



## **OPEN MEETING**

### **REGULAR MEETING OF THE THIRD LAGUNA HILLS MUTUAL RESIDENT POLICY AND COMPLIANCE COMMITTEE**

**Wednesday, September 28, 2022 at 9:30 a.m.  
24351 El Toro Road, Laguna Woods, CA 92637  
Board Room and Virtual with Zoom**

Laguna Woods Village owner/residents are welcome to participate in committee meetings in-person and virtually. To submit comments or questions virtually for committee meetings, please use one of the following options:

1. Join the Committee meeting via Zoom by clicking this link: <https://us06web.zoom.us/j/83311685764> or by calling 1-669-900-6833, Webinar ID: 833 1168 5764.
2. Via email to [meeting@vmsinc.org](mailto:meeting@vmsinc.org) any time before the meeting is scheduled to begin or during the meeting. Please use the name of the committee in the subject line of the email. Name and unit number must be included.

### **NOTICE AND AGENDA**

*This Meeting May Be Recorded*

1. Call Meeting to Order
2. Approval of the Agenda
3. Approval of the Meeting Report from August 23, 2022
4. Remarks of the Chair
5. Member Comments- *(Items Not on the Agenda)*
6. Response to Member Comments
7. Items for Discussion and Consideration:
  - a. Rules of Board Meetings
  - b. Member Disciplinary Process
  - c. Compliance Notices:
    - a. Courtesy Notices
    - b. Final Notice
    - c. Disciplinary Notices
    - d. Notices of Disciplinary Hearing
    - e. Disciplinary Hearing Determination Notices
  - d. Nuisance Policy
8. Items for Future Agendas: *All matters listed under Future Agenda Items are items for a future committee meeting. No action will be taken by the committee on these agenda items at this meeting.*
  - Pet Policy
  - Social Media Use Policy
  - Barbeque Rules and Regulations

9. Committee Member Comments
10. Date of Next Meeting – Tuesday, October 25, 2022 at 9:30 a.m.
11. Adjournment

\*A quorum of the Third Board or more may also be present at the meeting.



## **OPEN MEETING**

### **REGULAR MEETING OF THE THIRD LAGUNA HILLS MUTUAL RESIDENT POLICY AND COMPLIANCE COMMITTEE**

Wednesday, August 23, 2022 – 9:30 A.M.  
Board Room/Virtual Meeting  
Laguna Woods Village Community Center  
24351 El Toro Road, Laguna Woods, CA 92637

**MEMBERS PRESENT:** Mark Laws, Chair, Cris Prince, Nathaniel Lewis and Jules Zalon

**MEMBERS ABSENT:** Cush Bhada

**ADVISORS PRESENT:** Stuart Hack

**ADVISORS ABSENT:** None

**STAFF PRESENT:** Blessilda Wright and Jacob Huanosto

#### **CALL TO ORDER**

Mark Laws, Chair, called the meeting to order at 9:31 a.m.

#### **ACKNOWLEDGEMENT OF MEDIA**

The Media was not present.

#### **APPROVAL OF AGENDA**

Director Prince made a motion to approve the agenda as presented. Director Lewis seconded the motion.

By consensus, the motion carried.

#### **APPROVAL OF MEETING REPORTS**

Director Lewis made a motion to approve the July 27, 2022 meeting report. Director Prince seconded the motion.

By consensus, the motion carried.

#### **CHAIRMAN'S REMARKS**

None

#### **MEMBER COMMENTS ON NON-AGENDA ITEMS**

None

## **REPORTS**

None

## **ITEMS FOR DISCUSSION AND CONSIDERATION**

### **Member Disciplinary Process**

Blessilda Wright, Compliance Supervisor, presented the Member Disciplinary Process in Committees report. The Committee commented and asked questions.

No action was taken by the Committee as the presentation was for educational purposes.

### **Rules for Board Meetings**

Ms. Blessilda Wright, presented the Rules for Board Meetings report. The Committee commented and asked questions.

Director Lewis made a motion to table the matter till next month with the committee changes. Director Prince seconded the motion.

By way of consensus, the motion carried.

### **Barbeque Rules & Regulations**

Chair Laws, presented the Barbeque Rules & Regulations Policy report. The Committee commented and asked questions.

Director Prince made a motion to table the matter till next month and staff to work with Chair Laws regarding proposed changes to the Barbeque Rules & Regulations. Director Lewis seconded the motion.

By consensus, the motion carried.

### **Trash Containers Rules for Units with Garages**

Chair Laws, presented the Trash Containers for Units with Garages Policy. The Committee commented and asked questions.

Director Prince made a motion to table the matter for further research. Director Lewis seconded the motion.

By consensus, the motion carried.

## **ITEMS FOR FUTURE AGENDAS**

- Pet Rules
- Nuisance Policy
- Social Media Use Policy

**CONCLUDING BUSINESS**

**Committee Member Comments**

None.

**Date of Next Meeting**

Wednesday, September 28, 2022 at 9:30 a.m.

**Adjournment**

With no further business before the Committee, the Chair adjourned the meeting at 11:27 a.m.

*Mark W. Laws*

Mark W. Laws (Aug 30, 2022 12:48 PDT)

Mark Laws, Chair  
Third Laguna Hills Mutual





## STAFF REPORT

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**DATE:** September 28, 2022  
**FOR:** Resident Policy and Compliance Committee  
**SUBJECT:** Rules for Board Meetings

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### **RECOMMENDATION**

Amend the Rules for Board Meetings.

### **BACKGROUND**

On January 15, 2013, the Board established Rules for Board Meetings to ensure the management of the community's affairs are carried out professionally and in adherence with the provision of the Davis-Stirling Act (Resolution 03-13-04). Since the adoption, the Rules for Board Meetings Policy has been revised twice (Resolution 03-14-04, January 21, 2014 and Resolution 03-20-80, November 17, 2020).

The Rules for Board Meetings Policy is to provide Directors and Mutual Members the rules and expectation for a successful, efficient and orderly Board meeting.

On July 27, 2022, the Committee reviewed the policy and directed staff to add clarifying language to specific sections, change notation format and review against the Board of Directors handbook for consistency. The Board of Directors handbook was created by Staff to outline the duties and responsibilities of a Board Member. The handbook was not adopted by the Board as it was intended to be used as an informational guide for incoming Board Members.

On August 23, 2022, the Committee reviewed the policy and directed staff to add clarifying language to specific sections, and seek clarification from management on specific sections.

### **DISCUSSION**

Consider the clarifying language added to the Closed Session Hearings section regarding allowing alleged parties to attend the hearing.

**Prepared By:** Blessilda Wright, Compliance Supervisor

**Reviewed By:** Francis Gomez, Operations Manager

### **ATTACHMENT(S)**

Attachment 1: Resolution 03-22-XX, Rules for Board Meetings

Attachment 2: Rules for Board Meetings



**Rules for Board Meetings  
RESOLUTION 03-22-XX**

**WHEREAS**, each Owner Member of Laguna Woods Village has an ongoing interest and right under California law to participate in the governance of their community; and

**WHEREAS**, the Board of Directors of the Third Laguna Hills Mutual has an equal interest and duty under law to ensure that the management of the community's affairs is carried out professionally and in adherence with the provisions of the Davis-Stirling Act; and

**WHEREAS**, the Board of Directors wishes to promote order and regulate meeting time in an even and consistent fashion;

**NOW THEREFORE BE IT RESOLVED**, XX XX, 2022, that the Board of Directors of this Corporation hereby approves the attached revised Rules for Board Meetings; and

**RESOLVED FURTHER**, that Resolution 03-20-80 adopted November 17, 2020 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.





