

**MINUTES OF THE REGULAR MEETING OF THE  
BOARD OF DIRECTORS OF  
LAGUNA WOODS MUTUAL NO. FIFTY  
A CALIFORNIA NON-PROFIT MUTUAL BENEFIT CORPORATION**

**November 21, 2013**

The Board of Directors of Laguna Woods Mutual Fifty, a California non-profit mutual benefit corporation, met at 1:00 P.M. on Thursday, November 21, 2013 at 24055 Paseo del Lago West, Laguna Woods, California.

**Directors Present:** Ryna Rothberg, Chair; Chace Kendro, Marilyn Ruekberg, Erwin Levy, Inesa Nord-Leth

**Directors Absent:** None

**Others Present:** Jerry Storage, Kim Taylor, Katy Howe, Betty Parker, Deborah Thornton, and Michelle Calles from Guckenheimer

**CALL TO ORDER**

President Ryna Rothberg served as Chair of the meeting and stated that it was a regular meeting held pursuant to notice duly given and that a quorum was present. The meeting was called to order at 1:00 P.M.

**PLEDGE OF ALLEGIANCE TO THE FLAG**

Director Nord-Leth led the membership in the Pledge of Allegiance to the Flag.

**ACKNOWLEDGEMENT OF PRESS**

A representative of the Laguna Woods Globe was not present.

**APPROVAL OF AGENDA**

The agenda was approved with the following: removal of agenda item 15(e) Entertain Motion to Revise the Dining Room Dress Code Policy.

**APPROVAL OF MINUTES**

The Board reviewed and approved without objection the minutes of the Regular Meeting of October 17, 2013.

**PRESIDENT'S COMMENTS**

President Rothberg commented on various items relating to the Towers.

**GOLDEN RAIN FOUNDATION**

A report was given by Mr. Jerry Storage on the November 5, 2013 Golden Rain Foundation Board Meeting.

### **RESALE AND LEASING REPORTS**

A report was given by Mr. Jerry Storage on the resale and leasing activity at the Towers.

Ms. Cathy Flores presented specific resale activity as of November 12, 2013.

### **ADMINISTRATOR'S REPORT**

Ms. Katy Howe provided an update on the AT&T construction completion date which is targeted for November 26<sup>th</sup> and predicated on the completion of the AT&T upgrade the patio construction will begin.

Ms. Howe introduced Michelle Calles from Guckenheimer. Ms. Calles provided an update on food requests, staff changes, and answered questions from the Board and Members.

### **REVIEW PRELIMINARY FINANCIAL STATEMENTS**

Ms. Betty Parker reviewed the Preliminary Financial Statements with the Board and answered questions from the Members.

### **MEMBERS' COMMENTS**

- Tommy Hou (204) commented on the Guckenheimer update.
- Frederic Emmerich (558) commented on the food in the dining room, light fixtures and dumpsters.
- Elliott Brody (760) spoke on behalf of the Foundation of Laguna Woods.

### **RESPONSE TO MEMBERS COMMENTS**

The Directors briefly responded to Members' comments.

### **CONSENT CALENDAR**

Without objection the Consent Calendar was approved, and the Board took the following actions:

#### **RESOLUTION M50-13-57**

**WHEREAS**, Member ID 932-960-52 is currently delinquent to Laguna Woods Mutual Number Fifty with regard to the monthly assessment; and

**WHEREAS**, a Notice of Delinquent Assessment (Lien) will be filed upon adoption of this resolution following at least a majority vote of the Board (with no delegation of such action by the Board), acting in an open meeting, and for which the Board's vote is recorded in the minutes;

**NOW THEREFORE BE IT RESOLVED**, November 21, 2013, that the Board of Directors hereby approves the recording of a Lien for Member ID 932-960-52; and

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

**RESOLUTION M50-13-58**

**WHEREAS**, Member ID 932-960-93 is currently delinquent to Laguna Woods Mutual Number Fifty with regard to the monthly assessment; and

**WHEREAS**, a Notice of Delinquent Assessment (Lien) will be filed upon adoption of this resolution following at least a majority vote of the Board (with no delegation of such action by the Board), acting in an open meeting, and for which the Board's vote is recorded in the minutes;

**NOW THEREFORE BE IT RESOLVED**, November 21, 2013, that the Board of Directors hereby approves the recording of a Lien for Member ID 932-960-93; and

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

**RESOLUTION M50-13-59**

**WHEREAS**, Member ID 932-960-80 is currently delinquent to Laguna Woods Mutual Number Fifty with regard to the monthly assessment; and

**WHEREAS**, a Notice of Delinquent Assessment (Lien) will be filed upon adoption of this resolution following at least a majority vote of the Board (with no delegation of such action by the Board), acting in an open meeting, and for which the Board's vote is recorded in the minutes;

**NOW THEREFORE BE IT RESOLVED**, November 21, 2013, that the Board of Directors hereby approves the recording of a Lien for Member ID 932-960-80; and

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

**OLD BUSINESS**

**Approve Revised Collection and Lien Enforcement Policy and Procedures for Assessment Delinquencies**

The Secretary of the Corporation, Director Kendro, read a proposed resolution approving the revisions to the Collection and Lien Enforcement Policy and Procedures for Assessment Delinquencies, which has been postponed to conform to the 30-day

notification requirement. Director Kendro moved to approve the resolution. Director Ruekberg seconded the motion and discussion ensued.

