



**REGULAR MEETING OF THE FINANCE COMMITTEE**

**Tuesday, January 29, 2019 – 2:00 p.m.  
Laguna Woods Village Community Center Sycamore Room  
24351 El Toro Road**

**AGENDA**

1. Call to Order
2. Acknowledgment of Media
3. Approval of the Agenda
4. Approval of Meeting Report for November 27, 2018
5. Chair Remarks
6. Member Comments (Items Not on the Agenda)
7. Department Head Update

**Reports**

8. Preliminary Financial Statements dated December 31, 2018

**Items for Discussion and Consideration**

9. Payment Plan Form for Delinquent Assessments
10. Administrative Fee for Damage Reimbursement
11. Guarantor Agreement Form
12. Purchase of Used Laundry Dryers
13. 2019 Reserve Study Update
14. Post Emergent Herbicides
15. Endorsements from Standings Committees (as needed)

**Future Agenda Items**

Finance Committee Charter  
2018 Solar System Update

**Concluding Business:**

16. Committee Member Comments
17. Date of Next Meeting – Tuesday, March 26, 2019 at 2:00 p.m.
18. Recess to Closed Session

Gary Morrison, Chair  
Betty Parker, Staff Officer  
Telephone: 949-597-4201



OPEN MEETING

REPORT OF THE REGULAR MEETING OF THE  
UNITED LAGUNA WOODS MUTUAL FINANCE COMMITTEE

Tuesday, November 27, 2018 – 2:00 p.m.  
Laguna Woods Village Community Center Sycamore Room, 24351 El Toro Road

**MEMBERS PRESENT:** Gary Morrison - Chair, Juanita Skillman, Carl Randazzo, Elise Addington, Sue Margolis

**OTHERS PRESENT:** Manuel Armendariz, Andre Torng, Dick Rader (VMS)

**MEMBERS ABSENT:** None.

**STAFF PRESENT:** Betty Parker, Steve Hormuth, Christopher Swanson

**Call to Order**

Director Morrison chaired the meeting and called it to order at 2:01 p.m.

**Approval of Agenda**

A motion was made and carried unanimously to approve the agenda as presented.

**Approval of the Regular Meeting Report of September 25, 2018**

A motion was made and carried unanimously to approve the Committee report.

**Division Head Update**

Betty Parker, Chief Financial Officer, provided an update on the 2019 Annual Budget Report and Annual Policy Statement mailing, which will be sent to residents this week

**Review Preliminary Financial Statements dated October 31, 2018**

The Committee reviewed financials dated October 31, 2018. Discussion ensued and questions were addressed.

**Finance Committee Charter**

The Committee reviewed the United Finance Committee Charter last approved in 2012 by Resolution 01-12-202 and made no changes.

By consensus, the Committee agreed to review the Charter at a future meeting when more information from the Investment Task Force is available.

**Investment Policy & Task Force Update**

The Committee reviewed the Investment Policy and no action was taken. Director Morrison provided an update on the newly formed Investment Task Force and its goals.

**2019 United Finance Committee Meeting Dates**

The Committee reviewed the proposed 2019 Finance Meeting dates. By consensus the meeting dates were approved, scheduled for the last Tuesday of odd-numbered months.

**2019 Reserve Study**

Ms. Parker gave an update on the existing reserve study, included this week in the 2019 Annual Budget Report mailing, and recommended retaining a reserve specialist to prepare a full reserve study for use in the 2020 business planning process.

A motion was made and carried unanimously to recommend the Board approve a supplemental appropriation in the amount of \$40,000, to be funded from the Reserve Fund, to proceed with a full reserve study in 2019.

Director Torng handed out a list of questions based on his own analysis of historical reserve studies; Ms. Parker will provide an explanatory response to help identify possible reasons for component changes from year to year.

Director Armendariz commented on how reserve requirements are calculated; Ms. Parker advised that the Greenbook will include an expanded description of the Replacement Factor used to project reserve requirements.

**Date of Next Meeting**

Tuesday, January 29, 2019 at 2:00 p.m.

**Adjournment**

The meeting recessed to closed session at 3:39 p.m.



