present proper identification to gain access to the Community. Typically, these are temporary short-term visits.
- 3. Family caregiver revision. Do not require a Private Caregiver Application for Permit for a family member(s) or any person(s) who is/are not living in the unit more than 60 days.
 - a. Resident doesn't have to pay for services.
 - b. Issue a 60 day caregiver gate pass and/or overnight pass. (This would help track how long family member has been in the Community).
 - c. Require Private Caregiver Application for family member who lives in the unit more than 60 days in a calendar year.
 - d. As a Private Caregiver, this will reduce chances of family members becoming occupants.
- 4. Home Care Organization/Agency (HCO) exemption
 - a. HCO's should be exempt from the process because HCO's have already performed background checks on their employed caregivers.
 - b. HCO's caregivers are required to be registered with the CDSS.
 - c. HCO's monitor their caregivers and are liable.
 - d. Issue a business pass to the HCO to provide to their caregivers.

5. Reduce Board review of all applications. Only submit Private Caregiver Applications to the Board when there are exceptions. If the application meets all requirements, allow Staff approval.
 - a. Reduces turnaround for the resident and Private Caregiver.
 - b. Reduces the number of staff reports submitted by Resident Services
 - c. Reduces number of applications reviewed by the Board.

6. Managing access to the Community.
 - a. Private Caregivers will be issued a picture ID card with expiration date. Thirty/sixty days prior to expiration, a letter can be sent to the Resident and/or the Private Caregiver notifying them that their ID is about to expire and needs to be renewed prior to the deadline.
 - b. Require ID's to be worn in plain sight while in the Community.
 - c. Private Caregivers will be issued a "Private Caregivers" gate pass and/or overnight parking pass, if needed.
 - d. Private Caregivers are only approved up to one year.

Additionally, the Application has been modified and simplified to avoid HIPPA related concerns. Individuals, whether seeking a homemaker or home health care aide, generally are sensitive about disclosing personal health needs.

The Social Services Division, Security Services Department, and Marketing and Communications Division, Office of the CEO, are collaborating to realize an ongoing educational campaign to promote the value of using only registered Caregivers and the importance of improved safety for all Village residents. A multi-pronged approach involving print, television, group and one-on-one meetings will be launched to reinforce the goals of the Private Caregiver Policy. Various touch points will be identified, evaluated and incorporated in the educational campaign.

FINANCIAL ANALYSIS

None.

Prepared By:

Pamela Bashline, Community Services Manager
Susan McInerney, Social Services Manager

Reviewed By:

Francis Rangel, Operations Manager
Tim Moy, Chief of Security
Siobhan Foster, Chief Executive Officer

ATTACHMENT(S)

- Attachment 1 – Private Caregiver Policy
- Attachment 2 – Private Caregiver Application
- Attachment 3 – Instructions & Checklist for Hiring Private Caregiver
- Attachment 4 – Frequently Asked Questions
- Attachment 5 – Resolution 01-19-XX



Private Caregiver Policy

I. Purpose

The purpose of this document is to define the policy of United Laguna Woods Mutual (United) regarding individuals who provide care to Residents.

II. Definitions

For the purposes of this policy:

- a. Activities of Daily Living (ADL) are defined as a series of basic activities performed by individuals on a daily basis necessary for independent living at home or in the community. There are many variations on the definition of the activities of daily living.
 - i. Personal hygiene – bathing/showering, grooming, nail care, and oral care
 - ii. Dressing - the ability to make appropriate clothing decisions and physically dress/undress oneself
 - iii. Eating - the ability to feed oneself, though not necessarily the capability to prepare food
 - iv. Maintaining continence/toileting - both the mental and physical capacity to use a restroom, including the ability to get on and off the toilet and cleaning oneself
 - v. Transferring/Mobility/ambulating - moving oneself from seated to standing, getting in and out of bed, and the ability to walk independently from one location to another
- b. Instrumental Activities of Daily Living are not necessary for fundamental functioning, but they let an individual live independently in a Community.
 - i. Companionship and mental support
 - ii. Transportation and shopping
 - iii. Preparing meals
 - iv. Managing household
 - v. Managing medications and finances
 - vi. Communicating with other.
- c. Application is the form prescribed by United to apply for a Private Caregiver.
- d. Community is Laguna Woods Village.
- e. Community Facilities are defined as the facilities and services operated by the Golden Rain Foundation (GRF).
- f. Community Rules are defined as the Bylaws, Articles of Incorporation, Occupancy Agreement or any rules and regulations of United and of GRF.
- g. Golden Rain Foundation (GRF) – the non-profit mutual benefit corporation organized to manage and maintain the Community Facilities and services for the Community.
- h. A Live-in Private Caregiver is defined as an individual who will stay overnight for more than sixty (60) days in any twelve (12) month period, including individuals who are related to the Resident/Member.