By a vote of 4-0-0, the motion carried and the Board of Directors adopted the following resolution:

**RESOLUTION M50-13-60**

**WHEREAS**, Section 1365 of the California Civil Code requires that homeowner associations have a specific policy relating to collection of delinquent assessment accounts and enforcement of liens placed upon such delinquent properties; and

**NOW THEREFORE BE IT RESOLVED**, November 21, 2013, that the Board of Directors of this Corporation hereby approves the attached Collection and Lien Enforcement Policy and Procedures for Assessment Delinquencies, effective January 1, 2014; and

**RESOLVED FURTHER**, that Resolution M50-12-61, adopted September 20, 2012 is hereby superseded and cancelled; and

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

**Review and Reaffirm Resolution M50-09-51 (pursue proactive measures to maintain balance, productivity and civilized discourse to the governance of Laguna Woods Village)**

The Secretary of the Corporation, Director Chace Kendro, read Resolution M50-09-51 (pursue proactive measures to maintain balance, productivity and civilized discourse to the governance of Laguna Woods Village).

Director Kendro moved to reaffirm Resolution M50-09-51. Director Nord-Leth seconded the motion. By a vote of 4-0-0, the motion carried unanimously.

**NEW BUSINESS (Items for Discussion and Consideration)**

**Transition Pay Phone Area to Useable Area**

By way of unanimous consensus the Board directed staff to transition the pay phone area in the Galleria to a useable storage area for other purposes.

**Add Pneumatic Tires to the Custodian and Room Service Carts**

Director Kendro read a proposed resolution authorizing the addition of pneumatic tires to the custodian and room service carts. Director Kendro moved to approve the resolution. Director Ruekberg seconded the motion.

By a vote of 4-0-0, the motion carried and the Board of Directors adopted the following resolution:

**RESOLUTION M50-13-61**

**WHEREAS**, Mutual Fifty desires to reduce wheel noise from the custodian carts and the room service carts in the common areas on the tile floors in the Galleria and elsewhere on the first floor; and

**NOW THEREFORE BE IT RESOLVED**, November 21, 2013, that the Board of Directors of this Corporation on behalf of the Corporation hereby authorizes an unbudgeted operating expense in Building Maintenance in the amount of \$1,330 to replace 3 custodian carts and 3 room service carts with pneumatic caster wheels; and

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

**Add Wi-Fi Access throughout First Floor Common Area**

Director Kendro read a proposed resolution authorizing the addition of Wi-Fi access throughout the first floor common area. Director Kendro moved to approve the resolution. Director Ruekberg seconded the motion.

By a vote of 3-1-0 (Director Levy opposed), the motion carried and the Board of Directors adopted the following resolution:

**RESOLUTION M50-13-62**

**WHEREAS**, Mutual Fifty desires to provide wireless internet ("Wi-Fi") throughout the first floor common area of the Towers; and

**WHEREAS**, the availability of free Wi-Fi in the common areas of the Towers is an amenity that would be highly marketable;

**NOW THEREFORE BE IT RESOLVED**, November 21, 2013, that the Board of Directors of this Corporation on behalf of the Corporation hereby authorizes an expense from the Facilities Renovation Fund in the amount of \$3,810 to install routers and modems to provide free Wi-Fi service throughout the common area of the first and second floors of the Towers; and

**RESOLVED FURTHER**, that the internet service would be provided by West Coast Internet at an approximate fee of \$70 per month; and the

ongoing cost of such service would be an unbudgeted expenditure in Towers Administration for 2014, and subsequently added into the 2015 Mutual Fifty Business Plan; and

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

**Paint Unit Numbers on Carport Bumpers**

Director Kendro made a motion to paint unit numbers on the concrete carport bumpers. Director Nord-Leth seconded the motion.

By a vote of 4-0-0 the motion carried unanimously.

**Dining Room Dress Code Policy**

The Board removed this item from the agenda.

**Appoint Mutual Fifty Member to Golden Rain Foundation Energy Committee**

By a vote of 4-0-0 the Board unanimously appointed Director Rothberg to the Golden Rain Foundation Energy Committee.

**Discuss Volunteers for Finance Committee and Marketing Committee Appointments**

Ms. Katy Howe announced that the Board is seeking Members to apply to be on the Finance and Marketing Committees. Ms. Howe directed interested Members to submit their name at the Administrator's office.

