



## OPEN MEETING

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

**Tuesday, October 25, 2022 – 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 using one of following options:

1. Join the Committee meeting via Zoom at: <https://us06web.zoom.us/j/83311685764> or by dialing 669-900-6833 Access Code: 833 1168 5764
2. Via email to [meeting@ymsinc.org](mailto:meeting@ymsinc.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 manor 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 for September 28, 2022
4. Remarks of the Chair
5. Member Comments (Items Not in the Agenda)
6. Response to Member Comments
7. Department Head Update
8. Items for Discussion and Consideration:
  - a. Rules of Board Meetings
  - b. Member Disciplinary Process
  - c. Disciplinary Violations Matrix
  - d. Appeal Policy
  - e. Director Zalon's Proposed Members' Bill of Rights
  - f. Nuisance Policy (as time permits)
9. 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
10. Committee Member Comments
11. Date of Next Meeting – Tuesday, November 22, 2022 at 9:30 a.m.
12. Adjournment

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





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

Wednesday, September 28, 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, Cush Bhada

**MEMBERS ABSENT:** Jules Zalon

**ADVISORS PRESENT:** Stuart Hack

**ADVISORS ABSENT:** None

**STAFF PRESENT:** Eric Nunez, Jacob Huanosto, Ruby Rojas and Francis Gomez

**1. Call To Order**

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

**2. Approval of Agenda**

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

By consensus, the motion carried.

**3. Approval of Meeting Report**

Director Bhada made a motion to approve the July 27, 2022 meeting report. Director Prince seconded the motion. Director Bhada abstained as he was not present in the prior meeting.

By consensus, the motion carried.

**4. Chairman's Remarks**

None

**5. Members Comments (Items Not on Agenda)**

None

**6. Response to Members Comments**

Not Applicable

**7. Department Head Update**

None

## **8. Items for Discussion and Consideration**

### **a. Rules for Board Meetings**

Mr. Jacob Huanosto, presented the Rules for Board Meetings report. The Committee commented and asked questions.

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

By way of consensus, the motion carried.

### **b. Member Disciplinary Process**

Mr. Jacob Huanosto, Interim Compliance Supervisor, presented the Member Disciplinary Process report. The Committee commented and asked questions.

The Committee directed staff to bring the matter back and provide the appeal Policy for review.

### **c. Member Disciplinary Notice**

Ms. Francis Gomez, Operations Manager, presented the Member Disciplinary Notices Report. The Committee commented and asked questions.

No action taken at this time.

### **d. Nuisance Policy**

Mr. Huanosto presented the Nuisance Policy. The Committee commented and asked questions.

The committee directed staff to provide the civil code pertaining to addressing neighbor disputes.

## **9. Items for Future Agendas**

- Pet Rules
- Barbeque Rules and Regulations
- Social Media Use Policy
- Appeal Policy

## **10. Committee Member Comments**

Director Zalon stated that members should not be disciplined without objectionable evidence

## **11. Date of Next Meeting**

Wednesday, October 25, 2022 at 9:30 a.m.

## **12. Adjournment**

With no further business before the Committee, the Chair adjourned the meeting at 11:54 a.m.

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**

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 ~~1t~~, 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
  - f) 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)~~(3)~~ above.

<sup>1</sup> 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. ~~3.~~ Approval of the Agenda
5. ~~4.~~ Approval of the Minutes
5. Report of the Chair
6. Update of VMS Board -
7. Open Forum (Three Minutes per Speaker)
8. Responses to Open Forum Speakers
9. CEO/~~COO~~ Report
10. Consent Calendar
11. Unfinished business
12. New Business
13. Third Mutual Committee Reports
14. GRF Committee Highlights
15. Future Agenda Items

- 16. Director's Comments
- 17. Recess
- 18. 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

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

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;

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.



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.

**Commented [WB1]:** Committee: Whistleblower language under review by management

~~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~~

~~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.

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.



## **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 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**

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
  - f) 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 IID.3 above.

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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
2. Pledge of Allegiance
3. Approval of the Agenda
4. Approval of the Minutes
5. Report of the Chair
6. Update of VMS Board -
7. Open Forum (Three Minutes per Speaker)
8. Responses to Open Forum Speakers
9. CEO Report
10. Consent Calendar
11. Unfinished business
12. New Business
13. Third Mutual Committee Reports
14. GRF Committee Highlights
15. Future Agenda Items
16. Director's Comments

17. Recess

18. 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 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 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 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 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 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 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 (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;
- 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 <sup>2</sup>, and when a motion has been made and seconded by a Director. 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.II herein.

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<sup>2</sup> 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).)

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.

**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 twothirds 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.

**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(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 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 Member being considered for discipline or reimbursement claim may not observe the Board's deliberation of the matter. A Member may provide a written statement as a substitute for personally appearing at the hearing.

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

C. Addressing the Board

A 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 bring one copy for staff, one copy for Mutual legal counsel, and 11 copies for the Board. If a Member brings supporting witnesses and/or alleged party, an additional five minutes can be added to the 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:** October 25, 2022  
**FOR:** Resident Policy and Compliance Committee  
**SUBJECT:** Member Disciplinary Process

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### **RECOMMENDATION**

Receive 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 and 2, 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 of the governing documents (bylaws, CC&Rs, rules and regulations, resolutions, etc.) by a member or any individual they allow into the Community, staff will send a courtesy notice to the offending member 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. Depending on the seriousness of the matter, the Board has the authority to schedule a disciplinary hearing as soon as reasonably possible.

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. Some disciplinary hearings are scheduled before the Board of Directors.

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.

A complaint may be registered by calling the Department of Security Services at 949-580-1400; the Compliance Division at 949-268-CALL; or by emailing [compliance@vmsinc.org](mailto:compliance@vmsinc.org).

Per California Civil Code, the Member Disciplinary Process and Schedule of Monetary Penalties has to be disclosed to the membership yearly. A summary of the process and schedule are included as part of the annual mailing in November (Attachment 3 and 4).

## **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.

Below is a breakdown of disciplinary cases by allegation for the current year:

<b>Allegation</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Total</b>
Abandoned Vehicle	10	8	6	3	8	7	4	5	7	<b>58</b>
Alteration Maintenance	14	9	9	11	11	12	15	10	15	<b>106</b>
Alteration Standards	38	41	39	35	39	36	36	29	28	<b>321</b>
Animal Nuisance	44	27	12	18	28	28	22	27	30	<b>236</b>
Balcony Clutter	18	17	15	19	17	17	19	15	22	<b>159</b>
Breezeway Clutter	26	22	17	18	22	21	18	20	30	<b>194</b>
Care Giver Policy	2	3	3	2	3	3	3	5	2	<b>26</b>
Carport Clutter	29	30	72	81	64	48	51	49	47	<b>471</b>
Common Area Clutter	32	31	22	27	28	29	27	31	36	<b>263</b>
Delinquencies	33	35	45	43	38	38	34	36	31	<b>333</b>
Illegal Occupancy	33	38	30	27	34	35	27	31	34	<b>289</b>
Interior Clutter	10	9	9	11	6	9	5	3	14	<b>76</b>
Landscape	51	49	28	26	23	39	29	34	31	<b>310</b>
Maintenance	21	18	10	16	21	17	14	19	16	<b>152</b>
Nuisance	22	27	25	15	25	17	24	14	15	<b>184</b>
Other	11	16	16	0	0	0	0	0	0	<b>43</b>
Patio Clutter	15	13	16	14	15	14	12	17	18	<b>134</b>
Real Estate Signage	5	7	2	10	5	6	4	3	8	<b>50</b>
Smoking Policy	5	2	2	8	3	7	5	5	2	<b>39</b>
Traffic Violations	19	15	5	6	3	5	4	3	1	<b>61</b>
<b>Total of Cases</b>	<b>438</b>	<b>417</b>	<b>383</b>	<b>390</b>	<b>393</b>	<b>388</b>	<b>353</b>	<b>356</b>	<b>387</b>	<b>3,505</b>

Additionally, following is a list of challenges that staff faces consistently:

1. Due to strict confidentiality restrictions staff is unable to disclose any information of a complaint to the reporting party or any individual that is not the member.

2. Caseload levels continue to increase across all three corporations. The current overall caseload is 836 open cases. This time last year the caseload was 787 open cases.
3. Staff levels have decreased, and it is anticipated that they will continue to decrease. The division is approved for three Compliance Coordinators, however, at present the division has decreased to one Compliance Coordinator handling the entire workload. Additionally, the Operations Manager is expected to decrease in December due to an extended leave of absence.

### **FINANCIAL ANALYSIS**

The Board imposes disciplinary monetary penalties as an action for violation of the governing documents. The penalties range from \$25 - \$500 depending on the specifics of the matter. For 2022, the Board has held 72 hearings and imposed monetary penalties in total of \$17,200.