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Gary Morrison, Chair



**Agenda Item 8 – Preliminary Financial Statements as of December 31, 2018**

**Financials will be issued under separate cover prior to the meeting.**



## STAFF REPORT

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**DATE:** January 29, 2019  
**FOR:** Finance Committee  
**SUBJECT:** Delinquent Assessment – Payment Plan Agreement

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### **RECOMMENDATION**

Staff and the Finance Committee recommend the Board approve revisions to the Delinquent Assessment - Payment Plan Agreement form (Attachment 1), initiating a monthly charge for interest at the rate of 10% per annum, and introducing an administrative fee of \$25 per month.

### **BACKGROUND**

As indicated in the United Mutual Collection and Lien Enforcement Policy, any Member who is in arrears on a regular assessments is entitled to make a written request for a payment plan for that assessment to the Board. The Board considers payment plan requests on a case-by-case basis, and is under no obligation to grant requests.

A Delinquent Assessment – Payment Plan form is used to create an agreement between the delinquent Member and the Mutual. The form includes several payment options and conditions for repayment. Once completed by the Member, the form is submitted for review by the Finance Committee with a Staff recommendation for approval, denial, or modification.

The Finance Committee requested legal review of the existing form (Attachment 2) to provide stronger collection language if terms of the agreement are breached and to recover costs associated with accepting payments over time.

### **DISCUSSION**

On November 26, 2018, the United Governing Documents Review Committee recommended approval of the amendments to the Payment Plan Agreement Form and Policy.

On November 27, 2018 the Finance Committee reviewed and recommended approval of the revised Payment Plan Agreement Form and Policy for Assessments.

On December 18, 2018, the United Governing Documents Review Committee requested changes to the draft payment plan agreement documents and to be presented at the next finance committee meeting on January 29, 2019. Attached to this staff report are the red line documents to identify the changes.

### **FINANCIAL ANALYSIS**

The stronger terms of the payment plan agreement are likely to result in additional compliance and repayment of delinquent assessments.

**Prepared By:** Betty Parker, Chief Financial Officer

**Reviewed By:** Steve Hormuth, Controller

**ATTACHMENT(S)**

Attachment 1– Proposed Payment Plan Agreement - Assessments

Attachment 2 – Existing Payment Plan Agreement

Attachment 3 – Resolution

Attachment 4 – Collection and Lien Enforcement Policy

PAYMENT PLAN AGREEMENT
Assessments



Manor Number: \_\_\_\_\_

Member Name: \_\_\_\_\_ Driver License # \_\_\_\_\_

The undersigned hereby acknowledges the rights of United Laguna Woods Mutual (the Mutual) to collect assessments, together with accrued late charges, interest and collection fees and costs, in accordance with the laws of the State of California and the governing documents of the Mutual. The following reflects the standards that have been adopted by the Board of Directors. Refer to the Payment Plan Standards For Delinquent Assessment Payments document for more details.

The total amount owed as of [date] is \$ \_\_\_\_\_, this includes assessments, late charges, interest, and collection fees and costs (the "Delinquent Amount"). The undersigned agrees to repay the Delinquent Amount according to the following plan:

Check One:

- INSTALLMENTS: The Delinquent Amount will be paid off in its entirety within \_\_\_\_\_ months. To achieve this, extra monthly payments will be made in the amount of \$ \_\_\_\_\_. These payments will be in addition to the regular monthly assessment, which may come due during the term of the payment plan and the administrative fee described below.
LUMP SUM: Payment in full of the Delinquent Amount will be made in a lump sum on or before \_\_\_\_\_. This payment will be in addition to the regular monthly assessment, which may come due prior to receipt of the lump sum payment.
ESCROW: The undersigned states that the manor is presently for sale, and will present a copy of the executed listing agreement in conjunction with this agreement.
OTHER: The undersigned's payment plan proposal that is in accordance with the standards for payment plans adopted by the Mutual, attached hereto and incorporated herein by reference thereto as Exhibit A.

Initial All:

- The undersigned understands that interest will accrue at the rate of 10% per annum, in accordance with the Collection and Lien Enforcement Policy of the Mutual, until the delinquency is paid in full.
The undersigned understands that the Mutual will pursue all available legal means to collect the sums due on the manor including, but not limited to recording of a lien for an additional cost of a minimum of \$625, which will be added to the Delinquent Amount.
The undersigned understands that he or she has the right to meet with the Board of Directors of the Mutual to discuss a reasonable alternative payment plan option (see "Other" above), according to the payment plan standards adopted by the Board of Directors of the Mutual.