**Discuss Saddleback Emeritus Program's Use of Towers Facilities**

Ms. Katy Howe reviewed the working agreement that the Towers has with the Saddleback Emeritus Programs.

Jan Foster (256) commented on the Emeritus programs.

By way of unanimous consensus the Board requested that staff assess the cost to the Towers for hosting the Emeritus programs at the Towers.

**Discuss No Reservations Policy for Large Table in California Dining Room**

The Board discussed the current no reservations policy with regard to the large table in California Dining Room.

**Discuss Upgrading Furniture in the Bridge Room**

The Board directed staff to assess the cost of upgrading the furniture in the Bridge Room and bring the findings to the Board.

Sylvia Belzer (759) commented on the chairs in the Bridge room.

### **MUTUAL FIFTY COMMITTEE REPORTS**

- **Resident Entertainment Committee:** Deborah Thornton reported on behalf of the Resident Entertainment Committee.
- **Business Planning Committee:** No report was given.
- **Finance Committee:** Beginning January 2014.
- **Marketing Committee:** Beginning January 2014.
- **Orientation Committee:** Director Ruekberg reported on behalf of the Orientation Committee.
- **Architectural Control Committee:** No report was given.

### **GRF COMMITTEE REPORTS**

- **Community Activities Committee:** No report was given.
- **Recreation Master Plan Ad Hoc Committee:** No report was given.
- **Finance Committee:** No report was given.
- **Landscape Committee:** No report was given.
- **Maintenance and Construction Committee:** No report was given.
- **Media and Communications Committee:** No report was given.
- **Mobility and Vehicles Committee:** No report was given.
- **Security Committee:** No report was given.

### **DIRECTORS' FORUM**

No comments were made.

### **RECESS**

The meeting recessed at 2:30 PM and reconvened into Executive Session at 2:35 PM.

### **Summary of Previous Closed Session Meetings per Civil Code Section §1363.05**

During its Regular Executive Session meeting of October 17, 2013, the Board of Directors reviewed and approved the minutes of the September 19, 2013 Regular Executive Session meeting; approved a delinquent assessment and discussed litigation, and other member disciplinary matters.

There being no further business to come before the Board, the meeting was adjourned at 3:20 PM.

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Chace Kendro, Secretary

**YEAR 2014 COLLECTION AND LIEN ENFORCEMENT POLICY AND  
PROCEDURES FOR ASSESSMENT DELINQUENCIES**

**PURPOSE STATEMENT**

The following is a statement of the specific procedures, policies and practices (“Policy Statement”) employed by Laguna Woods Mutual No. Fifty, a California nonprofit mutual benefit corporation (the “Mutual”) in enforcing lien rights or other legal remedies for default in payment of its assessments against its owners (“Members”). This Policy Statement is provided pursuant to the requirements of California Civil Code section 5310(a)(7).

The collection of delinquent assessments is of vital concern to all Members of the Mutual. Such efforts ensure that all Members pay their fair share of the costs of services and facilities provided and maintained by the Mutual. Members’ failure to pay assessments when due creates a cash-flow problem for the Mutual and causes those Members who make timely payment of their assessments to bear a disproportionate share of the community’s financial obligations. Special assessments must be received in a timely fashion in order to finance the needs for which said special assessments are imposed.

Accordingly, in order to reduce the amount and duration of delinquencies and to encourage the prompt and full payment of all assessments, the Mutual has been vested with certain enforcement rights and remedies which are in addition to those which exist generally for creditors. These rights and remedies are described in this Policy Statement.

**WE SINCERELY TRUST THAT ALL MEMBERS, IN THE SPIRIT OF COOPERATION AND RECOGNIZING THEIR LEGAL OBLIGATIONS, WILL MAKE TIMELY PAYMENTS AND AVOID THE IMPOSITION OF LATE CHARGES, POSSIBLE RESULTANT LEGAL ACTION, AND THE LEGAL OBLIGATION TO REIMBURSE THE MUTUAL FOR THE COSTS OF SUCH LEGAL ACTION. IT IS IN THE BEST INTEREST OF YOU AND EVERY OTHER MEMBER OF THE MUTUAL FOR EACH OF YOU TO MAKE YOUR MONTHLY PAYMENTS ON TIME.**

**REGARDLESS OF WHETHER THE MUTUAL RECORDS A LIEN ON YOUR PROPERTY DURING THE COLLECTION OF PAST-DUE ASSESSMENTS, ALL MEMBERS HAVE A PERSONAL AND ONGOING OBLIGATION TO PAY ASSESSMENTS AND CHARGES.**

**BASIC POLICIES AND PROCEDURES**

Delinquency reports are made monthly by the Mutual’s managing agent to the Board of the Mutual, identifying the delinquent Member, amount and the length of time the assessments have been in arrears. The policies and practices outlined in this Policy Statement shall remain in effect until such time as they may be changed, modified, or amended by a duly adopted resolution of the Mutual’s Board of Directors, or unless the applicable statutory scheme changes, in which event, this Policy Statement shall be construed so as to be consistent with any newly adopted statutes or court decisions. In accordance with the Mutual’s governing documents