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

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

### **ATTACHMENT(S)**

Attachment 1: Member Disciplinary Process

Attachment 2: Compliance Process Flow Chart

Attachment 3: Member Disciplinary Process Annual Disclosure

Attachment 4: Schedule of Monetary Penalties



Professional Community Management, Inc. Agent  
Leisure World, Laguna Woods

### **Timely Processing of Member Discipline**

**DATE:** July 22, 2004

**FOR:** United Laguna Hills Mutual, the  
Golden Rain Foundation, Third  
Laguna Hills Mutual, and Laguna  
Woods Mutual Fifty Boards of  
Directors

### **SUMMARY OF REQUEST**

Offered in this report are recommendations for standardizing the criteria currently used by Staff when preparing cases for member-disciplinary review by the Boards. This standardized criteria will help the Boards hold disciplinary hearings in a timely manner, ensure progressive discipline, and develop procedures to use at disciplinary hearings. Staff recommends adopting the following recommended guidelines to allow for the reasonable and timely processing of disciplinary issues that will help ensure that due process and due diligence guidelines are met.

### **BACKGROUND INFORMATION**

Areas of member-discipline addressed in this report that may result in disciplinary hearings include: Nuisance Violations/Neighbor Disputes, Violations Involving Tortious Behavior, Clutter, and Unapproved Alterations. Note that any violation of the Boards' governing documents, rules, policies or procedures may result in a disciplinary hearing; however, these four categories represent the majority of the violations. This section discusses the legal basis for disciplinary action, timely processing of member-discipline, and progressive discipline.

It is important to note that Corporate Counsel has advised that the Board of Directors should become involved with member-disciplinary issues only when convinced by their hearing of objective evidence that the rules and/or regulations of the Corporation have been violated. However, once the determination has been made that a violation has occurred thorough careful evaluation of the objective evidence presented to them, the Boards are compelled to take action.

#### ***Legal Authority for Disciplinary Hearings and Taking Disciplinary Action***

Each Member is obligated to comply with the rules, terms, and conditions as set forth in their Mutual's governing documents. United Laguna Hills Mutual's Occupancy Agreement, Third Laguna Hills Mutual's CC&R's, and Laguna Woods Mutual Fifty's CC&Rs all contain a clause that, to paraphrase, provides:

July 22, 2004  
Page 2 of 6

*No Member or Owner shall permit or suffer anything to be done or kept within their manor or other premises of the Corporation which will increase insurance rates on any building or contents thereof, or will obstruct or interfere with the rights of other members or annoy them by unreasonable noises or commit any nuisance or illegal or immoral act within the Corporation. The Member or Owner shall comply with the requirements of all governmental authorities.*

There are occasions when these rules are ignored by Members, or the actions of a Member are so grievous, that disciplinary action is necessary. When a member violates the governing documents, the Board has the authority and obligation to impose member-discipline under the Bylaws and §1363 of the Davis-Stirling Act. The disciplinary action should be carried out in good faith and in a timely, fair, consistent, and reasonable manner; the discipline must be commensurate with the violation and progressive in severity.

Note that the Board has the ability to fine (ultimately lien the separate interest of) only the member, but may suspend privileges (such as the use of the swimming pools) of non-members such as co-occupants, guests, etc., for the purpose of disciplinary action. Should it be found that the actions of the non-member are so egregious, the Board may suspend their privileges and fine the member.

#### *Timely Processing of Member Discipline*

If complaints are not acted on in a timely manner by the Board, the complainant(s) may be critical of the Board's inaction and/or may litigate due to the perceived failure of the Board to enforce their Bylaws and rules and regulations. If on the other hand, the Board imposes discipline without sufficient evidence, it may be at risk for a harassment claim. Mediation services may be offered, and if accepted, may aid in the reconciliation process. Third-party mediators may be able to resolve disputes between neighbors in a timely and amicable manner, without the need for a Board hearing or involvement.

Timely processing of violations is often made difficult when the infractions occur sporadically; Staff and the Community leadership will need to work together in these cases, exercising sound judgment to ensure timely follow up. A clear, consistent, documented "paper-trail" will limit untimely action by the Boards.

#### *Progressive Disciplinary Measures*

In addition to ensuring the timely processing of complaints, the Boards are obligated to engage in what is termed "progressive discipline." This means that the Boards must entertain disciplinary measures of increasing and proportional severity to attempt to achieve compliance in a fair and measured fashion. A progressive discipline policy demonstrates that a Board's action are warranted under the circumstances and that the Member is given ample opportunity to understand the nature of the problem, the prospective outcome of uncorrected behavior, and take corrective action. Should a court challenge the Board's

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actions, a policy of progressive discipline will demonstrate that the action was reasonable and circumspect and not unfair nor hasty.

Progressive discipline available to the Board may include the following elements:

- *Request for Compliance:* A letter is sent advising the Member that an alleged violation of the Community's rules has been reported to the Association. The Member is advised of the violation and the disciplinary action that may ensue if not corrected (including the following two steps).
- *Fine:* Depending on the severity of the violation or the frequency of occurrence, the Member may be fined after a finding by the Board of Directors that the violation merited this response; a fine may be levied in response to a particularly egregious violation or as a second (or additional) step in the progression of member-discipline;
- *Suspension of Membership Rights and/or Termination of Membership:* The Board of Directors may suspend a Membership for the willful or repetitive failure of the Member to observe the obligations of a Member as set forth in the Mutual or GRF Bylaws. This suspension may include restriction of the use of the Clubhouses or CATV by GRF, or the suspension of voting privileges or service on the Boards. Note that should a housing corporation desire that GRF suspend member privileges (such as CATV as an added disciplinary measure) a hearing before the Board of GRF is required to suspend member privileges in the Golden Rain Foundation.
- *Termination of Membership:* As a final step in the disciplinary process, the Board of Directors may find that an action or cumulative actions are so egregious that the Board is compelled to terminate the membership of the violator. Note that such action is rare and that the Boards would proceed with the utmost in due-diligence and advice from legal counsel.

Note that resident membership in the Golden Rain Foundation is appurtenant to the membership in the housing corporation; accordingly, staff infers that GRF may only suspend member privileges and may not terminate membership in GRF, whereas termination of membership in a housing corporation simultaneously terminates the resident membership in the Golden Rain Foundation<sup>1</sup>.

### **ANALYSIS / ALTERNATIVES**

#### ***Nuisance Violations/Neighbor Disputes—Incidents Where a Member's Behavior Negatively Impacts Another Member***

A nuisance occurs when a Member's behavior causes an annoyance, inconvenience or discomfort which interferes with the ordinary use or occupation of another Member's

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<sup>1</sup> Should GRF desire to test this issue, staff recommends seeking guidance from legal counsel.

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property, especially a continuing or repeated invasion or disturbance of another Member's right to use and occupancy. Staff recommends the following procedure for this category of member-discipline:

- 1) Upon receipt of a complaint, Staff investigates and files an Incident Report (IR). Note that both the complaining party(s) and alleged violator(s) are identified in the IR.
- 2) 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 with an explanation of the Corporation's disciplinary procedures and jurisdiction. If the violation is considered severe, Staff will copy the Board of Directors recommending that they consider a hearing to determine if member-discipline is merited.
- 3) Third-party intervention will be offered to all parties involved. Professional third party mediation services may be utilized to amicably resolve issues without involving the Board. If successful, such intervention may preclude Board involvement. Social Services will be contacted to assess if any assistance may be provided by either GRF, Adult Protective Services, The Leisure World Foundation, etc.
- 4) If another complaint is received, another IR is filed, and by way of the second investigation should Staff identify objective evidence of a violation, Staff will send another letter to the alleged offender with a copy to the Board of Directors recommending that the Board consider a hearing to determine if member-discipline is merited. Note that if this policy is adopted, the Board will entertain up to 10 prospective matters for hearings per month.
- 5) Considering this information and any other information gathered subsequently, the Board will determine if a hearing is merited and direction will be given to Staff to proceed with noticing a hearing<sup>2</sup>. So that Directors will have all information on hand at the time of the hearing, Staff will produce a subject report on the matter.

*Violations Involving Tortious Behavior, i.e., Threats to Persons or Property, Personal Injury, etc.*

Violence or behavior that is a threat to the welfare of the Community requires assistance from outside public agencies. When a resident poses a threat to the safety of others, the following procedure is used:

1. If an allegation of tortious behavior is made to Staff, the case is immediately reported to Emergency 9-1-1 or the Sheriff depending on the nature of the report.
2. Staff will assist the Public Agency(s) responding to the investigation and will also file an IR on behalf of the Corporation.
3. Social Services will be contacted to assess if any assistance may be provided to the parties.

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<sup>2</sup> Depending on the frequency of the incidents and their severity, the Board may wish to review the issue during their Closed Sessions either during their regularly scheduled meeting or, at a Special Meeting if the issue is deemed immediate and/or is required due to scheduling difficulties.

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4. If, by way of the investigation, Staff identifies objective evidence of a violation, and, due to the potential for or actual enactment of injury to person or property, Staff will send a letter to the offender with a copy to the Board of Directors recommending that the Board consider a hearing to determine if member-discipline enacted by the Board is merited.
5. Considering this information and any other information gathered subsequently, the Board will determine if a hearing is merited and direction will be given to Staff to proceed with noticing a hearing. So that Directors will have all information on hand at the time of the hearing, Staff will produce a subject report on the matter.