**RULES FOR BOARD MEETINGS**  
**Resolution 03-22-XX; Adopted [date]**

**I. INTRODUCTION**

Successful, efficient and orderly Board meetings benefit everyone in the community. Manor owners (“Members”) have the right to observe the open board meetings and are encouraged to attend, but meetings which are disorderly or too long can be discouraging.

These Rules inform both Director and non-Director as to what is expected of all attending Board meetings, and how meetings are conducted. The goal is orderly and efficient meetings, protection of Owners’ right to observe productive deliberations, and enhancement of the governance and the membership experience in Third Laguna Hills Mutual (“Third”).

**II. BOARD MEETINGS**

**A. Regular Board Meetings**

Notice of the date, time and location of regular Board meetings will be provided by posting in the Clubhouse kiosks and the community center bulletin board and on the web site a minimum of four days before the meeting is to take place. Board meetings are open to all ~~Association-Mutual~~ Members to attend and observe. Non-Members may attend only at the discretion of the Board of Directors.

Normally, regular Board meetings are held in the morning on the third Tuesday of each month. However, four days posted advance notice is always given of all open Board meetings except in case of emergency. Regular Board meetings are normally held in the Board Room on the ground floor of the Community Center at 9:30 a.m. In accordance with Civil Code § 4920. Notice of Board Meetings.

**B. Special Meeting or Altering Location, Date or Time**

If a special Board meeting is called or if the location, date or time of a Board meeting is to be changed, all Members will be notified at least four days prior to the meeting by posting in the ~~Clubhouse kiosks~~ and the community center bulletin board and on the web site. In an emergency, the President or any two Directors may call for a Board meeting on shorter notice. In accordance with Civil Code § 4923. Emergency Board Meetings

**C. Attendance**

Third Laguna Hills Mutual  
**Rules for Board Meetings**  
 Resolution 03-22-XX  
 Page 2 of 12

Members may attend Board meetings, but Executive Session meetings are closed. **A “Member” is not a tenant, guest, family, or legal counsel of the Member.**

**D. Agendas**

1. **Preparation.** Agendas are prepared ~~by the President~~<sup>1t</sup>, in cooperation with management staff. At least one week prior to a Board meeting, the President will inquire if any Director requests inclusion of an agenda item. The Chair may also call a Board meeting for the purpose of setting the regular Board meeting agenda.
2. **Request for inclusion.** A Director may request an item be included in an agenda, by submitting the action requested and an explanation of the reason for the request. A Director requesting an agenda item is responsible to present that item to the Board with supporting information if the item is included in the agenda.
3. **Rejected agenda items.** The Chair with the assistance of Management Staff shall include a requested item in the agenda unless the item:
  1. Has no suggested action;
  2. Is redundant with an item already on the agenda or was addressed in a Board meeting in the previous three months;
  3. Must be discussed in Executive Session;
  4. Would make the agenda unduly lengthy (and so will be on the next agenda);
  5. Is sent first to a committee for recommendation; or
  6. Is, based on the advice of legal counsel, proposing action barred by law.
4. **Board request for agenda item.** Notwithstanding the foregoing, if an agenda item is requested in writing or by electronic mail by at least six Directors, the Chair shall include it in the Agenda for the open meeting or the Executive Session meeting, depending upon the item.
5. **Member Request for Agenda Item.**
  - a) A Member may request the President in advance that a topic be added to the agenda, but the President with the assistance of Staff will determine whether a requested topic will be included in the agenda.
  - b) A topic will also be added to the agenda if at least one week prior to the scheduled Board meeting, the Chief Executive Officer (CEO) or Staff receives a petition signed by at least twenty five different Members entitled to vote.
  - c) The requested agenda topic must still meet the standards of Rule II(D)~~(E)~~<sup>3</sup> above.

Third Laguna Hills Mutual  
**Rules for Board Meetings**  
 Resolution 03-22-XX  
 Page 3 of 12

1 Any action to be taken by the President may be taken by the First Vice President or the next officer in order as stated in the By-laws if the President is unable to attend or participate.

- d) A Member who has requested an agenda item which is placed on the agenda ("Requesting Member"), may speak to the item during Open Forum, or at the election of the Chair, may present the topic to the Board immediately before the Board begins its deliberation of the item (assuming there is a Motion from the Board after the Requesting Member speaks). The Requesting Member may speak on the matter for up to five minutes. Only one person may be considered the "Requesting Member" for the purpose of addressing the Board. The Board may by motion give the Requesting Member more time to speak.
6. **Publication, agenda packets.** Agendas will be published at least four days prior to any non-emergency Board meeting. The Board will receive a board packet (also referred to as "agenda package"), prepared by management staff, at least four days prior to the meeting, and may be transmitted electronically upon request. To make the meeting more efficient, Directors should read the board packet prior to arriving at the meeting.
7. **No discussion of matters not disclosed on agenda.** The Board may not discuss subjects which are not on the agenda unless the matter is determined by a majority of the Board to involve an emergency, or unless the matter arose prior to the meeting but after the agenda was published and at least eight Directors concur that the matter requires immediate action.

**Sample agenda.** The following is a typical Agenda:

1. ~~Call meeting to order/Establish Quorum~~ Call Meeting to Order
2. Pledge of Allegiance
3. Acknowledge Media
4. Approval of the Agenda
5. Approval of the Minutes
6. Report of the Chair
- 6-7. Update of VMS Board -
- 7-8. Open Forum (Three Minutes per Speaker)
- 8-9. Responses to Open Forum Speakers
- 9-10. CEO/~~COO~~ Report
- 10-11. Consent Calendar
- 11-12. Unfinished business
- 12-13. New Business
- 13-14. Third Mutual Committee Reports
- 14-15. GRF Committee Highlights
- 15-16. Future Agenda Items

Third Laguna Hills Mutual  
**Rules for Board Meetings**  
 Resolution 03-22-XX  
 Page 4 of 12

- ~~16-17.~~ Director's Comments  
~~17-18.~~ Recess  
~~18-19.~~ Adjournment

**E. Committees: Reports, Meetings**

1. If the Bylaws provide for standing committees or if the Board from time to time establishes committees, committee reports may be submitted to the Board prior to the meeting for review. If the committee recommends any Board action, the report should also indicate the reasons it is recommended. If possible, the committee Chair or a ~~member~~Member of the committee should present the report.
2. A committee consisting of six or more Directors, or including at least six Directors in its roster, shall conduct its meetings in the same manner as a Board meeting, with agendas, minutes, Open Forum, and in compliance with all other requirements applicable to Board meetings.
3. A committee consisting of both Directors and non-Directors but which has less than six Directors may, but is not required to, conduct its meetings in the same manner as a Board meeting, but shall prepare and submit a report to the Board prior to the agenda publication, including any recommended action.
4. Any committee reports will be included in the board packets if they are timely submitted. Committee reports which do not contain a request for action will be noted in the minutes as "received."
5. A committee request for action shall be placed by the Chair or staff on the agenda, so long as it complies with Rule D~~.(3)~~.
6. Directors, upon presentation of a committee report, may ask questions about the report, but may not deliberate about the report unless that subject was timely placed on the agenda for deliberation and possible action in that meeting.

**F. Open Forum**

The Open Meeting Act, Civil Code §§4900-4950, provides that Board meetings are open to Members. A "meeting" under the law is "a congregation of a majority of the ~~member~~Members of the board at the same time and place to hear, discuss, or deliberate upon any item of business that is within the authority of the board." The Board thus may not exclude Members from attending, absent discipline imposed as provided herein. The only exception is for Executive Session as discussed further below.

1. **Time for Open Forum.** Open Forum will normally occur at the beginning of

Third Laguna Hills Mutual  
**Rules for Board Meetings**  
 Resolution 03-22-XX  
 Page 5 of 12

the Board meeting. The agenda may also provide for a second Open Forum time at the end of the agenda. The Board may by motion re-open Open Forum on a specific agenda item, or reschedule Open Forum within the agenda.