(including, without limitation, the Articles of Incorporation, the Bylaws, the recorded CC&R's, rules and regulations and the California Civil Code), to ensure the prompt payment of monthly assessments, the Mutual employs the following collection and lien enforcement procedures:

#### **Assessment Due Date**

Regular assessments are due and payable to the Mutual, in advance, in equal monthly installments, on the first day of each month. It is each Member's responsibility to pay assessments in full each month regardless of whether a billing statement is received. Special assessments shall be due and payable on the due date specified by the Board of Directors in the notice imposing the special assessment or in the ballot presenting the special assessment to the Members for approval. In no event shall a special assessment be due and payable earlier than thirty (30) days after the special assessment is duly imposed.

#### **Reminder Notice**

If the current monthly assessment is not received by the Mutual on or before the close of business on the sixteenth (16th) day of the month (or if a special assessment is not received by the Mutual on or before the close of business on the fifteenth (15th) day after it is due), a Reminder Notice is sent to the Member.

PLEASE NOTE THAT TO BE CONSIDERED TIMELY, THE PAYMENT MUST BE RECEIVED BY THE MUTUAL WITHIN THIS FIFTEEN (15) DAY GRACE PERIOD. SIMPLY PLACING THE PAYMENT IN THE MAIL BEFORE THE GRACE PERIOD EXPIRES IS NOT SUFFICIENT.

#### **Administrative Collection Fee**

It is the policy of the Mutual not to routinely waive any duly imposed late charges, interest, or actually incurred "Costs of Collection." "Costs of Collection" as used in this Policy Statement include, without limitation, an administrative collection fee, currently in the amount of Five Hundred Dollars (\$500) (the "Administrative Collection Fee"), which is charged by the Mutual's managing agent to cover staff's costs to prepare the files for delivery to the Mutual's legal counsel in order to carry out legal actions authorized hereunder, as well as direct costs incurred in recording and/or mailing documents attendant to this legal process.

This Administrative Collection Fee may be increased by majority vote of the Mutual's Board, and may be collected by the Mutual's legal counsel on its behalf, and remitted to the Mutual's managing agent, or may be directly collected by the Mutual's managing agent.

#### **Late Charge**

IT IS THE MEMBER'S RESPONSIBILITY TO ALLOW AMPLE TIME TO DROP OFF OR MAIL ALL PAYMENTS SO THAT THEY ARE RECEIVED BEFORE THE DELINQUENCY DATE. All notices or invoices for assessments will be sent to Members by first-class mail addressed to the Member at his or her address as shown on the books and records of the Mutual. However, it is the Member's responsibility to be aware of the assessment payment due dates and to advise the Mutual of any changes in the Member's mailing address.

A late payment charge for a delinquent assessment will be assessed in the amount of Twenty Dollars (\$20.00) and will be imposed on any assessment payment that is more than fifteen (15) days in arrears. Further, both state law and the Mutual's governing documents provide for interest on the delinquent assessment and the late charge, and accordingly interest may be imposed thirty (30) days after the assessment is due, at an annual percentage rate not to exceed ten percent (10%). Such interest may be imposed and collected per the foregoing sentence regardless of whether the Member's delinquent account is referred to the Mutual's legal counsel for further handling.

### **Demand Letter (aka Pre-Lien Letter)**

If full payment of the delinquent amount is not received by the close of business on the day which is fifteen (15) days after the date of the Reminder Notice, a Demand Letter (also known as a Pre-Lien Letter under California Civil Code sections 5650-5660) will be sent to the Member by Certified Mail. The Mutual, through its managing agent, will also attempt to contact the Member by telephone to remind the Member of the delinquency and determine when payment will be made. However, no assurances can be given that the Mutual will in fact reach the Member by telephone, and the Member is responsible to pay off the delinquency whether or not a telephone reminder is actually received by the Member.

### **Alternate Means to Collect Delinquent Sums**

If full payment of the delinquent amount is not received by the close of business on the thirtieth (30th) day after the date of the Demand Letter, the Mutual may, at its option, and based on the circumstances of the delinquency, including but not limited to, the total delinquent amount owing and the Member's payment history, undertake to collect the delinquency by: (1) suspending a Member's right to use Mutual or GRF facilities; (2) termination of the delinquent Member's Membership in the Mutual as a result of any foreclosure, (3) legal actions, discussed further below, or (4) other appropriate means.