### *Clutter Violations*

Under current public policy, only clutter in common area may be acted on by the Boards. If the personal belongings are left in an exclusive use common area, the Mutual can only remove them in an emergency situation. Staff recommends the following procedure when dealing with clutter issues:

- 1) Upon notice of alleged violation, Staff inspects the condition of patio, balcony, breezeway, manor exterior, carport, laundry room, recreation rooms, etc., photographs the site, and files an IR.
- 2) If by using the Corporation's criteria for ascertaining "clutter," i.e., anything in a carport other than a Corporation-approved storage container, Staff may then issue a request for compliance without Board involvement; or,
- 3) Any subjective evaluations of clutter, i.e., use of patio for storage, will require confirmation of such by the Board or its designee, e.g., as currently performed by the Landscape Committee. With a finding in hand by the Committee<sup>3</sup>, Staff will send a request for compliance to the Member including a time-certain required for compliance, i.e., 10 days.
- 4) After the noticed period has expired, Staff again inspects the property, and if compliance with the request is not evident, a second IR is filed, and a second notice of violation is sent to the Member with a copy of the correspondence sent to the Board of Directors recommending consideration of a hearing to determine if member-discipline is merited; or, if the condition is resolved, no further action is required at this time.
- 5) Considering this information and any other information gathered subsequently, the Board will determine if a hearing is merited, and direction will be given to Staff to proceed with noticing a hearing. If the directive is given to Staff to notice a member-disciplinary hearing, Staff will produce a subject report on the matter so that Directors will have all information on hand at the time of the hearing.
- 6) The Board of Directors may direct Staff to remove personal belongings that are left in common areas. There is no statutory obligation to store the items; however, consideration should be given to the nature and apparent value of the property.

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<sup>3</sup> Staff recommends that the Security Committee review such subjective evaluations of clutter during their regularly scheduled meetings, by way of photographs taken by staff.



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### *Unapproved Alterations*

1. Upon identification of an alleged unapproved alteration, Staff will inspect the property to confirm the alteration's status and to assess any damage to the property.
2. Should Staff find that the alteration did not follow the required application process, a letter will be sent to the Member under the signature of the Board President advising of the unapproved alteration. In this notice, the Member is advised that they may apply for a alteration permit with no guarantee that the application will be approved. The Member is requested to comply within 30 days and they are advised that upon expiration of the compliance date that if an alteration application is not submitted, Staff will inspect the property to ascertain if the alteration has been removed. The letter will also advise that if neither of these requests are met, the Member will be noticed for a disciplinary hearing. Also, if damage to the common area is noted, the Member is requested to effect the repair or pay the Corporation to effect the repair.
- 2) By way of adoption of this policy, the Board is authorizing Staff to notice a hearing. To accelerate the hearing process while providing due process for all parties, Staff recommends adoption of the aforementioned steps.

#### *Alternative One:*

Approve the noted procedures.

#### *Alternative Two:*

Approve the noted procedures with modifications.

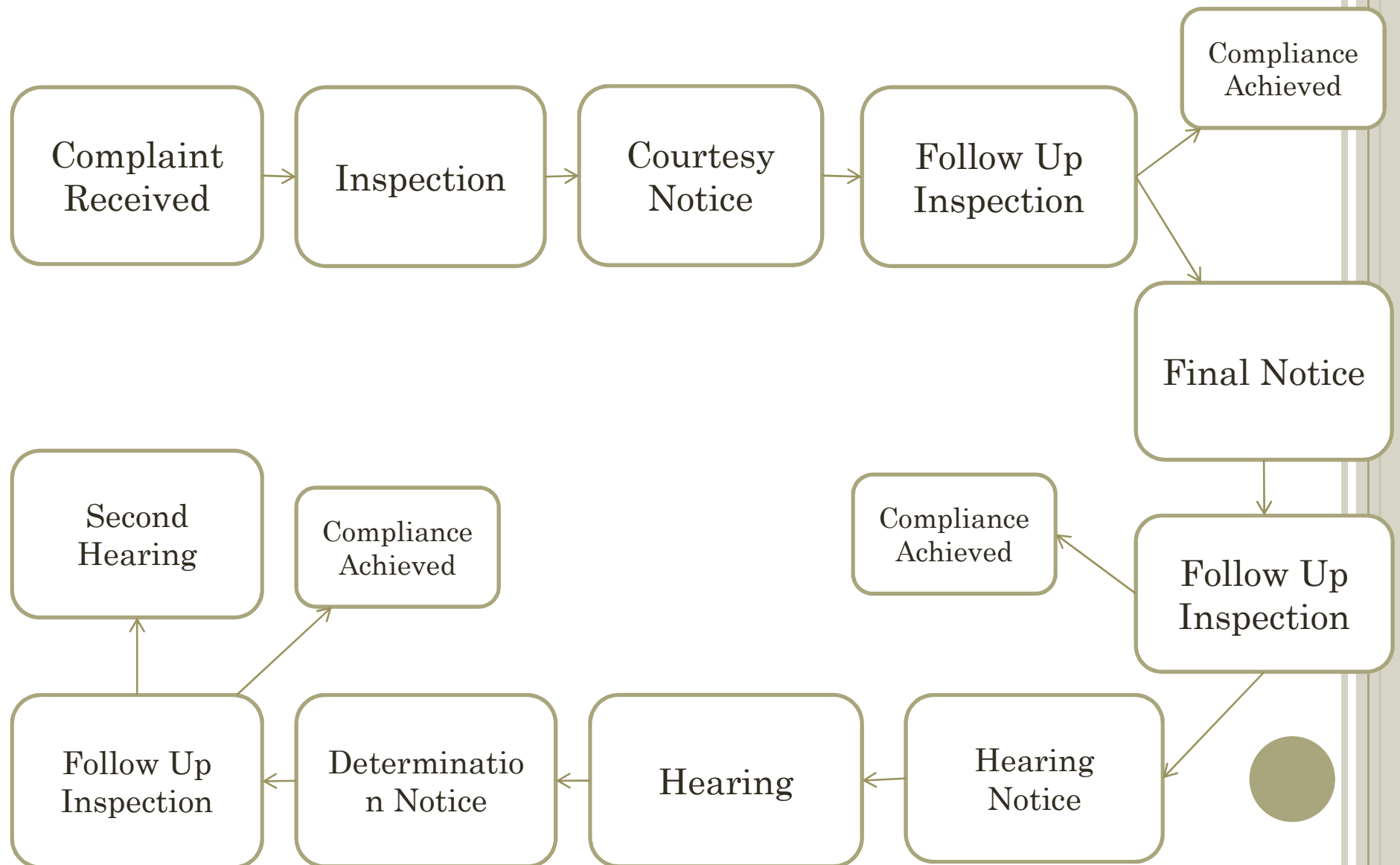
### **RECOMMENDATION**

To ensure appropriate and timely processing of member-disciplinary issues, Staff recommends Alternative One.

**Prepared by:**

**Reviewed by:**

# COMPLIANCE PROCESS





## **MEMBER DISCIPLINARY PROCESS**

The following notice is provided pursuant to Civil Code Section §5310 and §5850.

Resolution 03-04-12, adopted July 20, 2004, by the Third Laguna Hills Mutual (Third) Board of Directors (Board), 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 §5855.

Each member of Third is obligated to comply with the rules, terms and conditions as set forth in the 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. Depending on the seriousness of the matter, the Board has the authority to schedule a disciplinary hearing as reasonably possible.
- 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 with the mutual's 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, carport clutter; common area clutter, interior clutter, patio clutter, unauthorized occupancy, unauthorized caregiver occupancy, landscape maintenance, nuisance, harassment, smoking nuisance,

excessive traffic citations, real estate signage, and nonpayment (assessments, chargeable services, monetary penalties, traffic citations, etc.).

The member disciplinary process is coordinated by the Compliance Division. A complaint may be registered by calling the Department of Security Services at 949-580-1400; the Compliance Division at 949-268-CALL; or by emailing [compliance@vmsinc.org](mailto:compliance@vmsinc.org).



### SCHEDULE OF MONETARY PENALTIES

The following notice is provided pursuant to Civil Code Section §5310 and §5850.

The following schedules identify the violations and potential monetary penalties which may be imposed upon a member. Such penalties may be imposed following a hearing by Third Laguna Hills Mutual (Third) Board of Directors (Board) for a violation of the governing documents and rules and regulations by the member, co-occupant, guest or lessee.