**2. Member's Right to Speak.** Open Forum is a valuable and legally required portion of every open Board meeting. Open Forum is the opportunity for the Member to inform the Board of matters which may not be known.

- a) During Open Forum, a Member may speak to the Board on any topic not on the agenda. The purpose of Open Forum is to inform the Board of viewpoints or information of which the Board may not be aware regarding Third. Therefore, although a Member may use their time to speak upon any topic of interest to the Member, Members are advised that the Board may not be as attentive to comments on matters outside the Board's jurisdiction.
- b) At the time designated on the agenda for Open Forum, the Chair shall ask the Members present to raise their hand if they wish to speak in Open Forum or fill out a speaker card. In order to give all Members an opportunity to speak at meetings, and to control meeting length, each ~~member~~Member may speak for a maximum of three minutes. In the event more than ten Members indicate a desire to speak, the time limit per speaker shall be shortened to two minutes per speaker.
- c) Open Forum is the time for Members to speak and provide additional opinions and viewpoints to the Board, and is not a time for the Board to speak. Directors will listen and not respond or otherwise interrupt a speaker at Open Forum, so long as the speaker is within these Rules and time limits. A response, if any, by a Director or staff to an Open Forum remark or question shall be after the close of Open Forum. The Chair may appoint a Director or Staff-person as timekeeper.
- d) So long as the Open Forum comments comply with these Rules, neither staff, the Chair, nor other Director shall interrupt the speaker.
- e) The statements made by Members in Open Forum are not the position of ~~the Association~~Third, and Third takes no responsibility as to the content of Open Forum comments. At the beginning of Open Forum, the Chair shall remind all attending as to these Rules regarding Open Forum.

**3. Open Forum During Agenda Item Discussions.**

- a) During the Board deliberations of a matter, and when the Chair at the Chair's sole discretion determines there has been sufficient discussion to inform the attendees in the audience of the issue, the Chair will inquire if any Members in the audience wish to speak to the motion at hand.
- b) If the Chair sees any hands raised indicating a desire to speak or fill out a speaker card, Open

Third Laguna Hills Mutual  
**Rules for Board Meetings**  
 Resolution 03-22-XX  
 Page 6 of 12

Forum will be reopened on the issue, and the Members indicating a desire to speak to the topic may speak for up to three (3) minutes on the specific agenda item.

- c) Off-topic commentary will not be permitted, but so long as the speaker complies with the Rules, neither the Chair nor any Director will interject or otherwise interrupt during the speaker's remarks.
  - d) The Chair in its sole discretion may reduce the time per speaker to two (2) minutes on an issue, if the Chair deems it necessary to insure that all who wish to speak have the opportunity to do so.
  - e) A ~~member~~Member (or co-Owner of a Member) shall only speak once on a given agenda item.
  - f) Once the Chair determines that all have spoken who wished to speak, or that no one has indicated a desire to speak, the Chair shall announce Open Forum is again closed, and the Board shall resume and conclude its deliberations on the item.
4. **Re-opening of Open Forum.** If an issue on the Agenda is deemed by the Board to require further Membership input, the Board may by majority vote re- open Open Forum, to allow Members to speak to the pending subject. If Open Forum is reopened, Members may speak for up to two minutes each. Upon completion of such Membership input, in compliance with Open Forum Rules, the Board will then close Open Forum and resume deliberating the subject.
5. **Member Observation of Deliberations.** Except for Open Forum, Members may not speak to the Board, and shall quietly observe Board deliberations except for those in Executive Session. Members do not vote or make motions at Board meetings, as only Directors vote at Board meetings. Applause, boos, or other audible response to Board deliberations or decisions is out of order.
6. **Addressing the Board During Open Forum.** When speaking, the Member will identify Member's name and Manor, and will stand at the speaker's podium if physically able to stand, and will address the Board, not the audience.

**G. Meeting Conduct**

Directors, Members and anyone else permitted to attend the meeting will conduct themselves in a reasonable manner. The following conduct is strictly prohibited:

- 1. Profane or obscene language;
- 2. Slurs involving race, religion, ethnicity, gender, sexual orientation, gender identity, or age;
- 3. Shouting or yelling;

Third Laguna Hills Mutual  
**Rules for Board Meetings**  
 Resolution 03-22-XX  
 Page 7 of 12

4. Physical threats, including non-verbal communications such as gestures or using body language in such a way as to intimidate;
5. Pounding on table or throwing items; and
6. All other unreasonable and disruptive behavior which does not allow Members to peacefully observe the proceedings, or which otherwise impedes the ability of the Board to peacefully conduct its deliberations and the Members to peacefully observe those deliberations.

Directors will also refrain from making comments which:

7. Divulge information from closed sessions;
8. Divulge attorney client privileged confidential advice; or
9. Maliciously malign any person, business or entity.

To create a positive atmosphere, all persons present will be seated (unless some handicap exists by which they cannot be seated) and will remain seated at all times when others are speaking, except when standing in line to speak for their turn in Open Forum. Neither Directors nor anyone addressing the Board will be allowed to speak while standing or hovering over someone else. All in attendance must behave in a professional and orderly manner. Directors shall refrain from interrupting each other or from making audible "sidebar" remarks while a fellow Director is speaking. Directors shall keep their microphones off except when they are addressing the Board.

#### H. **Violation of Rules**

Anyone (Member or Director) violating these Rules during a meeting may be:

1. First warned by the Chair,
2. Then warned by majority vote of the Board, and
3. Then by majority vote of the Board asked to leave the meeting.

In the event a person refuses to leave after the Board votes to eject the individual, the meeting shall be recessed until such time as security and/or law enforcement can be summoned to assist or until the person voluntarily leaves.

The Board may schedule a disciplinary hearing to determine whether a Member will as a result of violation of these Rules be suspended from attending one or more future Board meetings as well as any other appropriate disciplinary measures.

A non-Member who is permitted to attend but disrupts a Board meeting may be ejected by the Chair or upon majority Board vote without warning.

#### I. **Parliamentary Procedure**

Meetings will generally follow "Robert's Rules of Order." In brief, there should be no discussion on an item unless and until motion is made and there is a second to the motion. A motion is a proposal that the Board takes a stand or takes action

on some issue. Only Directors can make motions.

The Resolution or motion recommended by a Committee report shall be considered as a motion and need not have a second for discussion to commence, so long as the recommendation has been stated on the agenda at least four days in advance of the meeting, absent emergency.

The Chair, normally the President, may call for a motion or, if temporarily passing the gavel, may make a motion. If there is no second to a motion, the issue is dropped. If a motion receives a second, then the Chair will ask for debate and discussion. Fair play, courtesy and cooperative behavior is preferred over strict compliance with Robert's Rules.

**J. Recording of meetings: Minutes**

The proceedings of Board meetings shall not be electronically recorded, except by "Village TV". Any other recording devices (audio, video or photographic) at Board or committee meetings are forbidden. The proceedings of such meetings shall be recorded in the minutes of the meeting. Minutes of Board meetings are prepared by the Secretary or, if the Board directs, by a Recording Secretary who need not be a Director. Minutes shall record actions taken, but shall ~~not~~ record general commentary or statements by Directors, or comments during Open Forum.