- i. A Live-in Private Caregiver can be a family member, paid or not paid. All rules in the Private Caregiver Policy apply.
- j. Member is a person who has been approved by United as being entitled under the Governing Documents of United to membership in United and has an appurtenant right of membership in GRF.
- k. Private Caregiver, also known as a Home Care Aide or Care Provider, is a person who has been approved by United or authorized designee in writing on the basis of being a provider of primary caregiver support to the Resident. A Private Caregiver is a helper who assists an individual with activities of daily living or non-medical services. Non-medical home care is provided by caregivers. Unlike home health, caregivers are considered “non-clinical” and are not covered by insurance and does not need a physician order.
- l. Private Caregiver services include, but are not limited to, assistance with the following:
 - i. Activities of Daily Living as defined in Section II, a.
 - ii. Instrumental Activities of Daily Living as defined in Section II, b.
- m. An affiliated Caregiver is a person who is employed by a licensed Home Care Organization/Agency (HCO) who provides homecare services to a Resident(s).
- n. A Private Caregiver is independent and is not employed by a HCO.
- o. In-Home Supportive Service (IHSS) Caregivers are part of the Medi-Cal program and required to adhere to this policy.
- p. Resident is defined as any person who has been approved by the Board of Directors for occupancy.

III. Conditions

- a. Private Caregivers must be approved by the Board or authorized designee in writing prior to commencing support. Special circumstances may be granted.
- b. Private Caregivers must be 18 years old or older.
- c. Private Caregivers must be registered with the California Department of Social Services Home Care Services Bureau.
- d. Private Caregivers must provide a copy of a government issued photo ID with the application.
- e. Private Caregivers must provide a copy of their driver’s license, vehicle registration, and proof of vehicle insurance with the application if he/she will be operating a vehicle within Laguna Woods Village.
- f. A Private Caregiver Permit is approved for a period of up to one year. Residents are required to re-apply for approval.
- g. The total number of persons residing in a unit shall not exceed the number of bedrooms, plus one or no more than two persons in a one-bedroom unit; no more than three persons in a two-bedroom unit etc.
- h. Each Private Caregiver shall not have been convicted of a felony or a misdemeanor involving moral turpitude (e.g., fraud, perjury, criminal threats).
- i. The Resident and/or Member are responsible for the conduct of the Private Caregiver and shall ensure that he/she complies with all community rules, regulations, and policies.

- j. Upon approval by the Board or authorized designee, a gate pass shall be issued to the Private Caregiver that will permit gate access into the community. If a gate pass is supplied, it must be displayed on their car dashboard at all times. This pass may include an overnight parking pass when necessary.
- k. The Private Caregiver must wear in clear sight the Laguna Woods Village picture ID at all times.
- l. The Private Caregiver's ID and gate pass may not be transferred or lent to anyone.
- m. The Private Caregiver is authorized to use the Community Facilities only as necessarily incidental to provide support to the Resident.
- n. Part-time Private Caregivers may only use the laundry facilities for the Resident's use. Live-in Private Caregivers may use the laundry facilities for their limited personal use and the Residents use.
- o. The live-in Private Caregiver requires written permission from the Board of Directors to remain in the unit without the Resident only if both of the following are applicable:
 - i. The Resident is absent from the unit due to hospitalization or other necessary medical treatment and expects to return to the unit within 90 days from the date the absence began; and
 - ii. The Resident submits a written request desiring the live-in Private Caregiver be allowed to remain in order to be present when the Resident returns to reside in the unit. [Civil Code §51.11.b.7]
- p. Private Caregivers are not permitted to bring family members, pets or guests into the Community. The sole purpose of the Private Caregiver is to provide care for the Resident.
- q. The Resident must surrender the Private Caregiver ID and vehicle pass to the Resident Services Department at the conclusion of the care service or be subject to charges.
- r. The Private Caregiver shall meet all applicable GRF requirements relating to operating a motor vehicle within the community.
- s. All Caregivers employed by a licensed Home Care Organization/Agency (HCO) are required to obtain a business pass.
- t. A person living in the residence to provide short term care must obtain a sixty (60) day Caregiver pass. Any person providing care beyond sixty (60) days must adhere to the Private Caregiver Policy.
- u. If applicant employs an In Home Supportive Services (IHSS) Caregiver and receives any correspondence related to ineligibility or violations that have occurred involving Caregiver, the applicant must notify the Resident Services Department immediately.