Type of Violation	Penalty Ranges
<b>Alteration</b>	
Examples: Debris, work without a permit, work beyond the allowed hours, expired permit, noncompliance with approved variance request, use of community trash bins, failure to maintain alteration, etc.	\$25 - \$500
<b>Clutter Restrictions</b>	
Examples: Balcony, breezeway, carport, common area, interior, patio, vehicle, etc.	\$25 - \$500
<b>Landscape Restrictions</b>	
Examples: Saucers/casters not present, too many plants (refer to landscape maintenance manual), vegetable plants, vines attached to walls, wind chimes, etc.	\$25 - \$500
<b>Maintenance/Repair</b>	
Examples: (Major) failure to correct fire, safety, health hazard or other dangerous condition; (minor) broken blinds, etc., violation of the paint program, interior pest policy, moisture intrusion event, etc.	\$50 - \$500
<b>Nonpayment</b>	
Examples: Nonpayment of assessments, chargeable services, disciplinary penalties, facilities or services use charges, traffic citations, etc.	\$25 - \$500
<b>Nuisance/Harassment Restrictions</b>	
Behavior/Disturbances: Assault, theft, trespassing, yelling, etc.	\$25 - \$500
Noise: Activities that interfere with quiet enjoyment such as improperly installed hardwood floors, neighbors playing music or television too loud, loud conversation, barking dogs, etc.	\$25 - \$500
Odors: Strong cooking odors, BBQ smoke entering other units, etc.	\$25 - \$500
Visual: Draping articles over balcony rails, etc.	\$25 - \$500

Health/Safety: Hoarders who allow unsanitary conditions to exist that attract insects and rodents, or residents who wash dog feces and urine off their balcony onto the property below them, etc.	\$25 - \$500
Violation of laws: Violations of federal, state or local ordinances. Examples include public nudity or a resident engaged in drug dealing etc.	\$25 - \$500
<b>Occupancy Restrictions</b>	
Examples: Caregiver policy, short-term rentals, advertisement of short-term/vacation rentals, lease policy, unapproved occupancy, qualifying resident not in unit, room rentals, guest visitations exceeding 60 calendar days within a 12-month period, etc.	\$25 - \$500
<b>Other</b>	
Illegal business, nonsmoking policy, portable storage container policy	\$25 - \$500
<b>Pet Restrictions</b>	
Examples: Dog not on leash, dog not under control, unreasonable noise (barking), not picking up and disposing of feces, etc.	\$25 - \$500
Examples: Breeding of animals for sale or commercial gain, injury to persons or damage to property caused by animal, etc.	\$50 - \$500
<b>Traffic Rules and Regulations</b>	
Examples: Abandoned vehicle, commercial vehicles, excessive vehicles, vehicle oil, etc.	\$25 - \$500
Any violation of the governing documents or rules and regulations not specifically identified in this schedule.	\$25 - \$500
<b>Second or Subsequent Violations of the Same Rule</b>	
Ongoing violation of the same event may result in a daily fine in accordance with current monetary penalty schedule until compliance is achieved and/or double of fines imposed.	

In addition to, or instead of the monetary penalty, the board of directors may impose the following penalties, following a noticed hearing, for a violation of the governing documents or rules and regulations:

1. Suspension of the right to use any facilities owned, operated or managed by Third, for a period not to exceed 30 days for each breach, and/or any facilities owned, operated or managed by the Golden Rain Foundation (GRF) for a period not to exceed 90 days for each breach.
2. Third may also make an application to a court of competent jurisdiction for legal or equitable relief.

Third bylaws and rules and regulations provide that members/residents who receive a traffic citation may elect to waive their right to a hearing and attend traffic school or forfeit a fine for certain violations and under certain circumstances. (See schedule of traffic monetary penalties).

Delinquent regular or special assessments, plus any costs of collection, late charges and interest, shall become a lien on the owner's interest in the common interest development upon recordation of a Notice of Delinquent Assessment in the Official Records of Orange County, California; and said lien may be enforced as provided by Sections 5650-5690 of the California Civil Code, and as otherwise permitted by law.

If you have questions regarding the above information, please contact the Compliance Division during regular business hours at 949-268-CALL or at [compliance@vmsinc.org](mailto:compliance@vmsinc.org).



## STAFF REPORT

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**DATE:** August 21, 2018  
**FOR:** Board of Directors  
**SUBJECT:** Disciplinary Violations Matrix

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### **RECOMMENDATION**

Approve disciplinary violations matrix.

### **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 the 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, and/or consider legal action.

On April 24, 2018, the Executive Hearings Committee requested Staff develop a recommendation for the next Third Mutual Executive Hearings Committee regarding compliance issues that should be immediately scheduled for a disciplinary hearing (“fineable”) as opposed to be given a courtesy notice (“warn-able”). Examples that were given as possible “fineable” items were illegal occupancy and construction work without a permit. Clutter on a patio was one example of a “warn-able” item that would receive a courtesy notice.

On May 22, 2018, the Executive Hearings Committee discussed the matter and requested that it be brought to the Residency Policies and Compliance Task Force for further discussion.



The Executive Hearings Committee meets for four hours on a monthly basis for damage restoration and disciplinary hearings. The Committee averages five damage restoration hearings and nine disciplinary hearings per monthly meeting.

On July 31, 2018, the Residency Policy & Compliance Task Force reviewed and discussed the matter and made some changes.

On August 7, 2018, the Finance Committee reviewed and discussed the disciplinary violations matrix. The Committee made changes for clarification purposes and requested that the disciplinary process be included with the matrix.

## **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 80% 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.

In preparation for this analysis, Staff and legal counsel reviewed the Davis-Stirling Act and determined the Act does not require a warning vs. a fine for a governing document violation. Any such restriction would have to come from the governing documents.

Review of the Bylaws and Amended and Restated Declaration of Covenants, Conditions and Restrictions (CC&Rs) revealed nothing that speaks or that would prevent this. Examination of various applicable rules, including a number of different rules/resolutions/policies regarding fines and potential disciplinary action for various types of violations generally identified nothing that would require a warning before a fine can be levied, following a noticed hearing before the Board as required by statute/the governing documents, but there are a few instances where it appears that a warning is apparently required.

For violations of not displaying a handicapped parking placard, the first offense is to be suspended (i.e., no fine), if the placard and handicapped certificate are brought to the Security Department (Resolution M3-96-20).

The Laguna Woods Village Traffic Rules and Regulations (Resolution 03-14-44) states in Section 3.3.2 that violators will be given the option to attend "Traffic School" rather than paying a fine once in any given three year period.

The Laguna Woods Village Traffic Rules and Regulations also defer to the fine schedule of the Golden Rain Foundation (GRF) for traffic violations. Legal counsel has not reviewed this schedule, but as long as there is nothing that requires a warning, which does not appear to be the case based on the context in the Traffic Rules and Regulations, there should not be any other mandatory warning type violations.

Other than those limited examples, Staff and counsel see no issue in terms of setting up guidelines for "warn-able" offenses vs. immediately "fineable offenses." The underlying principle that similar offenses should be treated similarly (i.e., no disparate treatment) should always be kept in mind whenever the method of discipline has elements of discretion. The

Board should avoid potential liability/claims from residents as to disparate treatment or claims that they are being targeted.

The proposed guidelines (Attachment 2) outline the compliance issues that should be immediately scheduled for a disciplinary hearing (“fineable”) as opposed to be given a courtesy notice (“warn-able”). Items that most adversely impact quality of life and/or public health and safety are categorized as immediately “fine-able” offenses.

Should the proposed guidelines be approved by the Board, Staff anticipates that additional Committee time will be required to accommodate the increase of disciplinary hearings.

### **FINANCIAL ANALYSIS**

Staff anticipates that an increase of fines will result from the additional disciplinary hearings.

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

**Reviewed By:** Tim Moy, Chief of Security  
Siobhan Foster, Chief Operating Officer

### **ATTACHMENT(S)**

Attachment 1: Member Disciplinary Process

Attachment 2: Disciplinary Violations Matrix

## 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, animal nuisance, breezeway clutter, carport clutter, common area clutter, interior clutter, patio clutter, illegal occupancy, nuisance, non-payment of assessments, 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).

Attachment 2: Disciplinary Violations Matrix

**THIRD MUTUAL**

**DISCIPLINARY VIOLATIONS MATRIX**

<b>Allegation</b>	<b>Schedule Hearing Immediately</b>	<b>Follow Normal Hearing Process</b>	<b>Issue Courtesy Notice First</b>	<b>Notes</b>
Abandoned Vehicle		X		
Alterations - General Requirements				
Construction Hours	X			
Debris	X			
Expired Permit			X	Pay after first notice in force now
Non-Compliance to Variance Request	X			
Use of Community Trash Bins	X			
Alterations – Failure to Maintain			X	1 time only
Animal Control				
Breeding animals for sale or commercial gain	X			
Dog Barking			X	1 time only
Injury to person/Damage to property	X			
Not picking up and disposing of feces		X		
Not under control (off leash/longer than 6ft)		X		
Caregiver Policy	X			
Clutter				
Balcony			X	1 time only
Breezeway			X	1 time only
Carport			X	1 time only
Common Area			X	1 time only
Interior			X	1 time only
Patio			X	1 time only
Vehicle			X	1 time only
Illegal Business	X			
Landscape				
Saucers/Casters not present		X		
Too Many Plants (refer to Landscape Manual)			X	
Vegetable Plants		X		
Vines Attached to #Walls		X		
Wind Chimes		X		
Manor Maintenance/Repair				

Major (Fire, Safety, Health Hazard)	X			
Minor (Broken Blinds, etc.)			X	
Non-Payment of Assessments	X			
Non-Payment of Chargeable Services	X			
Nuisance - Behavior/Disturbance				
Assault, Theft	X			
Trespassing	X			
Yelling		X		
Nuisance - Noise				
				A form is filled out first, then a Meet and Confer.
Hard surface Flooring		X		
Loud TV, Radio, Conversation		X		
Nuisance - Odors		X		
				Depending on type
Nuisance - Other	X	X		
Non-Smoking Policy		X		
Temporary Container Policy	X			
Traffic Rules (Commercial, Excessive Vehicles)		X		
Unauthorized Occupancy				
Advertisement		X		
Lease Policy	X			
No Authorization	X			
Qualifying Resident Not In Unit		X		
Room Rentals	X			
Short-Term Rentals	X			
Vehicle Oil			X	1 time only

**NOTES:**

1. Our legal counsel has advised us to add a disclaimer that this list does not identify/list all infractions nor constitute the handling of the same.
  2. We need to spell out the normal Hearing Process for illegal occupancy.
  3. The subject of storage containers came up. Kurt needs to provide the breakdown of types and damage caused by them.
- Also, we have Resolutions pertaining to these as well.