Undersigned/Member Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Mutual Officer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Table with 2 columns: Return signed form by mail to (Assessment Payment Representative, PO Box 2220, Laguna Woods, CA 92654-2220) and Or deliver in person to (Assessment Payment Representative, 24351 El Toro Road, Laguna Woods, CA 92637, Phone: (949) 597-4221 Fax: (949) 472-4154)

United Laguna Woods Mutual  
Village Management Services, Inc., Agent  
24351 El Toro Road  
Laguna Woods, California 92637

DELINQUENT ASSESSMENT – PAYMENT PLAN AGREEMENT

**Current Form**

Manor No.:  
Assessment Delinquency:

Subject: **ASSESSMENT DELINQUENCY**

The undersigned hereby acknowledges the assessment delinquency shown above. He or she also acknowledges the rights of United Laguna Woods Mutual (the Mutual) to collect such assessments, together with accrued late charges, interest and collection costs, in accordance with the laws of the State of California and the governing documents of the Mutual.

The following reflects the standards that have been adopted by the Board of Directors. The undersigned agrees to repay the delinquency debt according to the following plan:

- The delinquent balance will be paid off in its entirety within \_\_\_\_\_ months. To achieve this, extra monthly payments will be made in the amount of \$ \_\_\_\_\_. **These payments will be in addition to the regular monthly assessment.** Extra payments will commence on \_\_\_\_\_ and be made on or before the first of each successive month until the delinquency and accrued late charges are paid in full.
- Payment in full of the delinquent amount will be made in a lump sum on or before \_\_\_\_\_. **This payment will be in addition to the regular monthly assessment.**
- The undersigned states that the manor is presently for sale, and will present a copy of the executed listing agreement in conjunction with this agreement. If the listing agreement expires before the manor is sold, a new executed listing agreement must be presented. The total term of all listing agreements shall not exceed one year from the date of the subject delinquency. Payment in full of the delinquent amount will be made from the proceeds of sale of the manor, through escrow. Further, undersigned understands and agrees that accrued fees, charges and legal collection costs will be collected through escrow.
- Member’s payment plan proposal that is in accordance with the standards for payment plans adopted by the Mutual:

**This will be in addition to the regular monthly assessment.**

The undersigned understands that late charges and fees will continue to accrue, in accordance with the Collection and Lien Enforcement Policy of the Mutual, until the delinquency is paid in full. Also, the undersigned understands that the Mutual reserves the right to pursue all available legal means to collect the sums due if the terms of this agreement are breached. Similarly, the undersigned understands that he or she has the right to meet with the Board of Directors of the Mutual to discuss a reasonable alternative payment plan option (see the fourth option above), according to the payment plan standards adopted by the Board of Directors of the Mutual.

Date: \_\_\_\_\_ Member’s Signature \_\_\_\_\_  
Mutual Officer’s Signature \_\_\_\_\_

**Return signed form to:**  
Manor Payment Representative  
PO Box 2220  
Laguna Woods, CA 92654-2220

**Or:**  
Manor Payment Representative  
24351 El Toro Road  
Laguna Woods, CA 92637

**Phone:** (949) 597-4221 **Fax:** (949) 472-4154



**Resolution 01-19-XX**  
**Assessment Payment Plan Agreement**

**WHEREAS**, any Member who is ~~unable to timely pay in arrears on a~~ regular assessments is entitled to make a written request for a payment plan to the Board;

**WHEREAS**, each request for a delinquent assessment payment plan is approved or denied on a case-by-case basis after review by the Finance Committee;

**WHEREAS**, a Delinquent Assessment – Payment Plan form, which includes several payment options and conditions, is used to create an agreement between the delinquent Member and the Mutual;

**WHEREAS**, the United Finance Committee recommends a revised Payment Plan Agreement Form with changes submitted by legal counsel to help reinforce collection activity that will occur if a member breaches the agreed-to payment plan for delinquent assessments; and

**WHEREAS**, the Finance Committee recommends recovering costs associated with accepting payments over time including the initiation of interest charges and an administrative fee for every month the agreement is in effect;

**NOW THEREFORE BE IT RESOLVED**, on March 12, 2019, the Board of Directors of this Corporation hereby approves revisions to the Delinquent Assessment - Payment Plan Agreement form, as attached to this Corporate record, initiating a monthly charge for interest at the rate of 10% per annum, and introducing a new payment plan administrative fee of \$25 per month; 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.