IV. Enforcement

United is authorized to take disciplinary action against a Member whose property may be found in violation of the Private Caregiver Policy. When a violation occurs, the Board of Directors is obligated to evaluate and impose, if appropriate, Member-discipline as set forth in the Governing Documents. The Board has the authority to impose monetary fines, suspend Member privileges, and/or bring forth legal action. The Member is

entirely responsible for ensuring that the Community Rules and policies are followed by anyone they allow into the Community.

- a. The Member and Private Caregiver must read and agree to comply with and be bound by all the Governing Documents and the Community Rules.
- b. Nothing contained herein shall relieve Member of the performance of any obligation owed to United and/or GRF under the Governing Documents.

V. Procedures

- a. The Resident must complete and submit "Application for Private Caregiver Permit" for review. The Application is available for download at www.lagunawoodsvillage.com or upon request from the Resident Services Department.
- b. Application can be submitted to the Resident Services Department located in the Laguna Woods Village Community Center.
- c. Upon receipt of an Application, the Resident Services Department will research whether the Member and/or Private Caregiver has received notices of violations or has any outstanding Charges and Assessments before approval of the application.
- d. The Board or authorized designee will review the application and approve or deny request.
- e. The Resident Services Department will notify the Resident of the results within 10 business days. Special circumstances may be granted.
- f. The Resident Service Department hours of operation are Monday-Friday, 8:00 AM to 5:00 PM, phone number 949-597-4600.
- g. Mailing address is P.O. Box 2220, Laguna Hills, CA 92654-2220.

ATTACHMENT 2



**Private Caregiver
Application for Permit**

<input type="checkbox"/> UNITED <input type="checkbox"/> THIRD UNIT # _____

Return completed application to: Resident Services Department – 240, 24351 El Toro Road, Laguna Woods, CA 92637; Phone: 949-597-4600, email: residentservices@vmsinc.org

Resident Information			
Name:		<input type="checkbox"/> Member <input type="checkbox"/> Occupant	
Address:			
Telephone:		Cell Phone:	
Email:			
What is the expected schedule of the Private Caregiver? <input type="checkbox"/> Day time only <input type="checkbox"/> Night time only <input type="checkbox"/> 24 Hours – no. of days per week:			
What is the service the Private Caregiver is expected to provide? (check all that apply)			
<input type="checkbox"/> Personal Hygiene (bathing)	<input type="checkbox"/> Contingence Management	<input type="checkbox"/> Dressing	<input type="checkbox"/> Feeding
<input type="checkbox"/> Ambulating	<input type="checkbox"/> Toileting	<input type="checkbox"/> Companionship & Mental Support	<input type="checkbox"/> Transportation & Shopping
<input type="checkbox"/> Preparing Meals	<input type="checkbox"/> Managing Household	<input type="checkbox"/> Managing Medications & Finances	<input type="checkbox"/> Communicating with others
Is resident an In Home Supportive Services (IHSS) recipient? <input type="checkbox"/> Yes <input type="checkbox"/> No			
If Yes, list the 7 digit County IHSS case number: _____			
Private Caregiver Information			
Name:			
Address:			
Telephone:		Cell Phone:	
Email:			
Driver's License No:		Expiration Date:	
Vehicle Color:	Make:	Model:	License Plate:
Vehicle Insurance Company:		Policy No. Expiration Date:	
Private Caregiver's personal state identification number: Expiration date:			
Has the Private Caregiver been convicted of a felony? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Has the Private Caregiver been convicted of a misdemeanor involving moral turpitude (e.g., fraud, perjury, criminal threats)? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Is the live-in Private Caregiver a family member? <input type="checkbox"/> Yes <input type="checkbox"/> No			
If Yes, relationship to resident:			

