



OPEN MEETING

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

Wednesday, July 25, 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 June 27, 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:

7. Proposed Updated Village Clutter Policy
8. Proposed Updated Village Harassment Policy
9. Proposed Updated Village Nuisance Policy

Items for Discussion and Consideration:

Concluding Business:

10. Committee Member Comments
11. Future Agenda Items
12. Date of next meeting - August 22, 2018
13. Adjournment

Adjournment into a Closed Session to Review Contractual Matters

Juanita Skillman, Chair
Siobhan Foster, Staff Officer



OPEN MEETING

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

Wednesday, June 27, 2018 – 1:30 PM
Laguna Woods Village Community Center, Sycamore Room
24351 El Toro Road, Laguna Woods, CA 92637

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

MEMBERS ABSENT:

OTHERS PRESENT: Director Janey Dorrell, Sherri Davis, Barbara Howard, VMS Director Dick Rader, **woman sitting next to Dick?**

STAFF PRESENT: Siobhan Foster, Francis Rangel, 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 Achrekar made a motion to approve the agenda. Director Randazzo seconded. There were no objections.

4. Approval of Report from the May 30, 2018, meeting

Staff was asked to capitalize the “m” in the word “member” where appropriate. Director Randazzo moved to approve the report with this correction. Director Morrison seconded. There were no objections.

5. Chair's Remarks

Chair Skillman stated that the committee will be reviewing the final draft of the Trust Amendment to note the changes which were made by the Mutual attorneys. The committee reviewed the Trust Amendment and Chair Skillman stated that it will be presented for approval in the July United Open Board meeting.

Chair Skillman presented some ideas which resident Sherri Davis provided regarding financial help for people who live in the Village; providing help in a less formal way than going through the Foundation of Laguna Woods Village. Chair Skillman explained that currently the Foundation of Laguna Woods Village provides much help to residents in need. She thanked Sherri for her ideas and suggested she meet with Foundation President Marcy Sheinwold to learn more about the services the Foundation provides to residents.

The committee discussed increasing awareness of the Foundation and what it offers to residents.

6. Member Comments (Items not on the agenda)

Several Member comments were made.

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

A Member discussed the problem regarding Members who have hard wood floors and live above other Members. She is dealing with this problem. Chair Skillman explained that she should report this problem to Compliance and if the floors were not permitted or were installed after 2010, a Member can be asked to remove the flooring. The resident suggested requiring people who live on upper levels to remove hard wood flooring when they sell their unit.

The committee reviewed and discussed reports on harassment, nuisance, and clutter from both Ms. Rangel in Compliance and from United Attorney, Jeff Beaumont.

The committee suggested Security is given more education as to what the compliance issues are so they may report those issues when they see them.

The committee discussed the need for monthly inspections of the Village by each department to see if there are any rule violations. Advisor Stone stated that the VMS Management Agreement does state that a physical duty is a monthly, or agreed upon schedule, to inspect the Village and make recommendations to the United Board.

There was a recommendation to mobilize the dog walkers and teach them what to look for and how to report rule violations.

Discussion regarding whether during the three-year inspections, perhaps health and safety issues could be reported as part of the inspection.

The committee asked Ms. Rangel to provide the following for the next meeting:

- Define clutter and to delete term “unaesthetically pleasing” in the definition provided by Mr. Beaumont and update the Clutter Policy
- Update the Village Harassment Policy by including the HUD Final Rule, Civil Code 527 and federal regulations
- Update the Nuisance Policy

The committee also asked Ms. Rangel to provide the following:

- Disseminate to Members on what is considered to be harassment, clutter, and nuisance by providing an article for the Breeze on each topic
- Disseminate to Members information from Ms. Rangel’s report on what help is available when there are neighbor to neighbor disputes
- Provide Members examples of what is deemed a nuisance using the information provided in Mr. Beaumont’s report and Ms. Rangel’s updated policy.

Chair Skillman commented on the wonderful work of the Compliance Department.

Concluding Business:

9. Committee Member Comments

Several comments were made.

10. Future Agenda Items

11. Date of next meeting - July 25, 2018 at 1:30 p.m.

12. Adjournment at 4:05 p.m.

Juanita Skillman, Chair



STAFF REPORT

DATE: July 25, 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.

In June, there were 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

On June 27, 2018, the Governing Documents Review Committee reviewed the Village rules pertaining to harassment, nuisance, and clutter, as well as any applicable state or federal rules. The Committee requested changes and directed Staff to bring the items for review for the next meeting. Attached please find the following documents:

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

Attachment 2: Harassment Defined

Attachment 3: Nuisance Defined; Occupancy Agreement Excerpts



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))

In addition, anything positioned within the Association property in a manner which is obstructing the free use and quiet enjoyment of the area, creating a health and safety risk for the community and its residents, and/or consequently causing property damage within the community.

Please note that this list is **not** exhaustive and **any** item that is placed within the Association property, including but not limited to, the balcony, breezeway, carport, patio, interior and common area is subject to the abovementioned rules and regulations of the Association.

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.

Clutter Defined

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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.

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.

Clutter Defined

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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.



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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 (i.e. assault, or battery or stalking); OR, a credible threat of violence; ~~AND~~ ~~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))

Department of Housing and Urban Development (HUD): New guidelines were enacted in an effort to further define housing discrimination in the form of harassment. In that regard HUD's new guideline, adopted in August 2016 and referred to as the Final Rule, now deem harassment in housing a form of illegal discrimination. Based on HUD's guidelines the Board must now evaluate alleged harassment from a perspective of a housing provider, which HUD deems homeowners association Boards as just that, and to investigate whether a resident is being subjected to harassment to the extent that it, under the Final Rule, amounts to illegal housing discrimination. (24 CFR 100.600)

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 the persons subjected to these type of harassment and threats of violence can seek a restraining order.

The question that the Board will be required to address is whether the harassment is of the type that will require United to intervene versus deem the matter a neighbor to neighbor dispute that must be resolved between the two residents.

Any reports of harassment will be evaluated by Staff and Legal Counsel to ensure that the Board complies with the Final Rule.

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



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The question that the Board will be required to address is whether the harassment is of the type that will require United to intervene versus deem the matter a neighbor to neighbor dispute that must be resolved between the two residents.

Any reports of harassment will be evaluated by Staff and Legal Counsel to ensure that the Board complies with the Final Rule.

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



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.

Nuisance Defined

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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.