**MONTH Initial Notification**

Should the Board endorse the proposed revisions, Staff recommends that a motion be made and seconded to accept the resolution and allow discussion to ensure that the resolution reads to the satisfaction of the Board. Staff then recommends that a Board Member postpones the resolution to the next available Board Meeting no less than 28-days from the postponement to comply with Civil Code §4360.



**YEAR 2019 COLLECTION AND LIEN ENFORCEMENT POLICY  
AND PROCEDURES FOR ASSESSMENT DELINQUENCIES**

**PURPOSE STATEMENT**

The following is a statement (the “Policy Statement”) of the specific procedures, policies and practices employed by United Laguna Woods Mutual, a California nonprofit mutual benefit corporation (“United”) in enforcing lien rights or other legal remedies for default in payment of assessments against its members (“Shareholders”). This Policy Statement is provided pursuant to the requirements of California Civil Code Section 5310(a)(7) and incorporates by reference the disclosure provided by United pursuant to California Civil Code Section 5730.

The collection of delinquent assessments is of vital concern to all Shareholders of United. Such efforts ensure that all Shareholders pay their fair share of the costs of services and facilities provided and maintained by United. Shareholders’ failure to pay assessments when due creates a cash-flow problem for United and causes those Shareholders who make timely payment of their assessments to bear a disproportionate share of the community’s financial obligations.

Assessments are the separate debt of shareholders. United may employ single collection recourses or combinations thereof as allowed by law. In addition to any other rights provided for by law or described in the governing documents, including, but not limited to the Articles of Incorporation, Bylaws and each Shareholder’s Occupancy Agreement (“Governing Documents”), the Board has the right to collect delinquent assessments as stated herein.

WE SINCERELY TRUST THAT ALL SHAREHOLDERS, IN THE SPIRIT OF COOPERATION AND IN RECOGNITION OF THEIR LEGAL OBLIGATIONS, WILL MAKE TIMELY PAYMENTS AND AVOID THE IMPOSITION OF LATE CHARGES AND POSSIBLE RESULTANT LEGAL ACTION, AND REIMBURSEMENT FOR THE COSTS OF SUCH LEGAL ACTION. IT IS IN YOUR BEST INTEREST AND THE BEST INTEREST OF THE COMMUNITY AS A WHOLE TO MAKE YOUR MONTHLY PAYMENTS ON TIME.

REGARDLESS OF WHETHER A LIEN IS RECORDED AGAINST YOUR LEASEHOLD INTEREST DURING THE COLLECTION OF PAST-DUE ASSESSMENTS, ALL SHAREHOLDERS HAVE A PERSONAL AND ONGOING OBLIGATION TO PAY ASSESSMENTS AND CHARGES.

**BASIC POLICIES AND PROCEDURES**

Delinquency reports are made available monthly by United’s managing agent to the Board of United, identifying the delinquent Shareholder, the delinquent amount and the length of time the assessments have been in arrears. Additionally, to ensure the prompt payment of monthly assessments United employs the following collection and lien enforcement procedures. The

## Attachement 4

policies and practices outlined herein shall remain in effect until such time as they may be changed, modified, or amended by a duly adopted resolution of United's Board of Directors.

Pursuant to United's Governing Documents, as well as the California Civil Code, the following are United's collection and lien enforcement policies and procedures for assessment delinquencies:

**1. Assessments; Assessments Due Date.** "Carrying Charges" as defined by United's Occupancy Agreement, also referred to as "fees" in United's Bylaws, are referred to in this paragraph and throughout this Policy Statement as "assessments." Assessments are due and payable to United, in advance, in equal monthly installments, on the first (1<sup>st</sup>) day of each month. **It is each Shareholder's responsibility to pay assessments in full each month regardless of whether a billing statement is received.** Special assessments shall be due and payable on the due date specified by the Board of Directors in the notice imposing the special assessment. In no event shall a special assessment be due and payable earlier than thirty (30) days after the special assessment is duly imposed. If a special assessment is payable in installment payments and an installment payment of that special assessment is delinquent for more than 30 days, all remaining installments will be accelerated and the entire unpaid balance of the special assessment shall become immediately due and payable. The remaining balance shall be subject to late charges and interest as provided herein.