Private Caregiver Permit Agreement

The undersigned acknowledges that the issuance of a Private Caregiver Permit does not constitute approval of the Private Caregiver nor does it represent any direct or indirect liability on behalf of United Laguna Woods Mutual (United), Third Laguna Hills Mutual (Third), and the Golden Rain Foundation of Laguna Woods (GRF), all California non-profit mutual benefit corporations, and Village Management Services, Inc. (VMS). a California corporation, and each of their respective directors, officers, employees, and agents. Further, I/we have read and received a copy of the Private Caregiver Policy and agree to wear the ID in clear sight and display the pass at all times while in this Community. I/we also understand that falsification of any information related to this application is subject to disciplinary action.

Resident Signature:	Date:
Member Signature:	Date:
Private Caregiver Signature:	Date:

For Office Use Only

Received By:	SA No.
Requirements: <input type="checkbox"/> ID <input type="checkbox"/> Gate Pass <input type="checkbox"/> Overnight Pass <input type="checkbox"/> Other	
Will approval cause the unit to exceed the number of occupants permitted? <input type="checkbox"/> Yes <input type="checkbox"/> No	
State status of the Private Caregiver: <input type="checkbox"/> Pending <input type="checkbox"/> Registered <input type="checkbox"/> Other:	
Has the Resident received notices of rules violation? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Verified IHSS Caregiver's Form SOC 2271 <input type="checkbox"/> Yes <input type="checkbox"/> No	
Does staff recommend approval of this application? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If, No, state reason:	

For Board of Directors or Authorized Designee Use Only

Application DENIED	Application APPROVED
The Board of Directors of this Mutual Corporation or authorized designee has reviewed this application. Based on the information provided, the application is denied.	The Board of Directors of this Mutual Corporation or authorized designee has reviewed this application. Based on the information provided, the application is approved.
Signature:	Signature:
Signature:	Signature:
Signature:	Signature:

For Office Use Only

Resident Notified By:
Date: <input type="checkbox"/> SA No. Updated/Closed <input type="checkbox"/> Documents Scanned



Private Caregiver Instructions and Checklist For Hiring

UNITED
 THIRD
 UNIT # _____

The Board of Directors adopted a Private Caregiver Policy to reasonably address caregivers who provide care for Residents. **Every Private Caregiver Application For Permit must be approved in writing prior to commencing support.** Please follow this checklist to ensure a smooth and efficient process.

Omission of any required items will result in delay or denial of the Private Caregiver Permit.

1. Review the Private Caregiver Policy and Submit the Required Paperwork.

- Register the Private Caregiver with the California Department of Social Services and complete the Live Scan requirements which include Background Check and Fingerprinting;
- Complete the "Application for Private Caregiver Permit";
- Provide a copy of the Private Caregiver's state issued Driver's License or ID;
- Submit "Private Caregiver Application" to the Resident Services Department.

2. Documentation Review

The Board of Directors or authorized designee will review the submitted documentation for approval or denial. The Resident Services Department will notify the Resident of the outcome within 10 business days.

- a. If approved, the Private Caregiver will be issued an ID which must be worn in clear sight at all times and obtain a Gate Pass which may include an overnight parking pass.
- b. If denied, the Shareholder/Member and Private Caregiver will be notified by the Resident Services Department.

Important information

- All documents must be received by the Resident Services Department before the application can be processed;
- The Private Caregiver cannot commence work until a Permit is obtained. Special circumstances may be granted;
- Only completed applications with the required paperwork will be reviewed;
- The Private Caregiver must be registered with the California Department of Social Services Home Care Services Bureau;
- The Private Caregiver Permit is approved for a period of up to one year and must be renewed annually;
- The Resident Services Department must be informed in writing of any deviations from an approved Private Caregiver Permit;
- Shareholder/Member is responsible for ensuring that rules, regulations, and policies are followed by anyone you allow into the Community;
- Failure to abide by the rules, regulations, and policies may result in disciplinary action including monetary fines, suspension of Shareholder/Member privileges, and/or legal action.