## STAFF REPORT

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**DATE:** October 25, 2022  
**FOR:** Resident Policy and Compliance Committee  
**SUBJECT:** Appeal Policy

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### **RECOMMENDATION**

Receive and file.

### **BACKGROUND**

Third Laguna Hills Mutual's ("Third") Governing Documents require a Member to seek approval from the Board of Directors ("Board") on various matters of Corporate business by way of the Committee structure for review of a question that may/will ultimately be determined by the Board. For example, a resident requesting an alteration variance or a landscape change is reviewed at the Committee level before it is brought before the Board for final decision.

Civil Code Section §4765 provides that decisions made by the Board or of a committee having the same composition as the Board relating to a member's architectural and/or landscape request that occur in an Open Session Board meeting in compliance with the requirements of Civil Code §4900 et seq. (the Open Meeting Act) may be final, without the right of a Member to appeal said decision.

On August 20, 2019, Third amended the Appeal Policy (Resolution 03-19-79) to conform with Civil Code §4765; allowing for Board decisions to be final. The policy also streamlined the process to provide guidelines for a member if they meet the criteria for an appeal. The policy amendment added further review stipulating that if new relevant information is brought to the Board's attention relating to a matter previously decided by the Board, the Board may, in its sole discretion, revisit such decision due to extraordinary circumstances, but it shall have no obligation to do so and no member shall be entitled to such reconsideration as a matter of right.

The purpose of the Appeal Policy is to set forth appeals of certain decisions by the Board, Committees, or Management on architectural and landscape matters, Lease Authorization Permits, Co-occupancy Applications, Caregiver Applications, non-escrow membership transfer applications and Resale related matters, as well as decisions made regarding Member discipline and reimbursement to Third by Members for expenses incurred by Third for which the Member is responsible, including without limitation when applicable, legal fees and costs. (Attachment 1)

### **DISCUSSION**

The Committee requested review of the Appeal Policy.

### **FINANCIAL ANALYSIS**

None.

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

Agenda Item 8d

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**Appeal Policy**

October 25, 2022

Page 2

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

**ATTACHMENT(S)**

Attachment 1: Appeal Policy



**Appeal Policy**  
**Resolution 03-19-79; Adopted August 20, 2019**

**I. Purpose**

Third Laguna Hills Mutual (“Third”) requires a Member to seek approval from the Board of Directors (“Board”) on certain matters of Corporate business by way of the committee structure for review of a question that may ultimately be determined by the Board in Open session, including without limitation, certain architectural and landscape approvals, and variance requests, or in Executive Session, including without limitation, approvals for Lease Authorization Permits, Co-occupancy Applications, Caregiver Applications, non-escrow membership transfer applications and Resale, as well as decisions on discipline of members for governing document violations and reimbursement for expenses incurred by Third.

Depending on the circumstances and the powers granted to the Committee (as defined below), the Committee may either act to approve or deny a Member’s request, or, if such request requires Board consideration, forward the Committee’s recommendations regarding the Member’s request to the Board for its consideration and decision.

The purpose of this document is to set forth the Appeal Policy for appeals of certain decisions by the Board, Committees, or Management on architectural and landscape matters, Lease Authorization Permits, Co-occupancy Applications, Caregiver Applications, non-escrow membership transfer applications and Resale related matters, as well as decisions made regarding Member discipline and reimbursement to Third by Members for expenses incurred by Third for which the Member is responsible, including without limitation when applicable, legal fees and costs.

A decision made by a Committee or Management, within its powers, to deny a Member’s request shall be appealable to the Board if permitted by the Community Rules and/or required by statute. However, except as specifically provided in this Policy or otherwise in the Community Rules (as defined below), or as may otherwise be required by law, **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.**



## II. Definitions

For the purposes of this Policy:

- a. **Committee** is a group of individuals appointed by the Board for a specific function. For example, the Architectural Control and Standards Committee and Landscape Committee review Member requests for nonstandard architectural or landscape changes and make recommendations to the Board for approval or denial.
- b. **Community Rules** shall mean and refer to the Articles of Incorporation and Bylaws of Third, the recorded Covenants, Conditions, and Restrictions ("CC&Rs"); and any rules and regulations adopted by Third. Any reference to the "**Governing Documents**" shall, for purposes of this Policy, be deemed a reference to the Community Rules set forth in this definition.
- c. **Executive Hearing Committee** is comprised of three (3) Directors and two (2) alternate Directors for the purpose of making decisions on disciplinary/confidential matters in Executive Session, including without limitation, discipline for Governing Document violations and decisions regarding the imposition of reimbursement assessments on Members for Common Area damage.
- d. **Executive Session** is defined as a closed meeting of the Board to address disciplinary/confidential matters as described in Civil Code Section 4935.
- e. **Management** shall mean and refer to Village Management Services, Inc., the managing agent for Third.
- f. **Member** is defined as any person who is an owner of a Unit in Third's development who has been approved for membership in Third.
- g. **Open Meeting** is defined as a meeting open to the Members of Third as provided in the Open Meeting Act as codified in the Civil Code at Section 4900 et seq. Per Civil Code Section 4765, decisions made by the Board relating to a Member's architectural and/or landscape request that occur in an Open Session meeting may be final.
- h. **Subject Matter Expert** ("SME") is defined as the Staff Member from Management with the highest level of expertise in the specialized job, task, or skill pertinent to a Member's appeal request.

### III. Architectural and Landscape Decisions

As further described in the Community Rules, including without limitation, the Architectural Review Procedures, applications for Standard Plan alterations submitted to the Manor Alterations and Permits Division may typically be approved without Board review.

An application with plans not in conformance with the approved Standard Plan alterations or for which neighbor objections have been received are considered and reviewed by the Architectural Control and Standards Committee ("ACSC").

Applications that are not in conformance with Third's architectural standards may be recommended for denial by the ACSC.

Meanwhile, an application that may otherwise meet the application requirements, but with plans that do not conform to the approved Standard Plan alterations, requires the approval of a variance request, which must be submitted for review by the ACSC. The ACSC reviews the architectural application, variance request, and other documentation provided regarding the proposed alteration at its regularly scheduled meetings and makes a written recommendation to the Board as to whether the architectural/variance request should be granted or denied.

Similarly, requests by Members for landscape modification are submitted to the Landscape Division for review by Management and/or the Landscape Committee, which may approve standard landscape alterations without Board review. Nonstandard landscape requests will be reviewed by the Landscape Committee, who will then make a written recommendation to the Board as to whether the landscape modification should be approved or denied.

The recommendation from the ACSC or Landscape Committee, as may be applicable, on a matter to be ultimately determined by the Board is considered by the Board at the next regularly scheduled Open Meeting, at which time the Board will either approve (either with or without conditions) or deny the Member's architectural/variance or landscape modification request.

**Such decisions made by the Board at an Open Meeting are not subject to appeal, in accordance with Civil Code Section 4765.** Nor shall decisions made by the Board on such matters in Executive Session, as may be applicable, be subject to appeal.

Notwithstanding the foregoing, if new relevant information is brought to the Board's attention relating to a matter previously decided by the Board, the Board may, in its sole discretion, revisit such decision due to extraordinary circumstances, but it shall have no obligation to do so and no Member shall be entitled to such reconsideration as a matter of right.

The SME will review any request for reconsideration based on extraordinary circumstances if submitted in writing within thirty (30) days from the Board's determination or the discovery of such extraordinary circumstances; in no event, however, shall any reconsideration request be considered by the Board after one (1) year from the date of the original, final decision by the Board. Reconsideration of the Board's decision may be considered in the following circumstances: (1) the application or documentation provided had an error which would otherwise have resulted in approval; (2) the Board or recommending Committee misinterpreted provisions of the application or the requirements of law or the Community Rules in its decision; (3) an aberration from the review and approval procedures as laid out in the Community Rules is discovered; and (4) any other situation in which the Board, in its sole discretion, believes that an additional review is necessary to ensure the equal and fair treatment of all Members.

#### **IV. Disciplinary Decisions**

The Executive Hearing Committee makes decisions on disciplinary/confidential matters, including discipline for governing document violations and decisions regarding the imposition of reimbursement assessments on Members for Common Area damage, in Executive Session meetings, to which the Member has been invited to be heard, and issues written decisions to Members within fifteen (15) days from the date of the noticed hearing in accordance with the hearing and enforcement procedures in Third's Community Rules.

Within thirty (30) days of receipt of a written decision by the Executive Committee relating to Member discipline or a reimbursement by the Member to Third, made at an Executive Session meeting, the Member may appeal to the Board the Executive Committee's decision by providing an explanation, in writing, as to why the Member believes the Committee made an incorrect decision, along with any additional evidence or documentation pertinent to the Member's appeal.

Upon receipt of such appeal request, the information will be reviewed by the SME for consideration. If approved, a new hearing will be scheduled before the Board, at which the Board will consider the written appeal as well as any evidence or documentation previously provided, after which the Board will make a decision and provide notice of same in accordance with Third's Governing Documents and applicable statute.