**2. Reminder Notice; Administrative Collection Fee.** If Assessments are not received by United on or before the close of business on the sixteenth (16<sup>th</sup>) day of the month (or if a special assessment is not received by United on or before the close of business on the fifteenth (15<sup>th</sup>) day after it is due), a Reminder Notice is sent to the Shareholder. PLEASE NOTE THAT TO BE CONSIDERED TIMELY, THE PAYMENT MUST BE RECEIVED BY UNITED WITHIN THIS FIFTEEN (15) DAY GRACE PERIOD. SIMPLY PLACING THE PAYMENT IN THE MAIL BEFORE THE GRACE PERIOD EXPIRES IS NOT SUFFICIENT. It is the policy of United not to waive any duly imposed late charges, interest, or collection fees and costs. Each delinquent account shall incur an administrative collection fee, in the amount of Two Hundred Dollars (\$200) (the "Administrative Collection Fee"), which is charged by United's managing agent to cover staff's costs to prepare the files for delivery to United's collection agent in order to carry out collection activities authorized hereunder, as well as direct costs incurred in recording and/or forwarding documents in connection with the collection process. This Administrative Collection Fee may be increased by majority vote of United's Board, and may be collected by United's collection agent on United's behalf, and remitted to United's managing agent, or may be directly collected by United's managing agent. IT IS THE SHAREHOLDER'S RESPONSIBILITY TO ALLOW AMPLE TIME TO DROP OFF OR MAIL ALL PAYMENTS SO THAT THEY ARE RECEIVED BEFORE THE DELINQUENCY DATE. All notices or invoices for assessments will be sent to Shareholders by first-class mail addressed to the Shareholder or the Shareholder's designee at his or her address as shown on the books and records of United unless otherwise required by law. However, it is the Shareholder's responsibility to be aware of the assessment payment due dates and to advise United of any changes in the Shareholder's mailing address.

**3. Late Charges; Interest.** Assessments not received by the sixteenth (16<sup>th</sup>) day of the month will incur a late fee in the amount of Fifty Dollars (\$50.00), which amount is

consistent with statutory authority. Further, both state law and United's governing documents provide for interest on the delinquent assessment, late charges and collection fees and costs. Accordingly, interest may be imposed thirty (30) days after the assessment is due, at an annual percentage rate not to exceed Twelve Percent (12%), consistent with Civil Code Section 5650. Such interest may be imposed and collected per the foregoing sentence regardless of whether the Shareholder's delinquent account is referred to United's collection agent for collections.

**4. Thirty-Day Pre-Lien Letter Notice to Delinquent Shareholder.** If full payment of the delinquent amount is not received by the close of business on the thirtieth (30th) day after the date of the Reminder Notice, United's managing agent will send a pre-lien letter (also referred to as a final demand for payment letter) to the Shareholder as required by Civil Code Section 5660 by certified and regular first class mail, to the Shareholder's mailing address of record in United's books and records advising of, among other things required by law, the delinquent status of the account, including an itemized statement of the charges owed by the shareholder, impending collection action and the Shareholder's rights including a statement that the shareholder will not be liable to pay charges, interest and costs of collection if it is determined the assessment was paid on time to United, and the right to request a meeting with the Board of Directors of United pursuant to Civil Code Section 5665, the right to dispute the assessment debt by submitting a written request for dispute resolution pursuant to Civil Code pursuant to Article 2 (commencing with Section 5900) of Chapter 10 ("IDR"), the right to request alternative dispute resolution pursuant to Article 3 (commencing with Section 5925) of Chapter 10 ("ADR") and the right to request debt validation. Notwithstanding the provisions of this paragraph, United may cause a pre-lien letter to be sent to a delinquent Shareholder at any time when there is an open escrow involving the Shareholder's leasehold interest, may cause a pre-lien letter to be sent to a delinquent Shareholder if any special assessment becomes delinquent, and/or may turn the delinquent account over to United's collection agent to send a pre-lien letter to a delinquent Shareholder.