**K. Board Deliberations**

1. Directors will deliberate topics only when on an agenda, except for emergency matters 2, and when a motion has been made and seconded by a Director, ~~except for Committee recommendations, which do not require a motion or second~~. Unless a Director is only asking a question, Directors will indicate at the beginning of their remarks if they speak for or against the pending motion.
2. Generally, the motion initiating discussion should be made by the Director requesting the item to be placed on the agenda.
3. Directors shall:
  - a) Cooperate to keep their remarks on the topic of a motion,
  - b) Speak to each other,
  - c) Not personally address the live audience or the television/virtual audience, and
  - d) Avoid repetition of points already made, or repeating their own previous remarks on a motion.
4. If a Director violates the standards set forth in these Rules, the Chair may remind the Director of the standard being violated, and will then request the Director to bring their comments into compliance. In the event a Director continues to violate these Rules, the Board may proceed pursuant to subpart ~~H(H)~~H.II herein.



Third Laguna Hills Mutual  
**Rules for Board Meetings**  
 Resolution 03-22-XX  
 Page 9 of 12

2 Emergency Defined. An emergency is defined as "circumstances that could not have been reasonably foreseen by the board, that require immediate attention and possible action by the board, and that, of necessity, make it impracticable to provide notice." (Civ. Code §4930(d)(1).)

4.5. Motions may be amended in at least two ways:

- a) A motion, after receiving a second, may be amended by a motion, which motion must also receive a second and a majority vote.
- b) A motion may also be amended by a "friendly amendment" in which the author of the original motion consents to a proposed amendment to the motion. If the second also consents, the motion is amended and deliberations continue on the motion as amended.

**L. Board Comments During Meetings**

1. The comments of Directors, staff, or Mutual consultants during Board or Committee Meetings are not comments of the Mutual, and only the speaker's opinions.
2. The position of the Mutual is only that expressed in Motions or Resolutions which are adopted by the Board of Directors.
- ~~3. The Chair of any Board or Committee Open Meeting shall make an announcement at the beginning of the Board or Committee meeting which recites the first two sentences of this section verbatim.~~

**M. Chair**

1. The Chair shall be the President of Third, if present at the meeting, unless the Chair passes the gavel temporarily to the First Vice President. If the First Vice President is unavailable, then the Second Vice President may serve as Chair. If neither the President, First or Second Vice President are in attendance, then the Secretary or Treasurer may serve as Chair.
2. The Chair may discuss and vote on any motion, unless the Chair recuses itself.
3. If the Chair wishes to make a motion, the Chair shall pass the gavel to the First Vice President or next Officer in succession until deliberation of the motion is concluded by a vote on the motion.
4. The Chair shall be entrusted with the orderly progress of the Board's deliberations. In the event the Chair perceives that deliberations have ceased to move the discussion forward (either because unanimity already exists; debate has become repetitive or otherwise unduly lengthy; positions on a motion have become clear; or because the Board is not ready to decide on the matter), the Chair shall call for a motion to close debate, or a motion to table the matter.
5. The relationship between the Board and Chair should be one of mutual respect. The Board should give respect and deference to the Chair's leadership in moving deliberations forward, while the Chair should give respect and not request a conclusion to deliberations of a matter if the Board majority wishes to continue deliberation of a topic.

6. Any Director also may move the previous question, which is not debatable, and requires a two-thirds vote to conclude deliberations so that the matter being deliberated may be voted upon.

### III. EXECUTIVE SESSION

#### A. Purpose of Executive Session

Executive Session meetings allow the Board of Directors to address issues of sensitive nature, which may involve attorney client privilege or other privacy rights. It is important that all information discussed and disclosed at these sessions remain private.

The Board may meet in Executive Session only on the following subjects:

1. Litigation or threatened litigation.
2. Contract negotiations.
3. Member disciplinary hearings (i.e.: imposing fines or other penalties).
4. Hearings on Mutual reimbursement claims against a Member
5. Member's proposal of a payment plan for delinquent assessments.
6. Voting on the decision to foreclose upon an assessment lien.
7. Personnel issues.

Subsequent Board minutes will contain a general note of the actions taken.

#### B. Confidentiality Agreement

To protect Third and its Members, each Director shall annually sign a confidentiality agreement before attending and participating in Executive Session meetings. A Director who refuses to do so will not be permitted to attend Executive Session meetings, and legal counsel will not copy that Director on confidential communications, nor participate in legal advice discussions with that Director present.

The Confidentiality Agreement shall state substantially as follows:

"I, \_\_\_\_\_ (Name), after having been duly elected or appointed as a Director of Third Laguna Hills Mutual, do hereby agree that all information which is disclosed by or to me, orally or in writing, and all discussions held at an Executive Session Meeting of the Board and all attorney advice shall be kept confidential and shall remain confidential, even after I am no longer a Director. I understand that this means that anything I say, hear or see at an Executive Session Meeting may not be discussed with anyone outside of Executive Session.

I further understand that if I do not sign this Confidentiality Agreement or do not honor this Agreement, I will not be permitted to participate in or attend Executive Session Meetings or to receive confidential attorney-client communications. I

**Commented [WB3]:** Committee: Whistleblower language under review by management

further understand that I will be held responsible for any damages which result to the Mutual or its individual Members if I violate this agreement.”

**C. Procedure for Setting**

The notice for a meeting which is solely an Executive Session meeting must be posted in the Clubhouse kiosks, community center bulletin board and on the website two days in advance, unless it is an emergency Executive Session meeting.

The notice should state that the only item of business to come before the Board will be held in Executive Session and that no issues will be discussed in open session.

**D. Agenda Packets**

Due to the sensitive nature of the subjects discussed in closed session, Directors will return their Executive Session agenda packets to management staff immediately upon adjournment of the meeting, or when they depart from the meeting, whichever occurs first. The Secretary, Treasurer and Committee Chair and Co-chair may retain the agenda packet. Executive session agenda packets will not be distributed to Directors in electronic form.

**IV. CLOSED SESSION HEARINGS**

The Mutual conducts its disciplinary hearings and reimbursement claim hearings in closed session. The following rules are to inform both ~~member~~Member(s) and Directors regarding how these hearings are conducted.

**A. Notification**

If the Mutual is considering discipline or pursuing a reimbursement claim against a Member, it will first provide written notification to the Member, of a hearing to be held by the Board to consider the matter, at least ten days after the date the notification is sent to the Member. The notification will inform the Member the nature of the alleged violation or reimbursement claim.

**B. Attendance**

A Member being considered for discipline or a reimbursement claim may attend the hearing to address the Board regarding whether the Board should impose discipline or pursue reimbursement. The Member may bring written witness(es) statements. The ~~M~~member may not bring legal counsel to Executive Hearings Committee meeting only the regular closed session Board meeting. At the discretion of the Chair the alleged party may attend the hearing. The ~~M~~member being considered for discipline or reimbursement claim may not observe the Board's deliberation of the matter. A ~~member~~Member may provide a written statement as a substitute for personally appearing at the hearing.

Third Laguna Hills Mutual  
**Rules for Board Meetings**  
Resolution 03-22-XX  
Page 12 of 12

A complaining ~~member~~Member may provide a written statement to the Board. The complaining ~~member~~Member will not be permitted to hear the Board's deliberation or the presentation by the ~~Member~~Member being considered for discipline.

C. Addressing the Board

A ~~Member~~Member being considered for discipline or reimbursement claim may speak to the Board for a maximum of five minutes of uninterrupted time. Then the Board will have five minutes to ask questions for a total of 10 minutes. If a Member brings supporting documentation, it is suggested the ~~member~~Member bring one copy for staff, one copy for Mutual legal counsel, and 11 copies for the Board. If a ~~member~~Member brings supporting witnesses and/or alleged party, an additional five minutes can be added to the ~~member~~Member's time.

Members addressing the Board should be prepared and organized for the hearing, to maximize their allotted time.

D. The Board's Decision

The Board will notify the Member being considered for discipline or reimbursement claim within fifteen (15) days of the hearing. The Board will not notify other Members of the Board's decision, which shall remain confidential.