**No further appeals, other than as directly referenced above, will be granted upon reconsideration by the Board of the matter that was the subject of the initial hearing before the Executive Committee and a final determination by the Board. In addition, the decision on any such matter heard directly before the Board (rather than first being heard by the Executive Committee) shall be final and not subject to appeal.**

## **V. Occupancy and Membership Decisions**

Pursuant to Third's Lease Policy, Care Provider Policy, Resale Policy and the Governing Documents, a Member seeking authorization to occupy or obtain Membership must submit the required Permit application to the Community Services Division along with all required supporting documentation. The application is then reviewed by Management, who may either approve or deny the application based on the conformance of the application to the requirements in the Lease Policy, Care Provider Policy, Resale Policy, and the Governing Documents and ability of the Member to pursue such action as otherwise specified in the Community Rules and/or based on prior disciplinary action against the Member.

If Management denies the request within its authority (without consideration by the Board), the Member may appeal such decision to the Board upon written appeal by providing an explanation, in writing, as to why the Member believes Management made an incorrect decision, along with any additional documentation pertinent to the Member's appeal. Upon receipt of such appeal request, the information will be reviewed by the SME for consideration as well as any evidence or documentation previously provided, for consideration by the Board, which will make a final decision on the Member's application.

In some instances, Management may refer the approval/denial decision directly to the Board, and provide a recommendation for approval or denial of the application based on its review of the submitted application and documentation.

**A decision on the approval or denial by the Board, whether in an Open Meeting or in Executive Session shall be final, and not subject to appeal or further review by the Member.**

Notwithstanding the foregoing, if new relevant information is brought to the Board's attention relating to a matter previously decided by the Board, the Board may, in its sole discretion, revisit such decision due to extraordinary circumstances, but it shall have no obligation to do so and no Member shall be entitled to such reconsideration as a matter of right.

The SME will review any request for reconsideration based on extraordinary circumstances if submitted in writing within thirty (30) days from the Board's determination or the discovery of such extraordinary circumstances; in no event, however, shall any reconsideration request be considered by the Board after one (1) year from the date of the original, final decision by the Board. Reconsideration of the Board's decision may be considered in the following circumstances: (1) the application or documentation provided had an error which would otherwise have resulted in approval; (2) the Board or recommending Committee misinterpreted provisions of the application or the requirements of law or the Community Rules in its decision; (3) an aberration from the review and approval procedures as laid

out in the Community Rules is discovered; and (4) any other situation in which the Board, in its sole discretion, believes that an additional review is necessary to ensure the equal and fair treatment of all Members.

**Appeal Form**  
**Compliance Division**  
**PO BOX 2220, Laguna Hills, CA 92654; 949-268-CALL; [compliance@vmsinc.org](mailto:compliance@vmsinc.org)**

If you disagree with the Determination Notice by the Third Laguna Hills Mutual (Third) Executive Hearings Committee, you may appeal the decision(s) to the Board of Directors by completing this form and explaining why you disagree. You must sign the form and return it to the Compliance Division. **YOU HAVE 30 DAYS FROM THE MAIL DATE OF THE DETERMINATION NOTICE TO FILE A TIMELY APPEAL.** The Subject Matter Expert (SME) will review the appeal request for consideration. If approved, a new hearing will be scheduled before the Board, in accordance with Resolution 03-19-79, Appeal Policy.

<b>Section I: Member(s) Information</b>			
<b>Name:</b>	<b>Unit #</b>	<b>Telephone #</b>	<b>Email:</b>
<b>Name:</b>	<b>Unit #</b>	<b>Telephone #</b>	<b>Email:</b>
<b>Date of Disciplinary Hearing:</b>			

<b>Section II: Appeal Statement</b>
<p>PLEASE PRINT</p> <p>Explain the reason for your appeal and why you disagree with the decision(s).          If required, attach additional pages to this form and write your name and unit on each page.</p>

**FOR OFFICE USE ONLY**

**Action Taken By:** \_\_\_\_\_

<input type="checkbox"/> <b>Appeal Approved</b>	<input type="checkbox"/> <b>Appeal Denied</b>	<b>Date:</b>
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## STAFF REPORT

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**DATE:** October 25, 2022  
**FOR:** Resident Policy and Compliance Committee  
**SUBJECT:** Member' Bill of Rights

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### **RECOMMENDATION**

Staff recommends that if any changes are done that they be done to the appropriate resolution(s) and the documents be reviewed by legal counsel prior to adoption. Additionally, staff recommends that any references to staff's handling of items be removed from the document and follow the appropriate chain of command for further investigation if needed.

### **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. (Attachment 1 and 2).

On November 17, 2020, the Board of Directors revised Rules for Board Meetings to ensure the management of the community's affairs are carried out professionally and in adherence with the provision of Civil Code (Resolutions 03-20-80). The Rules for Board Meetings include language on the following: requiring that Directors refrain from making comments which maliciously malign any person, business or entity; states that issues discussed and disclosed in Executive Session shall remain private due to the sensitive nature, attorney client privilege or other privacy rights; and members being considered for discipline or reimbursement claim may speak to the Board for a maximum of five minutes of uninterrupted time, an additional five minutes can be added to the members time if the member brings supporting witnesses (Attachment 3, Resolution 03-20-80). The Committee is currently in the process of reviewing and changing the Rules for Board Meetings.

On August 21, 2018 the board approved guidelines to assist the compliance staff in scheduling disciplinary hearings. The matter started at the Executive Hearings Committee level and was reviewed by two other committees prior to the board (Attachment 4 and 5).

In 2016, the Department of Housing and Urban Development passed the Quid Pro Quo and Hostile Environment Harassment and Liability for Discriminatory Housing Practices Under the Fair Housing Act prohibiting the creation of a hostile environment. The act further states that a neighbor-to-neighbor dispute may be a trigger for a hostile environment. On January 1, 2020, the act was revised to state that a homeowner's association is liable under the Act for negligently failing to take corrective action against a third-party harasser when the provider or manager knew or should have known of the harassment and had the power to end it. As such, staff investigates all received complaints, including neighbor-to-neighbor complaints that may not

directly violate the governing documents, and brings them to the attention of the Board if there is no resolution.

On October 25, 2022, the Resident Policy and Committee will review the Members Bill of Rights drafted by one of its Board Members (Attachment 6).

### **DISCUSSION**

Changes to the member disciplinary process may be done by amending the existing resolutions that govern it. As mentioned above, multiple documents are associated with the member disciplinary process. Changes proposed in the Members Bill of Rights can be incorporated by amending these documents. Other proposed changes require further research as this may create a liability. For example, identifying all hostile/complaining parties/witnesses and allowing the member who is being disciplined the ability to cross examine and face their accusers can be problematic. Under these conditions, reporting parties/witnesses will become reluctant to report any violations for fear of being dragged into a disciplinary hearing. As a result, residents rights to live in a comfortable enjoyment of property are suppressed and may give rise claims of hostile living environment.

### **FINANCIAL ANALYSIS**

The Board imposes disciplinary monetary penalties as an action for violation of the governing documents. The penalties range from \$25 - \$500 depending on the specifics of the matter. For 2022, the Board has held 72 hearings and imposed monetary penalties in total of \$17,200.

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

### **ATTACHMENT(S)**

Attachment 1: Member Disciplinary Process  
Attachment 2: Compliance Process Flow Chart  
Attachment 3: Rules for Board Meetings  
Attachment 4: Disciplinary Hearing Matrix  
Attachment 5: Recommendation for Disciplinary Penalties  
Attachment 6: Members' Bill of Rights





## **MEMBER DISCIPLINARY PROCESS**

The following notice is provided pursuant to Civil Code Section §5310 and §5850.

Resolution 03-04-12, adopted July 20, 2004, by the Third Laguna Hills Mutual (Third) Board of Directors (Board), 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 §5855.

Each member of Third is obligated to comply with the rules, terms and conditions as set forth in the governing documents. Following is the disciplinary process adopted by the board of directors when violations occur:

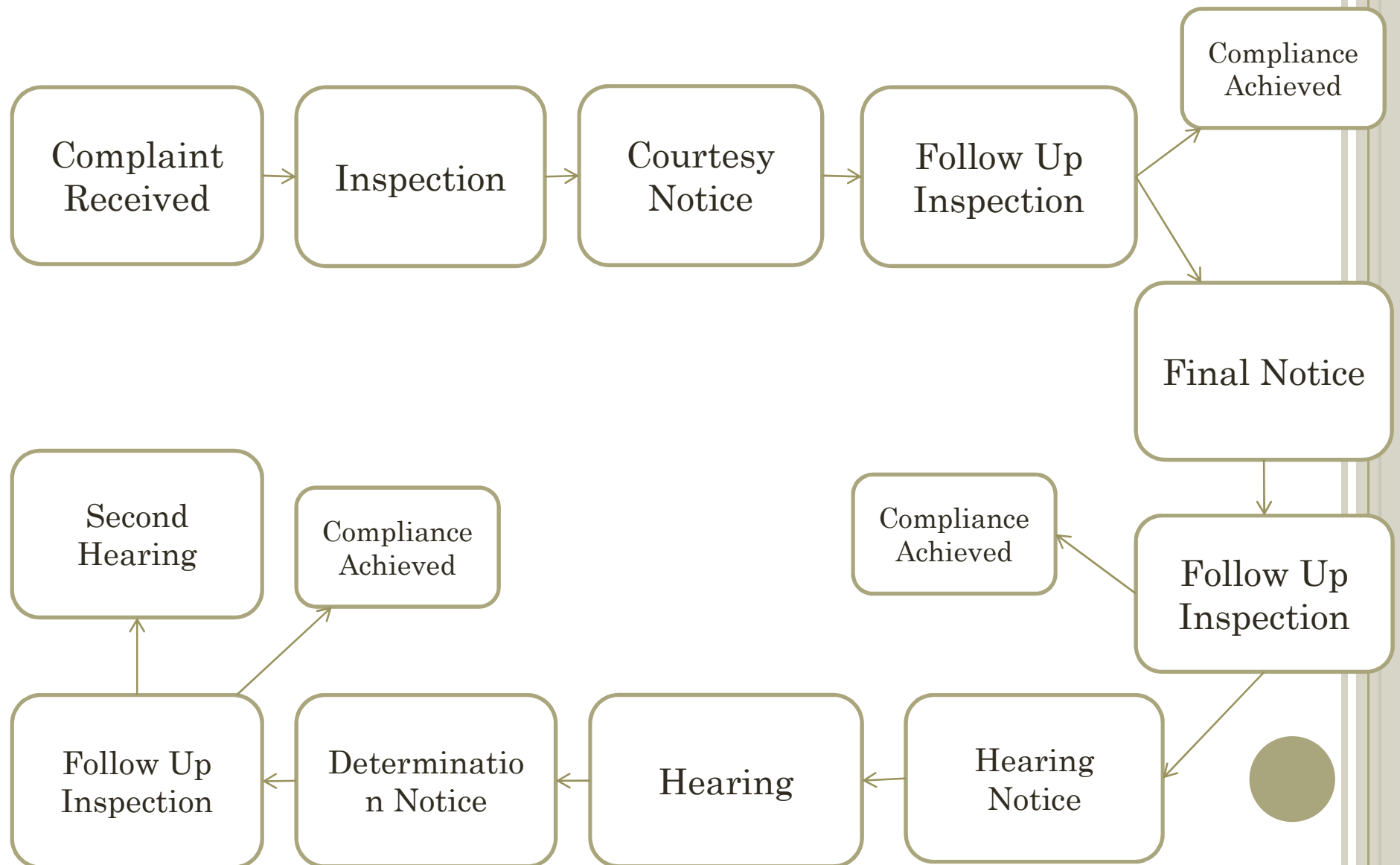
- Upon notice of alleged violation, staff investigates and files an Incident Report (IR) and/or Notice of Clutter Violation (NOV).
- By way of the initial investigation, should staff identify objective evidence of a violation by a member or their guests, staff will send a letter to the offending party describing the allegation(s) and the disciplinary action that may ensue if not corrected. Depending on the seriousness of the matter, the Board has the authority to schedule a disciplinary hearing as reasonably possible.
- 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 with the mutual's 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, carport clutter; common area clutter, interior clutter, patio clutter, unauthorized occupancy, unauthorized caregiver occupancy, landscape maintenance, nuisance, harassment, smoking nuisance,

excessive traffic citations, real estate signage, and nonpayment (assessments, chargeable services, monetary penalties, traffic citations, etc.).

The member disciplinary process is coordinated by the Compliance Division. A complaint may be registered by calling the Department of Security Services at 949-580-1400; the Compliance Division at 949-268-CALL; or by emailing [compliance@vmsinc.org](mailto:compliance@vmsinc.org).

# COMPLIANCE PROCESS



## **RULES FOR BOARD MEETINGS**

**Resolution 03-13-04, adopted January 15, 2013; Resolution 03-14-04, adopted January 21, 2014; and Resolution 03-20-80; Adopted November 17, 2020**

### **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 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.

#### **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 on the web site. In an emergency, the President or any two Directors may call for a Board meeting on shorter notice.

#### **C. Attendance**

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 **1**, 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:
  - a) Has no suggested action;
  - b) Is redundant with an item already on the agenda or was addressed in a Board meeting in the previous three months;
  - c) Must be discussed in Executive Session;
  - d) Would make the agenda unduly lengthy (and so will be on the next agenda);
  - e) Is sent first to a committee for recommendation; or
  - f) 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)(3) above.

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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:

- a) Call meeting to order/Establish Quorum.
- b) Pledge of Allegiance
- c) Acknowledge Media
- d) Approval of Agenda
- e) Approval of Minutes
- f) Report of the Chair
- g) Open Forum (Three Minutes per Speaker)
- h) Responses to Open Forum Speakers
- i) CEO/COO Report
- j) Consent Calendar
- k) Unfinished business
- l) New Business
- m) Committee Reports
- n) GRF Committee Highlights
- o) Future Agenda Items
- p) Director's Comments
- q) Recess
- r) 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 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 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 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. In order to give all Members an opportunity to speak at meetings, and to control meeting length, each 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, 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, Open 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 (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;
- 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.
4. 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 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 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, 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 address the live audience or the television 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 II(H) herein.
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 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 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 members 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 witnesses statements. The member may not bring legal counsel. The member being considered for discipline or reimbursement claim may not observe the Board's deliberation of the matter. A member may provide a written statement as a substitute for personally appearing at the hearing.

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

C. Addressing the Board

A 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 bring one copy for staff, one copy for Mutual legal counsel, and 11 copies for the Board. If a member brings supporting witnesses, an additional five minutes can be added to the 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.

Disciplinary Violations Matrix

**THIRD MUTUAL**

**DISCIPLINARY VIOLATIONS MATRIX**

<b>Allegation</b>	<b>Schedule Hearing Immediately</b>	<b>Follow Normal Hearing Process</b>	<b>Issue Courtesy Notice First</b>	<b>Notes</b>
Abandoned Vehicle		X		
Alterations - General Requirements				
Construction Hours	X			
Debris	X			
Expired Permit			X	Pay after first notice in force now
Non-Compliance to Variance Request	X			
Use of Community Trash Bins	X			
Alterations – Failure to Maintain			X	1 time only
Animal Control				
Breeding animals for sale or commercial gain	X			
Dog Barking			X	1 time only
Injury to person/Damage to property	X			
Not picking up and disposing of feces		X		
Not under control (off leash/longer than 6ft)		X		
Caregiver Policy	X			
Clutter				
Balcony			X	1 time only
Breezeway			X	1 time only
Carport			X	1 time only
Common Area			X	1 time only
Interior			X	1 time only
Patio			X	1 time only
Vehicle			X	1 time only
Illegal Business	X			
Landscape				
Saucers/Casters not present		X		
Too Many Plants (refer to Landscape Manual)			X	
Vegetable Plants		X		
Vines Attached to #Walls		X		
Wind Chimes		X		
Manor Maintenance/Repair				



Major (Fire, Safety, Health Hazard)	X		
Minor (Broken Blinds, etc.)			X
Non-Payment of Assessments	X		
Non-Payment of Chargeable Services	X		
Nuisance - Behavior/Disturbance			
Assault, Theft	X		
Trespassing	X		
Yelling		X	
Nuisance - Noise			
			A form is filled out first, then a Meet and Confer.
Hard surface Flooring		X	
Loud TV, Radio, Conversation		X	
Nuisance - Odors		X	
Nuisance - Other	X	X	Depending on type
Non-Smoking Policy		X	
Temporary Container Policy	X		
Traffic Rules (Commercial, Excessive Vehicles)		X	
Unauthorized Occupancy			
Advertisement		X	
Lease Policy	X		
No Authorization	X		
Qualifying Resident Not In Unit		X	
Room Rentals	X		
Short-Term Rentals	X		
Vehicle Oil			X 1 time only

**NOTES:**

1. Our legal counsel has advised us to add a disclaimer that this list does not identify/list all infractions nor constitute the handling of the same.
  2. We need to spell out the normal Hearing Process for illegal occupancy.
  3. The subject of storage containers came up. Kurt needs to provide the breakdown of types and damage caused by them.
- Also, we have Resolutions pertaining to these as well.



### Compliance Fine Schedule

The following fine schedule is a guideline used that identifies the violations and potential monetary penalties which may be imposed upon a Member. Such penalties may be imposed following a hearing by the Board of Directors, for a violation of the Corporations' Governing Documents and Rules and Regulations by the Member, Co-Occupant, Guest, Lessee, or Vendor.

The recommended fines abide by the Board of Directors approved Schedule of Monetary Penalties.

Allegations	Recommended Minimum Fine
Abandoned Vehicle	\$ 300
Alterations - General Requirements	
Debris	\$ 150
Use of Community Trash Bins	\$ 500
Construction Hours	\$ 300
Noise	\$ 150
Hazardous Materials	\$ 500
Expired Permit	\$ 300
Alterations - Maintenance	\$ 150
Alterations - Unauthorized	\$ 300
Animal Control	
Not under control (off leash/leash larger than 6ft)	\$ 200
Unreasonable noise (dog barking)	\$ 150
Not picking up and disposing of feces	\$ 250
Breeding animals for sale or commercial gain	\$ 500
Injury to person/Damage to property	\$ 500
Caregiver Policy	\$ 500
Clutter	
Balcony	\$ 150
Breezeway	\$ 150
Carport	\$ 150
Common Area	\$ 300
Interior	\$ 500
Patio	\$ 150
Vehicle	\$ 150
Illegal Business	\$ 250

Landscape		
Overgrown Trees	\$	150
Vegetable Plants	\$	150
Too Many Plants	\$	150
Vines Attached to Walls	\$	200
Wind chimes	\$	150
Saucers/Casters not present	\$	200
Manor Maintenance/Repair		
Minor (Broken Blinds, etc.)	\$	150
Major (Fire, Safety, Health Hazard, or dangerous condition)	\$	500
Nuisance - Behavior/Disturbance		
Yelling	\$	200
Assault, Theft	\$	500
Trespassing	\$	500
Nuisance - Noise		
Loud TV, radio, conversation	\$	150
Hard surface flooring	\$	350
Nuisance - Odors	\$	150
Nuisance - Other	\$	150
Short-Term Rentals Policy	\$	500
Non-Smoking	\$	200
Traffic Rules (Decal, Registration)	\$	150
Unauthorized Occupancy	\$	500
Vehicle Oil	\$	150

Second or subsequent violations of the same rule of Governing document by a Member, Co-Occupant, Lessee, Guest, or vendor may be assessed double the penalty that was previously imposed at a prior hearing.