The Mutual may, after following appropriate procedures prescribed by law and the Mutual's governing documents, suspend a delinquent Member's right to vote on matters as to which the Member would otherwise be entitled to vote (based on applicable law and/or the Mutual's governing documents), or to use facilities or receive services provided by the Mutual, or both, until the delinquency is paid in full, including interest, a late charge, and/or the Administrative Collection Fee, as may have been imposed or incurred in a particular instance. Failure to pay the assessments or failure to pay interest, a late fee, and/or the Administrative Collection Fee may also result in suspension of Membership in and the ability to use the facilities or services provided by the Golden Rain Foundation of Laguna Woods or by this Mutual.

The Mutual may also take various legal actions to enforce the collection of delinquencies. **THESE ACTIONS MAY BE TAKEN SEPARATELY OR CONCURRENTLY.**

### **Small Claims Court**

A civil action in small claims court may be filed (and/or a lien recorded, as to which the Mutual is prohibited from foreclosing while the amount of the delinquent assessments, exclusive of any

late charges, fees, attorney's fees, interest, and Costs of Collection is less than One Thousand Eight Hundred Dollars (\$1,800), or the delinquent assessments are not yet more than twelve (12) months delinquent), with a management company representative or bookkeeper appearing and participating on behalf of the Mutual.

PLEASE NOTE THAT A SMALL CLAIMS COURT ACTION MAY BE PURSUED BASED ON A BOARD RESOLUTION EITHER BEFORE OR AFTER RECORDING A NOTICE OF DELINQUENT ASSESSMENT, AND/OR AFTER A WRITE-OFF.

The amount that may be recovered in small claims court may not exceed the jurisdictional limits of the small claims court, and shall be the sum of the following: (a) the amount owed as of the date of filing of the complaint in the small claims court proceeding; and (b) in the discretion of the court, an additional amount equal to the amount owed for the period from the date the complaint is filed until satisfaction of the judgment, which total amount may include accruing unpaid assessments and any reasonable late charges, fees and Costs of Collection (which costs shall, as stated above, include, without limitation, the Administrative Collection Fee), attorney's fees and interest, all up to the jurisdictional limits of the small claims court.

Successive small claims court actions may be pursued, consistently with applicable laws, until the entire amount of the delinquency is recovered.

### **Foreclosure/ADR**

Additionally, or alternatively, if the amount of delinquent assessments (again, not including any late charges, fees, attorney's fees, interest, or Costs of Collection), exceeds One Thousand Eight Hundred Dollars (\$1,800), or any unpaid assessments are more than twelve (12) months delinquent, then, subject to specified conditions, the Mutual may initiate foreclosure proceedings to collect the amounts owed.

These conditions include that, prior to initiating a foreclosure, the Mutual shall offer the Member, and if so requested by the Member, the Mutual must participate in dispute resolution pursuant to the Mutual's "meet and confer" program, or alternative dispute resolution ("ADR"). THE DECISION TO PURSUE DISPUTE RESOLUTION OR A PARTICULAR TYPE OF ADR SHALL BE THE CHOICE OF THE MEMBER, EXCEPT THAT BINDING ARBITRATION SHALL NOT BE AVAILABLE IF THE MUTUAL INTENDS TO INITIATE A JUDICIAL FORECLOSURE.

### **Board Decision to Initiate Foreclosure**

Another condition is that the decision to initiate foreclosure of a lien for delinquent assessments that has been validly recorded shall be made only by the Board, and may not be delegated to an agent of the Mutual. The Board shall approve the decision by a majority vote of the Board in an executive session. The vote must be recorded in the minutes of the next meeting of the Board open to all Members; however, the confidentiality of the delinquent Member shall be maintained by identifying the matter in the minutes only by the Parcel Number, and not by the name of the delinquent Member or Members. A Board vote to approve foreclosure of a lien shall take place at least thirty (30) days prior to any public sale or judicial foreclosure.

The Board must provide notice by personal service to an owner of a separate interest or their legal representative, if the Board votes to foreclose. For a non-occupying owner, the Board must provide written notice by first-class mail, postage prepaid, at the most current address shown on the books of the Mutual. In the absence of written notification by a non-occupying owner to the Mutual, the address of the owner's separate interest may be treated as the owner's mailing address.

### **Non-Judicial Foreclosure/Right of Redemption**

A non-judicial foreclosure by the Mutual to collect upon a debt for delinquent assessments is subject to a statutory right of redemption. The redemption period within which the separate interest may be redeemed from a foreclosure sale ends ninety (90) days after the sale, per California Civil Code section 5715.

If a foreclosure action is prosecuted to judgment and the judgment is in favor of the Mutual, assets of the Member may be seized or a lien may be placed on such assets to satisfy the judgment. Pursuant to the provisions of the Davis-Stirling Common Interest Development Act, applicable regulations, and the Covenants, Conditions and Restrictions (CC&R's), the delinquent amount, as well as late payment penalties for the delinquent assessments and/or interest charges and/or charges for Costs of Collection that are incurred by the Mutual or its managing agent acting on behalf of the Mutual in its efforts to collect delinquent assessments (including, but not limited to, attorney's fees, title company and foreclosure service company charges, charges imposed to defray the cost of preparing and mailing demand letters (such as the Administrative Collection Fee), recording costs and costs associated with small claims court actions) may be enforced as a lien against the Member's Manor.