**5. Recordation of a Lien Against a Delinquent Shareholder's Leasehold Interest.** If a Shareholder does not pay the amounts set forth in the pre-lien letter and does not request IDR or ADR within thirty (30) days of the date of the pre-lien letter, or, otherwise, requests to validate the debt in which case the collection process will be placed on hold in order to validate the debt, the delinquent account will be turned over to United's collection agent for collections. The Board shall decide, by majority vote in an open meeting, whether to authorize United's collection agent to record a lien for the amount of any delinquent assessments, late charges, interest, and collection fees and costs, including attorneys' fees against the Shareholder's leasehold interest. If United authorizes United's collection agent to record a lien against the Shareholder's leasehold interest, the Shareholder will incur additional fees and costs for preparing and recording the lien. The lien may be enforced in any manner permitted by law, including without limitation, judicial or non-judicial foreclosure (Civil Code Section 5700).

**6. Enforcement of a Lien.** United's collection agent may be authorized to enforce the lien thirty (30) days after recordation of the lien, in any manner permitted by law, which may include recording a Notice of Default. United may foreclose the lien by judicial or non-judicial foreclosure when either (a) the delinquent assessment amount

## Attachement 4

totals One Thousand Eight Hundred Dollars (\$1,800.00) or more, excluding accelerated assessments, late charges, interest, and collection fees and costs or (b) the assessments are delinquent for more than twelve (12) months. **YOU COULD LOSE YOUR LEASEHOLD INTEREST AT UNITED IF A FORECLOSURE ACTION IS COMPLETED.** A non-judicial foreclosure sale by United to collect upon a debt for delinquent assessments is subject to a statutory right of redemption. The redemption period within which your leasehold interest may be redeemed ends ninety (90) days after United's foreclosure sale, per California Civil Code Section 5715(b). The Shareholder will incur significant additional fees and costs if a Notice of Default is recorded and a foreclosure action is commenced against the Shareholder's leasehold interest. The decision to foreclose on a lien must be made by a majority of the Board of Directors in an Executive Session meeting and the Board of Directors must record their votes in the minutes of the next open meeting of the Board. The Board must maintain the confidentiality of the delinquent Shareholder(s) by identifying the matter in the minutes by only the parcel number of the property in which the Shareholder has a leasehold interest. Prior to initiating any foreclosure sale on a recorded lien, United shall offer delinquent Shareholders the option of participating in IDR, ADR, or both IDR and ADR as requested by the Shareholder.

United may commence and maintain a lawsuit directly on the debt without waiving its right to establish a lien and initiate foreclosure against the owner's separate interest for the delinquent assessment. In any action to collect delinquent assessments, late charges, or interest, the prevailing party will be entitled to costs and reasonable attorney's fees.

**7. Inspection of Books and Records.** A Shareholder is entitled to inspect United's accounting books and records to verify the amounts owed pursuant to Civil Code Section 5200, *et seq.*

**8. Application of Payments.** Any payments made shall be first applied to assessments owed and only after the assessments owed are paid in full, shall such payment be applied to late charges, interest, and collection fees and costs, including attorneys' fees.

**9. Account Sent to United's Collection Agent In Error.** In the event it is determined that the Shareholder has paid the assessments on time, the Shareholder will not be liable to pay the charges, interests, and fees and costs of collection associated with collection of those assessments. If it is determined that a lien was recorded in error, a release of lien shall be recorded within twenty-one (21) calendar days and the owner of the separate interest will be provided with a copy of the release of lien. If the lien was recorded in error, United shall promptly reverse all late charges, fees, interest, attorney's fees, and costs of collection.

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

**11. Right to Dispute the Debt.** A Shareholder has the right to dispute the assessment debt by submitting a written request for dispute resolution to the collection agent for

## Attachement 4

delivery to United pursuant to Civil Code Section 5900 *et seq.* A dispute, by itself, will not impede United's ability to record a lien.

**12. Right to Request Internal Dispute Resolution ("IDR").** Pursuant to Civil Code Section 5670, prior to recording a lien, United offers to Shareholders, and if so requested by a Shareholder, participation in internal dispute resolution ("IDR") pursuant to United's "meet and confer" program.

**13. Right to Request Alternative Dispute Resolution ("ADR").** A Shareholder has the right to request alternative dispute resolution with a neutral third party pursuant to Civil Code Section 5925 *et seq.* before United may initiate foreclosure against the Shareholder's leasehold interest, except that binding arbitration shall not be available if United intends to initiate a judicial foreclosure.