If a violation occur during major holidays then recommended fine should be increased.

If a violation creates unsanitary conditions or safety concerns then the recommended fine should be the max allowed.

## Members' Bill of Rights Zalon Draft #2 - October 15, 2022

### Introduction/Explanation

Citizens and residents of every California city enjoy – in any disciplinary proceeding – a vast array of protections against governmental over-reach: rights guaranteed by the United States and California Constitutions; rights provided by California statutes; rights necessarily implied by procedural safeguards; rights protected by generally-recognized rules of evidence; rights recognized by court decisions interpreting criminal and quasi-criminal statutes, rules, regulations and the like.

Yet we checked many of those rights at the gate when we joined this community. We abandoned them when we signed our Membership contract, a contract that handed over the right to discipline ourselves to ordinary staff employees, non-lawyers who are given extraordinary powers usually limited to professionals subject to meticulous professional and ethical restraints. But there is no reason why we – as individuals – have to abandon any of those rights, simply to live in this great community. We can live here and continue to enjoy the freedoms we have grown accustomed to. All we have to do is adopt those rights . . . those freedoms. I'll bet most Members don't know – even now – that they gave up any rights. Because the only way of finding out is when they're haled before a disciplinary committee and suddenly find themselves being prosecuted by a sheet of paper; and convicted – and fined – after being given no more than 5 minutes to defend themselves, often against evidence they don't actually see.

No, that was no typo! Currently, disciplinary hearings consist of a Compliance staffer reading the charge (from a sheet of paper), which contains the so-called evidence; and then Members are given just 5 minutes to respond. The complainant is rarely – if ever – present. So the disciplinary panel (which should act as a fact-finding jury) must accept that recitation **as fact!** And if the staffer writing the report lied . . . or was biased . . . or was just plain wrong, too bad for our unfortunate Members, who are helpless to defend themselves. Our draconian procedures do not give Members the opportunity to face their accusers; nor the right to cross-examine them; nor even the right to see all the evidence, which is provided only to the Executive (i.e., disciplinary) Committee.

This is unfair and terribly un-American! If you described to Members our disciplinary procedures, I'd bet they would be "shocked, shocked." But we can right this wrong very simply: all we need do is to adopt this Members' Bill of Rights, that does no more than incorporate by reference all the rights that most of us mistakenly believe we already possess.

**And think of all the good will this policy will generate throughout the village. More than any single action this board could take, it will announce – ever so loudly – how different this board is from its predecessors; that we heard the message the Membership sent us in the last two elections; and that we are doing something about it, since it is Member-centric in the extreme.**

### Text

1. Notwithstanding anything to the contrary found in any formal mutual document (including but not limited to rules, regulations, resolutions and the like); in their relationship with Third Mutual or any other legal entity of Laguna Woods Village, every Member shall enjoy, to the fullest extent possible, rights at least equal to the rights that any citizen or resident of the United States has in their relationship to their own local government.

2. Thus, for the benefit of all Third Members, we recognize and incorporate by reference, as if formally adopted by Third Mutual, the rights enjoyed by all California residents, such as rights protected by the California and United States Constitutions; rights provided by California statutes; rights necessarily implied by procedural safeguards; rights protected by generally-recognized rules of evidence; rights recognized by court decisions interpreting criminal and quasi-criminal statutes, rules, regulations and the like; and every board, committee, task force or other entity or authority of this mutual is hereby directed to accord all Members the same such rights, benefits and presumptions at all disciplinary hearings as a matter of first priority.

3. By way of example, and not by way of limitation, Members shall be entitled to not less than 10 days' advance written notice of all Executive Committee disciplinary hearings, along with:

- (a) a full description of the claim;
- (b) the identity of all hostile/complaining witnesses; and
- (c) copies of all evidence intended to be offered to support the claim etc.

4. No evidence not provided in accordance with the above provision shall be thereafter used against the Member at that hearing, or for any similar claim that could – or should – have been brought at the same time. (The purpose of this provision is to assure fairness by preventing the claimant from having “two bites at the apple.”)

5. This board specifically rejects any suggestion that by contractually joining this community, a Member has waived any right that an ordinary citizen would have as against their own local government.

6. Consistent with traditional American legal principles, in the event of an ambiguity in interpreting any rule or regulation, the benefit of the doubt must favor the Member.

7. If a Member – within 5 days of receipt – disputes proffered evidence (photographs, videos, written reports by complainants or Security) by delivering prompt notice to such effect, such evidence shall only be presented by witness testimony based on personal knowledge. For good cause shown, the 5-day deadline may be waived.

8. In all Executive Committee disciplinary proceedings, all contested testimony shall be given under oath, and shall be recorded; and the recording shall be retained until the time for all appeals shall have been exhausted.

9. Members shall also have the right to face their accusers . . . and the unrestricted right to cross examine all witnesses.

10. Members shall have the right to be represented at all hearings by any person of their choosing.

11. Evidence of prior violations shall not be introduced unless relevant to the current prosecution.

12. The multiplier procedure that currently enables imposition of confiscatory fines is rejected; and an amended fine schedule shall be adopted.

13. At the request of a Member, a video recording of evidentiary quality shall be made of every Executive Committee disciplinary hearing to which this policy applies (including appeals); and a copy thereof shall be provided to the Member. The original shall be retained by the board until the time for all appeals shall have been exhausted. (Alternative: The original shall be retained for at least 5 years.)

14. After exhaustion of all rights of appeal within the jurisdiction of this mutual, any decision adverse to a Member may be appealable as of right to the Orange County Superior Court, by filing a civil action for declaratory or equitable relief within three months of the date of the Member's receipt of the final adverse decision.

15. In reviewing the decision being appealed, the Court shall accord no deference to the underlying fact finding or decision, but shall apply normal standards to all issues before it, as if ruling upon stipulated facts.

16. A Member who prevails in that civil action shall be entitled to reasonable attorney's fees and court costs. Should the appellant not prevail, there shall be no countervailing right to fees and costs, unless the court finds the appeal to be frivolous, unreasonable, or without foundation. [End of text]

### Comment

Even though it runs a total of 712 words, this policy could actually be reduced to just a single sentence:

**"Members of this HOA retain all the rights they would be entitled to if this HOA were a California city."**

So despite its compulsory language, this does no more than grant every Member rights that they probably assume they already possess:

- (a) assurance that the panel (deciding the matter) receives only the evidence intended to prove the violation . . . and no more;
- (b) adequate notice;
- (c) advance knowledge of the evidence to be used against them; and (most importantly)
- (d) the right to face and cross examine all hostile witnesses.

Note: The right to appeal any adverse decision – and the right to attorneys' fees – are boilerplate, taken, word for word, from Davis-Stirling sections too numerous to mention.

\* \* \* \* \*

This proposal states specifically that the benefit of the doubt must favor the Member in the event of an ambiguity in interpreting any local rule or regulation. That is the universal American rule for interpreting statutes, rules, regulations, etc. The reasoning is that the government has much more power than any individual; and since their rules were drafted by professionals in the first place (rules which individual citizens probably had no influence in drafting), it is only fair – to balance the scales – to

interpret any ambiguity in favor of the individual. Moreover, the confusion was caused by the legislature's failure to draft the rule clearly enough in the first place. Right now, our disciplinary panels lean in favor of the staff's interpretation; and reMember, it's the staff that brought the claim in the first place. So this sentence only re-balances the scales a bit.

\* \* \*

There is another thing that is clearly out of whack: Staff – in each case – recommends a specific fine! That makes no sense. Nowhere in the law does a prosecutor start out a case by recommending what the punishment should be. The danger is that their recommendation might well depend on how willing the Member was to accommodate the Compliance officer in the first place. But what happens if the Member believes that they are not in violation of any rule? The Executive Committee should first have to answer that question. It's the committee's decision to make. But in the current regimen, it's the compliance officer who will be making those executive decisions ... and that's not their job. It's not fair to them to have to make those types of decisions. Especially when the fine can run from \$25.00 to \$500.00! And there are no guidelines to steer Compliance (or even the panel) in determining the extent of the fine. So in the final analysis, the fine will almost always be based on nothing but the acid in each director's stomach.

It's the panel who should decide (a) whether to impose any fine at all; and (b) how much that fine should be. Compliance's job is to manage violations of our rules; and to present facts sufficient for the panel to make a considered opinion. The rest should be decided by the disciplinary panel.

Period!





## 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.