Moreover, pursuant to the Davis-Stirling Common Interest Development Act, monetary penalties that have been imposed by the Mutual as a means of reimbursing the Mutual for costs incurred by the Mutual in the repair of damage to common areas and/or community facilities for which a Member or a Member's guests or tenants were responsible may also be enforced as a lien against the Member's Manor.

### **Prerequisites to Recording a Lien: Offer of ADR and Thirty (30) Day Pre-Lien Notice to the Delinquent Member**

Before a Notice of Delinquent Assessment can be recorded in the chain of title to the manor of a delinquent Member, the Mutual must offer the Member, and if so requested by the Member, the Mutual must participate in dispute resolution pursuant to the Mutual's "meet and confer" program (per the requirements set forth in Article 2 commencing with section 5900 of Chapter 10) or ADR as set forth in Article 3 (commencing with Section 5925 of Chapter 10), both in the California Civil Code.

Any choice by a Member to pursue any kind of ADR must be made by the Member's delivery of written notice of such choice to the Mutual's managing agent within thirty (30) days of any event which triggers a Member's right to pursue ADR, whether it is before a Notice of Delinquent Assessment can be recorded (i.e., upon receipt of the certified Pre-Lien Notice), or prior to initiating a foreclosure action, or in any other situation for which the Davis-Stirling Common

Interest Development Act or the Mutual's governing documents authorize or allow a Member to choose ADR.

THE DECISION TO PURSUE DISPUTE RESOLUTION OR A PARTICULAR TYPE OF ADR SHALL BE THE CHOICE OF THE OWNER. However, binding arbitration is not available if the Mutual intends to initiate a judicial foreclosure.

### **Pre-Lien Notice**

If the Member elects not to proceed with dispute resolution or any type of ADR, then the Mutual must send the Member a certified notice providing information regarding the sums claimed as being delinquent ("Pre-Lien Notice"). No lien can be recorded until thirty (30) days after this Pre-Lien Notice has been given.

This certified Pre-Lien Notice from the Mutual must include the following information (per California Civil Code section 5660):

- (a) A general description of the collection and lien enforcement procedures of the Mutual and the method of calculation of the amount that is claimed to be owed, a statement that the owner of the separate interest has the right to inspect the association records pursuant to section 5205, and the following statement in 14-point capital letters (or boldface type): "IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION";
- (b) An itemized statement of the charges owed by the Member, including items on the statement that indicate the amount of any delinquent assessments, the fees and Costs of Collection, reasonable attorney's fees, and late charges, and interest, if any;
- (c) A statement that the Member shall not be liable to pay the charges, interests and Costs of Collection if it is determined that the assessment was paid on time to the Mutual;
- (d) A statement that the notified Member has a right to meet with the Board to discuss a payment plan (further discussed below) as provided in Section 5665;
- (e) A statement that the Member has the right to dispute the assessment debt by submitting a written request for dispute resolution to the Board pursuant to the Mutual's "meet and confer" program required in Article 2 (commencing with Section 5990) of Chapter 10; and
- (f) A statement that the Member has the right to request alternative dispute resolution (ADR) with a neutral third party pursuant to Article 3 (commencing with Section 5925 of Chapter 10 before the Mutual may initiate foreclosure against the owner's

separate interest, except that binding arbitration shall not be available if the Mutual intends to initiate a judicial foreclosure.

**Member's Right to Request a Meeting with the Board, or Dispute Resolution or ADR.**

Upon receipt of the certified Pre-Lien Notice described above, the noticed Member has several possible courses of action that can be taken at this point in the collection process, such as:

- (a) The Member has the right to dispute the assessment debt by submitting a written request for dispute resolution to the Mutual pursuant to the Mutual's "meet and confer" program, which is required by Civil Code sections 5900-5920;
- (b) The noticed Member may exercise his or her right to participate in alternative dispute resolution with a neutral third party under Civil Code sections 5925-5965 before the Mutual may initiate foreclosure against the owner's separate interest, except that binding arbitration shall not be available if the Mutual intends to initiate a judicial foreclosure.
- (c) The noticed Member has a right to submit a written request to meet with the Board of Directors to discuss a payment plan for the delinquent assessment, as long as the request for a meeting is made within fifteen (15) days following the postmark on the Mutual's Pre-Lien Notice to the Member. That meeting must take place within forty-five (45) days (calculated from the postmark on the Member's request) and must be conducted in executive session. When a Member has made a timely request for a meeting to discuss a payment plan, the Mutual must provide the requesting Member with the Mutual's standards for payment plans, if any standards have been adopted. There is no statutory authorization for the Board to delegate this meeting obligation to a property manager, but the Board may designate a committee of one or more directors to meet with the Member if there is no regularly scheduled Board meeting that will occur within forty-five (45) days of the Member's request.