## STAFF REPORT

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**DATE:** September 28, 2022  
**FOR:** Resident Policy and Compliance Committee  
**SUBJECT:** Member Disciplinary Process

---

### **RECOMMENDATION**

Received and File.

### **BACKGROUND**

On July 20, 2004, the Board of Directors established a member-discipline process for the purposes of holding disciplinary hearings in a timely manner and ensuring progressive discipline (Attachment 1, Resolution 03-04-12). The Board of Directors is obligated to evaluate and impose if appropriate, member-discipline under its Bylaws and California Civil Code.

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 will monitor the situation and if compliance is not evident, 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 merited, staff will proceed with noticing the Member for a hearing. During a Member Disciplinary Hearing the member has the right to meet 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 for delinquency, and/or consider legal action.

The Executive Hearings Committee meets for four hours on a monthly basis for damage restoration and disciplinary hearings. For 2021, the Committee averaged six disciplinary hearings per monthly meeting.

### **DISCUSSION**

On average, the member-disciplinary process takes approximately 45 days from when a complaint is reported to when a disciplinary hearing is scheduled. Additionally, at present time, approximately 82% of disciplinary cases are resolved with the courtesy notice. The following categories currently result in an immediate hearing: violations involving hazardous materials, dog bite, major manor maintenance/repair, and major nuisance violations.

Complaints received are investigate to confirm there is a violation to Third's governing documents. Due to confidently restrictions staff is unable to disclose any information of a complaint to the reporting party. Furthermore, if a resident submits a complaint they are also advised to contact the Security Department when the violation occurs for a Security Officer to document the violation i.e. dog barking, loud television or construction violations.

### **FINANCIAL ANALYSIS**

None

**Prepared By:** Blessilda Wright, Compliance Supervisor

**Reviewed By:** Francis Gomez, Operations Manager

### **ATTACHMENT(S)**

Attachment 1: Member Disciplinary Process

Attachment 2: Compliance Process Flow Chart

## Attachment 1: Member Disciplinary Process

### MEMBER DISCIPLINARY PROCESS

*The following notice is provided pursuant to Civil Code Section 5850*

Resolution 03-04-12, adopted July 20, 2004 by the Third Laguna Hills Mutual (Third) Board of Directors established a member-discipline process for the purposes of holding disciplinary hearings in a timely manner and ensuring progressive discipline. The Board of Directors is obligated to evaluate and impose if appropriate, member-discipline under its Bylaws and Civil Code Section 5850.

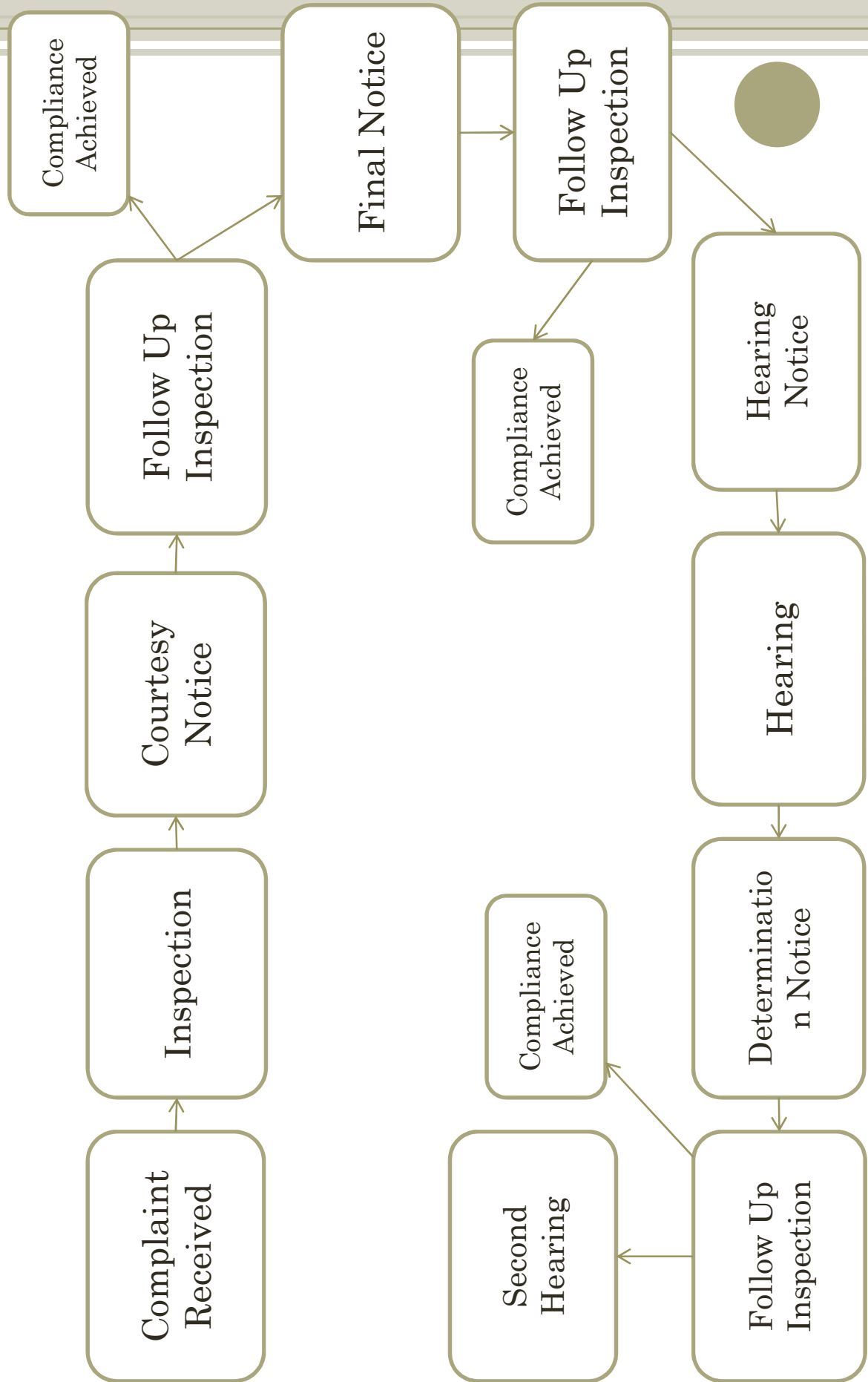
Each Member of Third is obligated to comply with the rules, terms, and conditions as set forth in the Mutual's governing documents. Following is the disciplinary process adopted by the Board of Directors when violations occur:

- Upon notice of alleged violation, Staff investigates and files an Incident Report (IR) and/or Notice of Clutter Violation (NOV).
- By way of the initial investigation, should Staff identify objective evidence of a violation by a Member or their guests, Staff will send a letter to the offending party describing the allegation(s) and the disciplinary action that may ensue if not corrected.
- Staff will monitor the situation and if compliance with the request is not evident, an additional IR and/or NOV is filed, and a letter is sent to the offending party advising that a Disciplinary Hearing may be scheduled 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 merited, Staff will proceed with noticing the Member for a hearing. Hearings are noticed based on Section 4.5, Discipline or Suspension, of the Bylaws.
- During a Member Disciplinary Hearing the Member has the right to meet 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.

Violations include but are not limited to: abandoned/inoperable vehicles, unauthorized alterations, [alteration maintenance](#), animal nuisance, [balcony clutter](#), breezeway clutter, [unauthorized caregiver occupancy](#), carport clutter, common area clutter, interior clutter, patio clutter, illegal occupancy, [landscape maintenance](#), nuisance, [real estate signage](#), [smoking nuisance](#), [excessive traffic citations](#), non-payment of assessments, [non-payment of chargeable services](#) etc.