**14. Right to Request Debt Validation.** Under the Fair Debt Collection Practices Act ("FDCPA"), a Shareholder may request that United and/or its collection agent send the Shareholder proof that the debt sought to be recovered is valid, that the Shareholder lawfully owes the debt, and that United and/or its collection agent has the right to collect the debt.

**15. Payment Plan Requests.** Any Shareholder who is unable to pay assessments will be entitled to make a written request for a payment plan to United, or United's collection agent, as applicable, to be considered by the Board of Directors. A Shareholder may also request to meet with the Board in executive session to discuss a payment plan if the payment plan request is mailed within fifteen (15) days of the postmark date of the pre-lien letter. The Board will consider payment plan requests on a case-by-case basis and is under no obligation to grant payment plan requests. Payment plans shall not interfere with United's ability to record a lien on a Shareholder's separate interest to secure payment for the Shareholder's delinquent assessments. If the Board authorizes a payment plan, it may incorporate payment of ongoing assessments that accrue during the payment plan period. If a payment plan is approved by the Board, additional late charges from the Shareholder will not accrue while the Shareholder remains current under the terms of the payment plan. If the Shareholder breaches an approved payment plan, United may resume its collection action from the time the payment plan was approved.

**16. Termination of Shareholder's Rights under Occupancy Agreement.** Nothing herein limits or otherwise affects United's right to proceed in any lawful manner to collect any delinquent sums owed to United, or to pursue any other discipline set forth in United's governing documents, including but not limited to a termination of the Shareholder's rights under the Occupancy Agreement pursuant to Article 14 therein and pursuant to the procedures set forth in Article IV, Section 3 of the Bylaws and pursuing an unlawful detainer action or other proceeding which may apply to the eviction of tenants.

**17. Release of Lien.** Prior to the release of any lien, or dismissal of any legal action, all assessments, late charges, interest, and fees and costs of collection, including attorneys' fees, must be paid in full to United.

## Attachement 4

**18. No Right of Offset.** There is no right of offset. Shareholder may not withhold assessments owed to United on the alleged grounds that the Shareholder is entitled to recover money or damages from United for some other obligation.

**19. Returned Checks.** United may charge the Shareholder a Twenty-Five Dollar (\$25.00) fee for the first check tendered to United that is returned unpaid by the Shareholder's bank and Thirty-Five Dollars (\$35.00) for each subsequent check passed on insufficient funds. If the check cannot be negotiated, United may also seek to recover damages of at least One Hundred Dollars (\$100.00), or, if higher, three (3) times the amount of the check up to One Thousand, Five Hundred Dollars (\$1,500.00) pursuant to Civil Code Section 1719.

**20. Additional Mailing Addresses.** Shareholders have the right to provide a secondary address to United for mailing of an additional copy of notices and other correspondence related to collection of delinquent assessments. The Shareholder's request shall be in writing and shall be mailed to United in a way that shall indicate that United has received it. A Shareholder may identify or change a secondary address at any time, provided that, if a secondary address is identified or changed during the collection process, United shall only be required to send notices to the indicated secondary address from the point United receives the request.

**21. Charges Subject to Change.** All charges listed herein are subject to change upon thirty (30) days prior written notice. After a delinquent account has been turned over to United's collection agent, United's collection agent's charges may vary from United's and are subject to change without prior written notice. Shareholders in collections should rely on United collection agent's charges and statement of account.

**22. Notice and Hearing Prior to Suspension of Shareholder Privileges.** Until the Shareholder has paid all amounts due, including delinquent assessments, late charges, interest and fees and costs of collection, including attorneys' fees, the Board of Directors may suspend the Shareholder's right to vote, and suspend the Shareholder's right to use United's recreational facilities and/or the facilities or services provided by the Golden Rain Foundation of Laguna Woods after providing the Shareholder with a duly noticed hearing pursuant to Civil Code Section 5855. However, any suspension imposed shall not prevent the delinquent Shareholder from the use, benefit and pleasure of the Shareholder's leasehold interest (i.e., the manor).

When the Board is to meet in executive session to consider or impose a monetary charge as a means of reimbursing United for costs incurred by it in the repair of damage to common area and facilities caused by a member or the member's guest or tenant, the Board shall notify the member in writing, by either personal delivery or individual delivery pursuant to Section 4040, at least 10 days prior to the meeting. (Civil Code Section 5855(a).) The notice shall contain, at a minimum, the date, time, and place of the meeting, the nature of the alleged violation for which a member may be disciplined or the nature of the damage to the common area and facilities for which a monetary charge may be imposed, and a statement that the member has a right to attend and may address the board at the meeting.