**Payment Plan Requests**

Any Member who is unable to timely pay regular or special assessments is entitled to make a written request for a payment plan to the Mutual's Board. A Member may also request to meet with the Board in executive session to discuss a payment plan if the payment plan request is mailed within fifteen (15) days of the postmark date of the Demand Letter (i.e., the Pre-Lien Letter). The Mutual's Board will consider payment plan requests on a case-by-case basis, and is under no obligation to grant payment plan requests. Payment plans may incorporate any assessments that accrue during the payment plan period. Payment plans may not impede the Mutual's ability to record a lien on the Member's separate interest to secure payment of delinquent assessments. Additional late fees shall not accrue during the payment plan period if the Member is in compliance with the terms of the payment plan. In the event of a default on any payment plan, the Mutual may resume its efforts to collect the delinquent assessments from the time prior to entering into the payment plan.

Also, Civil Code section 5965 requires the Mutual to include the following statement in this Policy Statement:

“Failure of a Member of the association to comply with the alternative dispute resolution requirements of Section 5930 of the Civil Code may result in the loss of your right to sue the association or another Member of the association regarding enforcement of the governing documents or the applicable law.”

If any “meet and confer” session or ADR is engaged in by and between the Member and the Mutual (or any neutral third parties, as the case may be), and these efforts do not result in a payment plan, then, assuming the new statutory minimum as to the delinquent amount or duration of the delinquency had been met, a proceeding may be commenced to foreclose the lien against the Member’s Manor and sell the Member’s Manor at a private sale or by a judicial sale. If this occurs, the Member may lose his or her Manor.

#### **Application of Payments**

Additionally, in accordance with state law, payments received on delinquent assessments shall be applied to the Member’s account in the following order of priority: first, to the principal owed; then to accrued interest and late charges; then to attorney’s fees; then to title company and foreclosure service company charges and other Costs of Collection. Payments on account of principal shall be applied in reverse order so that the oldest arrearages are retired first. Interest shall continue to accrue on unpaid balances of principal, and other costs and charges imposed in accordance with Civil Code section 5655.

The Mutual is prohibited from recording a lien or initiating a foreclosure action without participating in dispute resolution or ADR procedures if so requested by the Member. If it is determined through dispute resolution or ADR that the Mutual has recorded a lien for delinquent assessments in error, the Mutual is required to promptly reverse all late charges, fees, interest, attorney’s fees, Costs of Collection, costs imposed for the Pre-Lien Notice prescribed in Section 5660, and costs of recordation and release of the lien authorized under subdivision (b) of Section 5720, and pay all costs related to any dispute resolution or ADR that has been pursued.

#### **Secondary Address**

Members have a right to identify in writing to the Mutual a secondary address for purposes of collection notices delivered pursuant to this Policy Statement, and upon receipt of a written request from a Member identifying a secondary address, the Mutual must send additional notices to this secondary address.

#### **No Right of Offset**

There is no right of offset. This means that a Member may not withhold assessments owed to the Mutual on the alleged grounds that the Member would be entitled to recover money or damages from the Mutual based on some other obligation or some claim of another obligation.

#### **Returned Checks**

The Mutual may charge the Member a twenty-five dollar (\$25.00) fee for the first check tendered to the Mutual that is returned unpaid by the Member's bank, and thereafter, the Mutual may charge a thirty-five dollar (\$35.00) fee for any subsequent check that is returned based on insufficient funds. If a Member's check cannot be negotiated for any reason, then the Mutual may also seek to recover damages of the greater of (a) one hundred dollars (\$100.00); or (b) three (3) times the amount of the check up to fifteen hundred dollars (\$1,500.00) in accordance with California Civil Code section 1719.

### **Charges and Fees Subject to Change**

All charges and fees set forth in this Policy Statement are subject to change upon thirty (30) days prior written notice.

### **Overnight Payments**

The mailing address for overnight payment of assessments is: Laguna Woods Mutual No. Fifty, Attn: Assessment Payments, 24351 El Toro Road, Laguna Woods, CA 92637.

### **Rights Reserved by Mutual**

Although the matters set forth above summarize the policies and practices ordinarily employed to collect delinquent monthly assessments, the Mutual reserves the right to employ other or additional policies and practices as may be necessary or appropriate when the uniqueness of the circumstances or habitualness of the delinquency so requires.

#### Attachments

The Notice of Assessments and Foreclosure required by Civil Code section 5730 is contained in Attachment "A" to this Policy.

The disclosures required by the State Rosenthal Fair Debt Collection Practices Act and Federal Fair Debt Collection Practices Act are contained in Attachment "B" to this Policy.