The Member Disciplinary process is coordinated by the Compliance Division. A complaint may be registered by calling the Security Department at 949-580-1400 or the Compliance Department at 949-268-CALL or by email at [compliance@vmsinc.org](mailto:compliance@vmsinc.org).

# COMPLIANCE PROCESS







## STAFF REPORT

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**DATE:** September 28, 2022  
**FOR:** Resident Policy and Compliance Committee  
**SUBJECT:** Member Disciplinary Notice

---

### **RECOMMENDATION**

Received and file.

### **BACKGROUND**

On July 20, 2004, the Board of Directors established a member-discipline process for the purposes of holding disciplinary hearings in a timely manner and ensuring progressive discipline (Attachment 1, Resolution 03-04-12). The Board of Directors is obligated to evaluate and impose if appropriate, member-discipline under its Bylaws and California Civil Code.

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 will monitor the situation and if compliance is not evident, 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 merited, staff will proceed with noticing the Member for a hearing. During a Member Disciplinary Hearing the member has the right to meet 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 for delinquency, and/or consider legal action.

The Executive Hearings Committee meets for four hours on a monthly basis for damage restoration and disciplinary hearings. For 2021, the Committee averaged six disciplinary hearings per monthly meeting.

On August 23, 2022, the Resident Policy and Compliance Committee requested samples of the following notices mailed by the Compliance Division: courtesy notices, final notices, hearing notices and determination notices. The disciplinary notice templates have been reviewed and vetted by Legal Counsel over the years to ensure compliance with Civil Code and Bylaw requirements.

### **DISCUSSION**

On average, the member-disciplinary process takes approximately 45 days from when a complaint is reported to when a disciplinary hearing is scheduled. Additionally, at present time,

approximately 82% of disciplinary cases are resolved with the courtesy notice. The following categories currently result in an immediate hearing: violations involving hazardous materials, dog bite, major manor maintenance/repair, and major nuisance violations.

Complaints received are investigate to confirm there is a violation to Third's governing documents. Due to confidently restrictions staff is unable to disclose any information of a complaint to the reporting party. Furthermore, if a resident submits a complaint they are also advised to contact the Security Department when the violation occurs for a Security Officer to document the violation i.e. dog barking, loud television or construction violations.

### **FINANCIAL ANALYSIS**

None

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

**Reviewed By:** Jacob M. Huanosto, Interim Compliance Supervisor

### **ATTACHMENT(S)**

Attachment 1: Disciplinary Notices



### Courtesy Notice

[Date]

Via First Class Mail and Email  
(email)

[Name]

[Address]

Laguna Woods, CA 92637

**Re: Request for Compliance - Resolution 03-16-117, Care & Maintenance of Patios, Balconies, Breezeways & Walkways**

Dear Member:

The purpose of this notice is to advise you may be in violation of the governing documents. The Third Laguna Hills Mutual (Third) Board of Directors has received a report alleging that you have personal items are stored on/in the [Location]. Subsequently, the site was inspected and the following observations were documented: [Description of items that are out of compliance and need to be removed].

[Insert photo here]

As managing agent for the Third Board of Directors we are requesting that you take the necessary action to ensure compliance to the cited restrictions. **Please remove the following items within 10 days, on or before [Date]: [Description of items that are out of compliance and need to be removed].**

Be advised that Resolution 03-16-117, Care & Maintenance of Patios, Balconies, Breezeways & Walkways states "...Common areas are for the use and enjoyment of all residents and while limited common area permit exclusive use of the area, it is essential that all residents be aware of the need for safety, attractiveness and the prevention of damage to the building by items placed by residents in or on the common or limited common areas..."

As a Third Member, please be advised that you are personally responsible for ensuring that the rules, regulations, and policies are followed by anyone you allow into the community. This includes any Co-occupant, Lessee, or Guest.

If you feel that this notice was sent to you in error, please respond to these allegations in writing to the Compliance Department, P.O. Box 2220, Laguna Hills, CA 92654. Alternatively, you may email at [compliance@vmsinc.org](mailto:compliance@vmsinc.org) or via phone at 949.268.2255. Thank you for your anticipated compliance.

Sincerely,  
FOR THE BOARD OF DIRECTORS

NAME

DATE

Page 2 of 2

Attachment 1

[Name]

Compliance Coordinator, VMS, Inc.

Agent for Third Laguna Hills Mutual

cc: Security Supervisors, NOV [2200000]



## Final Notice

DATE

Via First Class Mail and Email  
([email](#))

NAME

ADDRESS

Laguna Woods, CA 92637

### Re: Request for Compliance - Collection and Lien Enforcement Policy

Dear Member:

The purpose of this notice is to advise that you may be in violation of the Third Laguna Hills Mutual (Third) governing documents as your [Assessment/Chargeable Services/Broadband Services/Traffic Citations] account is still past due. Third's records indicate that you have a balance of [\$XXX.XX] in [Assessment/Chargeable Services/Traffic Citations] for [details], including late fees. Additionally, Third's records indicate that you have been informed in letters from Village Management Services, Inc. (VMS) [Accounting Department/Traffic Division], managing agent for Third to no avail. The past due account is in violation of the Collection & Lien Enforcement Policy.

**As managing agent for Third, you are required to take the necessary action to ensure compliance to the cited restrictions. Please submit payment in full within 10 days, on or before [Date] to avoid further action. If payment has already been submitted, please disregard this notice.**

**Failure to comply may result in a disciplinary hearing before the Third Board of Directors. The Board of Directors has the authority to impose monetary penalties, suspend Member privileges and bring forth legal action. Member privileges include, but are not limited to, deactivation of cable TV services, denial of access to GRF facilities, denial of lease authorization requests and/or denial of alteration permits and variance requests.**

To make a payment by phone or if you have any questions you may contact:

[Lori Bell, Chargeable Services Representative, Financial Services Department at (949) 597-4226 / Erica Solis, Assessments Representative, Financial Services Department at (949) 597-4221 / Traffic Division at 949-597-4297]

To make a payment by check, please make your check payable to GRF and mail to:

Laguna Woods Village

Attention: [Accounting Department/Traffic Division]

PO Box 2220

Laguna Hills, CA 92654-2220

If you feel this charge is in error and wish to dispute, you may do so by submitting a written request with the reasons by email to Resident Services at [residentservices@vmsinc.org](mailto:residentservices@vmsinc.org) or by mail to: Laguna Woods Village, Attention: Resident Services, PO Box 2220, Laguna Hills, CA 92654-2220

As a reminder, the Collection & Lien Enforcement Policy states:

“all fines, fees, or chargeable services are payable upon billing and become delinquent and subject to monthly late charges not paid within 25 days of the original invoice date.” Additionally, the policy states: “Until the Shareholder has paid all amounts due, including delinquent assessments, late charges, interests and costs of collection, including attorneys’ fees, and duly imposed fines, fees and/or related charges, the Board of Directors may suspend the Shareholder’s right[s]...”

As a Third Member, please be advised that you are personally responsible for ensuring that the rules, regulations, and policies are followed by anyone you allow into the community. This includes any Co-occupant, Lessee, or Guest.

If you feel that this allegation is sent to you by mistake or if you would like to make a statement, you may send your written correspondence at [compliance@vmsinc.org](mailto:compliance@vmsinc.org) or PO Box 2220, Laguna Hills, CA 92654. If you have further inquiries, you may call at (949) 268-2255.

Sincerely,  
FOR THE BOARD OF DIRECTORS

[Name]

Compliance Coordinator, VMS, Inc.  
Agent for Third Laguna Hills Mutual

cc: Accounting Department/Traffic Division



## Notice of Disciplinary Hearing

[Date]

Via Certified, First Class Mail and E-mail

[\[Email\]](#)

[Name]

[Address]

Laguna Woods, CA 92637

**Re: [Laguna Woods Village Vehicle, Traffic, and Parking Rules]**

Dear Member:

You were informed in letters from Village Management Services, Inc. (VMS) Staff, managing agent for Third Laguna Hills Mutual (Third), of allegations that you are in violation of Third's Governing Documents. As you have been advised, the following is alleged allegation against you: [insert details and reason for the disciplinary hearing here]. This is in violation of [insert rules citation here].