Attachments:

- Private Caregiver Application
- Private Caregiver Agreement
- Frequently Asked Questions



Private Caregiver Policy Frequently Asked Questions

1. Who is a Private Caregiver?

A Private Caregiver also known as a Home Care Aide or Care Provider, is a person who has been approved by Third Laguna Hills Mutual (Third) or United Laguna Woods Mutual (United) or authorized designee in writing on the basis of being a provider of primary caregiver support to the Resident. Private Caregiver services include, but are not limited to, assistance with the following:

- i. Activities of Daily Living as defined in Section II, a. of the Private Caregiver Policy.
- ii. Instrumental Activities of Daily Living as defined in Section II, b. of the Private Caregiver Policy

2. What if my Private Caregiver is already registered with the California Department of Social Services (CDSS)?

If your Private Caregiver is already registered with the CDSS you will need to provide proof of registration, with expiration date, along with the completed *Private Caregiver Application* to the Resident Services Department.

3. How does a Private Caregiver get registered with the CDSS?

The Private Caregiver can apply as a Home Care Aide by visiting the CDSS website <http://www.cdss.ca.gov/inforesources>:

- a. Select Home Care Services listed under Community Care Licensing.
- b. Scroll down to Quick Links and select Home Care Aide Application Process.

If you have questions, please phone California Department of Social Services, Home Care Service Bureau at 877-424-5778.

4. How does a Private Caregiver get a background check?

Complete the request for Live Scan fingerprinting service, form LIC 9163. Take form to a Live Scan location for processing. A criminal background check will be performed and the results will be electronically sent to the CDSS.

5. What are the costs to get registered?

The CDSS currently charges a registration fee of \$35. Other fees involved are Live Scan fingerprinting and Government criminal history background checks. The Live Scan fingerprinting operator's fee will vary depending on location of your choice and can run from \$10 up to \$35. Government fees for state and federal background checks for Private Caregivers will cost \$49. Costs are subject to change.

6. Who pays the registration costs?

That is held to the Resident's discretion. You can pay the Private Caregiver's registration fees or require the Private Caregiver that you hire pay his/her own registration fees.

7. When did the mandate take place?

The new policy began March 1, 2017.

8. Why do I have to obtain a Private Caregiver Permit?

The Boards of Directors recognized a need to provide a systematic, fair, and reasonable manner to address individuals who provide care to residents.

9. Who is expected to abide by the amended Private Caregiver Policy?

All residents who hire a Private Caregiver must abide by the amended policy. Residents with existing Private Caregivers must abide by the amended policy when their current permit expires.

10. How do I find out when my current permit is up for renewal?

By calling the Resident Services Department at 949-597-4600. Any customer service representative can assist you.

11. Are there any exemptions or exceptions to the Policy?

There is no set list of exemptions. If there are “special circumstances” which the Shareholder/Member would like to have taken into account, the Shareholder/Member may file this request in writing stating why they cannot abide by the policy. This Statement will be reviewed by the Board for consideration.

12. How can I file an exception/exemption to the Policy?

Shareholder/Members may file for an exception/exemption by submitting a written request to the Resident Services Department located on the first floor of the Community Center.

13. What if I hire a Caregiver from a licensed agency?

Caregivers from a licensed agency are exempt from this process because agencies are required by law to do background checks on all their caregivers. Agencies are required to obtain a business pass.

14. Who is an In Home Supportive Services (IHSS) recipient?

The IHSS Program provides in-home assistance to eligible aged, blind, and disabled individuals as an alternative to out-of-home care. The IHSS Program enables recipients to remain safely in their own homes.

ATTACHMENT 5

RESOLUTION 01-19-XX

Private Caregiver Policy

WHEREAS, Staff has recommended enhancements to the existing Care Provider Policy; and

WHEREAS, the Private Caregiver Policy will encompass part-time, long-term, and terminal health caregivers, whenever scheduled day or night and;

WHEREAS, the Private Caregiver Policy addresses caregivers irrespective of whether they are paid or not paid;

NOW THEREFORE BE IT RESOLVED, February 12, 2019, that the Board of Directors of this Corporation hereby amends the "Care Provider Policy," and renames it "Private Caregiver Policy," as attached to the official minutes of this meeting; and

RESOLVED FURTHER, that Resolution 01-17-28 adopted February 14, 2017 is hereby superseded and canceled; and

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