## **BOARD OF DIRECTORS**

## **LAGUNA WOODS MUTUAL NO. FIFTY**



**ATTACHMENT "A"  
NOTICE OF  
ASSESSMENTS AND FORECLOSURE**

**The following notice is provided pursuant to Civil Code Section 5730**

**NOTICE ASSESSMENTS AND FORECLOSURE**

This notice outlines some of the rights and responsibilities of owners of property in common interest developments and the associations that manage them. Please refer to the sections of the Civil Code indicated for further information. A portion of the information in this notice applies only to liens recorded on or after January 1, 2003. You may wish to consult a lawyer if you dispute an assessment.

**ASSESSMENTS AND FORECLOSURE**

Assessments become delinquent 15 days after they are due, unless the governing documents provide for a longer time. The failure to pay association assessments may result in the loss of an owner's property through foreclosure. Foreclosure may occur either as a result of a court action, known as judicial foreclosure, or without court action, often referred to as nonjudicial foreclosure. For liens recorded on and after January 1, 2006, an association may not use judicial or nonjudicial foreclosure to enforce that lien if the amount of the delinquent assessments or dues, exclusive of any accelerated assessments, late charges, fees, attorney's fees, interest, and costs of collection, is less than one thousand eight hundred dollars (\$1,800). For delinquent assessments or dues in excess of one thousand eight hundred dollars (\$1,800) or more than 12 months delinquent, an association may use judicial or nonjudicial foreclosure subject to the conditions set forth in Article 3 (commencing with Section 5700) of Chapter 8 of Part 5 of Division 4 of the Civil Code. When using judicial or nonjudicial foreclosure, the association records a lien on the owner's property. The owner's property may be sold to satisfy the lien if the amounts secured by the lien are not paid. (Sections 5700 through 5720 of the Civil Code, inclusive)

In a judicial or nonjudicial foreclosure, the association may recover assessments, reasonable costs of collection, reasonable attorney's fees, late charges, and interest. The association may not use nonjudicial foreclosure to collect fines or penalties, except for costs to repair common area

damaged by a member or a member's guests, if the governing documents provide for this.  
(Section 5725 of the Civil Code)

The association must comply with the requirements of Article 2 (commencing with Section 5650) of Chapter 8 of Part 5 of Division 4 of the Civil Code when collecting delinquent assessments. If the association fails to follow these requirements, it may not record a lien on the owner's property until it has satisfied those requirements. Any additional costs that result from satisfying the requirements are the responsibility of the association. (Section 5675 of the Civil Code)

At least 30 days prior to recording a lien on an owner's separate interest, the association must provide the owner of record with certain documents by certified mail, including a description of its collection and lien enforcement procedures and the method of calculating the amount. It must also provide an itemized statement of the charges owed by the owner. An owner has a right to review the association's records to verify the debt. (Section 5660 of the Civil Code)

If a lien is recorded against an owner's property in error, the person who recorded the lien is required to record a lien release within 21 days, and to provide an owner certain documents in this regard. (Section 5685 of the Civil Code)

The collection practices of the association may be governed by state and federal laws regarding fair debt collection. Penalties can be imposed for debt collection practices that violate these laws.

## **PAYMENTS**

When an owner makes a payment, the owner may request a receipt, and the association is required to provide it. On the receipt, the association must indicate the date of payment and the person who received it. The association must inform owners of a mailing address for overnight payments. (Section 5655 of the Civil Code)

An owner may, but is not obligated to, pay under protest any disputed charge or sum levied by the association, including, but not limited to, an assessment, fine, penalty, late fee, collection cost, or monetary penalty imposed as a disciplinary measure, and by so doing, specifically reserve the right to contest the disputed charge or sum in court or otherwise.

An owner may dispute an assessment debt by submitting a written request for dispute resolution to the association as set forth in Article 2 (commencing with Section 5900) of Chapter 10 of Part

5 of Division 4 of the Civil Code. In addition, an association may not initiate a foreclosure without participating in alternative dispute resolution with a neutral third party as set forth in Article 3 (commencing with Section 5925) of Chapter 10 of Part 5 of Division 4 of the Civil Code, if so requested by the owner. Binding arbitration shall not be available if the association intends to initiate a judicial foreclosure.

An owner is not liable for charges, interest, and costs of collection, if it is established that the assessment was paid properly on time. (Section 5685 of the Civil Code)

### **MEETINGS AND PAYMENT PLANS**

An owner of a separate interest that is not a time-share interest may request the association to consider a payment plan to satisfy a delinquent assessment. The association must inform owners of the standards for payment plans, if any exists. The board must meet with an owner who makes a proper written request for a meeting to discuss a payment plan when the owner has received notice of a delinquent assessment. These payment plans must conform with the payment plan standards of the association, if they exist. (Section 5665 of the Civil Code)

**ATTACHMENT "B"**

**The following Disclosure is made pursuant to Civil Code Section 1812.700-1812.703**

“The State Rosenthal Fair Debt Collection Practices Act and the Federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or [www.ftc.gov](http://www.ftc.gov).”