**Due to the continued violations of Third's governing documents, the Third Board hereby calls you to a Disciplinary Hearing to address this matter. The Disciplinary Hearing will take place as follows:**

**Date:** [Day, Date]  
**Time:** [Time]  
**Location:** [Laguna Woods Village Community Center Building  
24351 El Toro Road, Laguna Woods, CA 92637/Virtually ...]

If the Board determines that a violation(s) occurred, it will consider imposing disciplinary action against you, including monetary fines of up to five hundred dollars (\$500) for each incident and violation; suspension of Member privileges and/or the commencement of legal action against you. Member privileges include, but are not limited to, deactivation of cable TV services, denial of lease authorization requests and/or denial of alteration permits and variance requests.

You are strongly urged to attend the hearing to be heard and to present argument and evidence on your behalf. If you do choose to be represented by counsel, please notify our office at least seven (7) days before the hearing date. Likewise, if you will be attending without counsel, please notify us at least seven (7) days before the hearing date. Failure to confirm attendance within the allowable time may result in you being unable to be heard by the Board.

The hearing will be conducted in accordance with the Bylaws, Article 4, Sections 4.4, 4.5 and 4.6, a copy of which is enclosed. These sections identify the procedures that will be followed in the hearing and the disciplinary action the Board may take against a Member for violations of Third's governing documents. Please read these sections carefully before the hearing.

In addition to the remedies specified herein, a Member found to be in violation may be liable for costs of suit and a reasonable sum for attorneys' fees incurred in enforcing these Bylaws, any rule or regulation of Third, or any obligation of a Member under the CC&Rs. Be advised that CC&R's Article XXI, Attorney Fees, states:

"If an Owner defaults...in the performance or observance of any provision of these Restrictions, and the Mutual has obtained the services of an attorney...the Owner covenants and agrees to pay to the Mutual any costs or fees involved, including reasonable attorneys' fees..."

[Insert rules citation here]

Moreover, pursuant to Third Meeting Rules, Section IV(C), you will have five (5) minutes to address the Board on the matter referenced above. After the Disciplinary Hearing, the Board will deliberate as to what action to take if any. You will be advised in writing of the Board's decision within fifteen (15) days of the Disciplinary Hearing.

Please contact me at 949-268-2255 or at [compliance@vmsinc.org](mailto:compliance@vmsinc.org) to confirm your attendance at the hearing at least seven (7) days prior or to ask any questions you may have regarding the hearing procedure. Failure to confirm attendance within the allowable time may result in you being unable to be heard by the Board. **[Upon your arrival, please check in with the Concierge Desk and wait in the lobby of the Community Center until you are called to address the Board/Upon logging into the virtual meeting, you will be placed in a waiting room until the Board is ready].**

Sincerely,  
At the Direction of the Board of Directors

[Name]  
Compliance Coordinator, VMS, Inc.  
Agent for Third Laguna Hills Mutual

Enclosure





## Disciplinary Hearing Determination Notice

[Date]

Via Certified, First Class Mail, and E-mail  
(email)

[Name]

[Address]

Laguna Woods, CA 92637

**Re: Bylaws, Article 4, Membership, Section 4.2.3.4, Guest Restrictions**

Dear [Name]:

On [Date], the Third Laguna Hills Mutual (Third) Board of Directors noticed and held a disciplinary hearing during the Board of Directors Closed Executive Session to consider an allegation that you are in violation of Third's Governing Documents. As you were advised, [insert details and reason for the disciplinary hearing here] continuing to reside in your unit without Board approval in violation of Third's Bylaws, Article 4, Membership, Section 4.2.3.4, Guest Restrictions.

The Board reviewed information presented by Village Management Services, Inc. (VMS) Staff, managing agent for Third. [The Board also heard oral testimony from you via video call]. **Based on its review of all the information, the Board of Directors determined that you have failed to comply with Third's Governing Documents.**

**After the completion of the disciplinary hearing and due deliberation the Board elected to take the following actions:**

- 1. Impose a \$[amount] monetary penalty for violation of occupancy restrictions;**
- 2. Require all unapproved occupants vacate the unit within 10 days from the date of the determination notice; and**
- 3. Advise you that failure to comply may result in additional disciplinary action up to and including additional disciplinary action and potential legal action.**

An invoice reflecting the \$[amount] monetary penalty will be mailed to you separately. The invoiced amount is due and payable to Golden Rain Foundation (GRF) upon receipt.

As a reminder, Bylaws, Article 4, Membership, Section 4.2.3.4, Guest Restrictions states:

"No person, except a Guest, may Reside in a Manor without the prior written approval of this Corporation. An applicant may seek to Reside in a Manor as a Qualifying Resident or, if another person is applying for, or has already been approved for residency as a Qualifying Resident, as a Co-

occupant. No person shall be approved as a Co-occupant unless another person with whom he or she seeks to Reside has been approved as a Qualifying Resident.”

Additionally, Bylaws, Article 2, Purposes, Powers, Governance, Definitions, Section 2.4.13, defines Guest as:

“An individual other than a resident, Qualifying Resident, Lessee or Co-occupant of any age. A Guest may stay in a Manor for up to sixty (60) days in any twelve-month period at the invitation of the Qualifying Resident or Co-occupant, subject to limitations on the maximum number of occupants in a Manor.”

Furthermore be advised that CC&R’s Article XXI, Attorney Fees, states:

“If an Owner defaults...in the performance or observance of any provision of these Restrictions, and the Mutual has obtained the services of an attorney...the Owner covenants and agrees to pay to the Mutual any costs or fees involved, including reasonable attorneys’ fees...”

Be further advised that Third’s Appeal Policy states:

“...all decisions, including other matters of Corporate business made by the Board, whether in an Open Meeting or in Executive Session, shall be final and not subject to additional review or a right of appeal by Third members.”

In the event you have any questions regarding the Board’s disposition of this matter, please do not hesitate to contact me at [compliance@vmsinc.org](mailto:compliance@vmsinc.org) or call me at 949.268.2255.

Sincerely,  
FOR THE BOARD OF DIRECTORS

[Name],  
Compliance Coordinator, VMS, Inc.  
Agent for Third Laguna Hills Mutual



## STAFF REPORT

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**DATE:** September 28, 2022  
**FOR:** Resident Policy and Compliance Committee  
**SUBJECT:** Nuisance Policy

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### **RECOMMENDATION**

Receive and file.

### **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.

Violations include but not limited to: behavior/disturbance, noise, odors and neighbor disputes.

On April 21, 2020, the Board approved the Nuisance Policy (Resolution 03-20-28).

### **DISCUSSION**

The purpose of the Nuisance Policy is to set forth guidelines to address alleged violations of nuisance that occur in Third Mutual.

### **FINANCIAL ANALYSIS**

None.

**Prepared By:** Blessilda Wright, Compliance Supervisor

**Reviewed By:** Francis Gomez, Operations Manager

### **ATTACHMENT(S)**

Attachment 1: Nuisance Policy



**Nuisance Policy**  
**Resolution 03-20-28, Adopted April 21, 2020**

**I. Purpose**

The purpose of this Nuisance Policy (“Policy”) is to set forth guidelines for the treatment and handling of nuisance complaints received by Third Laguna Hills Mutual (“Third”), in accordance with the requirements of Third’s Governing Documents, as defined below, and the law.