## Attachement 4

**23. Overnight Payments.** The mailing address for overnight payment of assessments is: United Laguna Woods Mutual, Attn: Assessments, 24351 El Toro Road, Laguna Woods, CA 92637.

**24. Annual Notice to Members.** United shall distribute its collection policy to each member during the 60-day period immediately preceding the beginning of United's fiscal year.

**25. No limitations.** Nothing herein limits or otherwise affects United's right to proceed in any lawful manner to collect any delinquent sums owed to United.

**BOARD OF DIRECTORS  
UNITED LAGUNA WOODS MUTUAL**





## STAFF REPORT

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**DATE:** February 12, 2019  
**FOR:** Board of Directors  
**SUBJECT:** Damage Reimbursement Administrative Fee

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### **RECOMMENDATION**

Approve the Damage Reimbursement Administrative Fee.

### **BACKGROUND**

Per Civil Code §5855, the Board is required to hold hearings to “impose a monetary charge as a means of reimbursing the association for costs incurred by the association in the repair of damage to common area and facilities caused by a member or the member’s guest or tenant.”

### **DISCUSSION**

At the direction of the Board, Staff has evaluated the processes and costs involved with damage restoration and reimbursement. Staff has determined that the Staff costs for these processes vary greatly, as each case has different circumstances. In 2018, Staff processed 33 damage reimbursement cases with a total cost recovery of \$133,972. These 33 cases, ranging from \$34,700 to \$466, had an average reimbursement amount of \$4,060.

Staff has evaluated the administrative costs for coordinating the restoration, managing the invoice payment process, and compilation of the data for the Reimbursement Hearing Report. Using a random sampling of five projects, Staff has determined the average administrative cost per project to be 13 percent of the total costs incurred.

Staff recommends the proposed administrative fee be set at ten percent of the reimbursement cost for all reimbursement values over \$1,000. Using the proposed ten percent model when evaluating the 33 cases brought to the Board in 2018 and discarding those under \$1,000, the potential administrative fees range from \$102 to \$3,467 with an average fee of \$531.

On January 24, 2019, at Executive Hearings Committee, a motion was made and carried unanimously to recommend the Board approve a Damage Restoration Administrative Fee.

### **FINANCIAL ANALYSIS**

Based on 2018 data, additional fee revenue would generate approximately \$13,400, which would partially offset existing administrative costs in Operations, as outlined above.

**Committee Routing:** Executive Committee

**Prepared By:** Kurt Wiemann, Senior Field Services Manager

**Reviewed By:** Eve Morton, Alterations Coordinator  
Betty Parker, Chief Financial Officer

**Attachments:**

**Attachment 1:** Proposed Resolution 01-19-XX

**ATTACHMENT 1**

**RESOLUTION 01-19-XX**

**Administrative Fee for Damage Reimbursements**

**WHEREAS**, pursuant to Civil Code §5855, the Mutual is required to hold hearings to impose any monetary charges to reimburse the Mutual for costs incurred in the repair of damage to common area or facilities caused by the actions or inactions of a member, his or her tenant, guest, invitee, or vendor;

**WHEREAS**, significant staff time is necessary to investigate, document, and prepare concise reports for Damage Reimbursement Hearings for damage caused by a member; and,

**WHEREAS**, the Mutual has seen an increase in administrative costs related to these damage reimbursement proceedings.

**NOW THEREFORE BE IT RESOLVED**, March 12, 2019, that the Board of Directors hereby introduces the Damage Reimbursement Administrative Fee;

**RESOLVED FURTHER**, effective April 1, 2019, the administrative fee for costs related to damage reimbursement proceedings will be ten percent of the total reimbursement decision amount for all decisions of one thousand dollars or more;

**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.

**MONTH Initial Notification**

**Should the Board endorse the proposed revisions, Staff recommends that a motion be made and seconded to accept the resolution and allow discussion to ensure that the resolution reads to the satisfaction of the Board. Staff then recommends that a Board Member postpones the resolution to the next available Board Meeting no less than 28-days from the postponement to comply with Civil Code §4360.**