**II. Definitions**

- a. Community – Laguna Woods Village.
- b. Golden Rain Foundation (GRF) – the Golden Rain Foundation of Laguna Hills, a California nonprofit mutual benefit corporation.
- c. Governing Documents – all of the following, collectively, the Articles of Incorporation; the Bylaws; CC&Rs; the Rules and Regulations; and any Resolutions or Policies duly adopted by the Board; all as may be lawfully amended or modified from time to time.
- d. Member – any person who is an owner of a Unit in Third’s development who has been approved for membership in Third in accordance with the Governing Documents.
- e. Nuisance – see details under Conditions.
- f. Resident – any person who has been approved by the Board of Directors, or its designee, as applicable, for occupancy of a manor within Third’s development.
- g. Staff - Employees of Village Management Services, Inc. authorized to act on behalf of Third.
- h. Third or the Mutual – the corporate homeowners association that was formed in 1970 and by 1984 had acquired the assets and liabilities by vote of each of the 59 individual mutuels within the larger Leisure World (now Laguna Woods Village), a common interest development, with full authority to “manage, operate, and maintain” them.

**III. Conditions for Nuisance**

**Nuisance in General:** Anything which is injurious to health, indecent or offensive to the senses, causes an unreasonable disturbance or annoyance, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, is a nuisance. (Civ. Code § 3479)

**Public Nuisance:** A public nuisance is a condition or activity that interferes with the health or well-being of the entire community or a considerable number of persons in the neighborhood. (Civ. Code §§ 3479-3480)

**Private Nuisance:** A private nuisance is a condition or activity that interferes with an individual's use or enjoyment of their property. (Civ. Code §§ 3479, 3481)

**Governing Documents:** "No Owner or Resident shall permit or suffer anything to be done or kept within the Project which will increase insurance rates on any Building or contents thereof, or which will obstruct or interfere with the rights of other persons in the Project or annoy them by unreasonable noises or otherwise, nor shall any Owner or Resident commit or permit any nuisance or commit or permit any illegal act within the Project. An Owner and each Resident shall comply with the requirements of all governmental authorities. If by reason of any act of any Owner insurance rates should be increased, the Owner shall be personally liable for the additional premium" (CC&Rs Article III, Section 6, Use Restrictions)

Based upon the foregoing provision of the CC&Rs and various statutory provisions, with regard to Third, a nuisance shall be deemed to be anything that unreasonably interferes with another Member or Resident's use and enjoyment of his/her/their/they manor, as determined by the Board. Below are examples of activities that fall into a nuisance category; please note, however, that this is not an exhaustive list of potential nuisances, inasmuch as any activity that falls within the above definition of a nuisance shall be deemed a violation of Third's Governing Documents:

1. **Noise:** Things that interfere with quiet enjoyment such as improperly installed hardwood floors, residents playing their music or TV at an excessively loud volume, overly loud conversations, yelling or shouting, barking dogs, excessively loud vehicles, etc. Excessive and overly loud characteristics are measured against what a reasonable person in the same or similar circumstance would consider to be excessive or overly loud.
2. **Odors:** This includes second-hand smoke or smoke odors (cigarettes, cigars, vaping matter/materials and marijuana), strong odors from e-cigarettes or vaping devices, strong cooking odors, smoke from a BBQ grill entering other units, etc. The word strong shall be measured against what a reasonable person in the same or similar circumstance would consider to be strong.
3. **Visual:** Draping articles over balcony rails or patio walls, storing inoperable vehicles in parking spaces, excessive amount of items or clutter in visible areas, etc.

4. **Health/Safety:** Persons who allow unsanitary conditions to exist in and around their unit/manor where the accumulation of household items, belongings and/or materials, that attract insects, pests and rodents or creates strong odors that are recognizable in the common area or another unit/or manor, or residents who wash dog feces and/or urine off their unit/manor balcony onto the property below them.
5. **Violation of Laws:** A violation of federal or state laws or local ordinances, including, without limitation, such violations as public nudity, brandishing weapons which are registered or unregistered at or in the presence of another resident, the resident's guest and invitees and/or a staff member or a Resident, the resident's guest and invitees engaged in drug dealing (selling drugs for money or in exchange for some other form of remuneration) or prostitution.

#### IV. Nuisance Complaints and Investigation

A complaint may be registered by calling the Security Department at 949-580-1400 or the Compliance Division by calling 949-268-CALL or email to [compliance@vmsinc.org](mailto:compliance@vmsinc.org). Staff will inform the reporting party to call the Security Department for documentation of the ongoing nuisance violation.

Investigating Alleged Nuisances: To determine whether or not a nuisance in violation of the Governing Documents is taking place or has occurred, Staff evaluates the alleged behavior, based upon the written complaint provided along with all of the information provided to support the complaint, and may further investigate the complaint before determining if the alleged behavior or nuisance activity in fact occurred, and whether the impact on other Members/Residents or units is deemed reasonable or unreasonable to an average reasonable person similarly situated. This may include, without limitation, further conversations with the reporting party and neighbors, and inspection of the unit(s)/manor(s) in question. Staff may also take the following steps when investigating certain nuisance complaints:

- For hard surface flooring complaints: Staff may perform informal sound tests that include two Staff members in the downstairs unit at the same time that two Staff members are in the upstairs unit, with an attempt to replicate the alleged noise.
- For odor complaints: Staff may perform an informal odor test that includes two Staff members in the unit from which the alleged nuisance odor arose at the same time that two Staff members are in the reporting party's unit, with an attempt to replicate the alleged odors. Staff may also seek assistance from the Maintenance Department to determine if the building

structure is a factor that allows for the transmission of the odor that can be remedied.

If Staff determines that the alleged nuisance in violation of the Governing Documents has or may have occurred, a warning letter may be sent to the responsible Member and/or the Member may be sent a notice that the Member is being called to a disciplinary hearing before the Board or a committee thereof. At the disciplinary hearing, the Board will consider all evidence and documentation of the alleged nuisance violation, and the Member may speak and present evidence regarding the nuisance before the Board makes a decision on disciplinary action to be taken, if any.

#### **V. Enforcement**

Third is authorized to take disciplinary action against any Member who may be found in violation of the Governing Documents, or whose unit or Residents, tenants, or guests are found to be in violation of the Governing Documents (CC&R Article XIX; Bylaws Article 4, Section 4.5). When a complaint is lodged regarding the occurrence of a violation, the Board of Directors has a duty to investigate and impose, if appropriate, discipline as set forth in the Governing Documents. Discipline shall be imposed, if at all, after a duly noticed disciplinary hearing in accordance with the requirements of statute and Third's Governing Documents.

If a Member or such Member's unit/manor is found to have committed a nuisance violation as defined herein, the Board has the authority to impose monetary fines, suspend Member(s) privileges, and/or bring forth legal action, as more fully set forth in the Governing Documents, including without limitation the Schedule of Monetary Penalties, as may be revised from time to time. Each Member is entirely responsible for ensuring that the Governing Documents are followed by anyone they allow into the Community—this includes any co-occupant, lessee, guest, care provider, vendor, invitee or contractor.

In the event there is an ongoing dispute between neighbors over nuisance violations or alleged violations, and the Board ultimately determines that the activity/behavior in question does not rise to the level of a governing document violation, although the Mutual is not obligated to do so, Staff, on behalf of the Mutual, may offer informal mediation performed by the Compliance and Social Services Division to help facilitate a resolution to the dispute. Staff will also recommend, as an alternative for the complaining and the owner against whom the complaint is made, professional mediation services offered by the County of Orange. Notwithstanding the foregoing, nothing in this paragraph or this Policy shall be construed to create a duty on the Board to resolve any dispute between neighbors or an obligation beyond those duties imposed on Third and its Board by the Governing Documents or by law.