

The Voice

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Improving the Way We Do Business at Third Mutual

"Too much trust...and too little oversight, mixed with complacency and a reluctance to confront people and ask hard questions can be a recipe for disaster," wrote Frank Nelson in a Special to the LATimes April 6 *Homeowner associations and the risk of fraud*.

"Fraud at nonprofits and small businesses -- both categories that include homeowners associations--mostly involves conflict of interest, bribery and illegal gifts, false reimbursement of expenses, billing issues, check tampering and cash theft" says The Association of Certified Fraud Examiners. Between 2004 and 2006 1,134 cases of fraud were surveyed in the Association's national report and about 800 were referred to law enforcement.

Past GRF President Alex Gunster said the community "is fundamentally a business". Indeed it is! Laguna Woods Village, a nonprofit homeowners association, is comprised of four separate and independent small business entities.... Third Mutual, United Mutual, Mutual 50 and GRF.....with a combined budget of \$94 million. Third Mutual, for example, the largest of the four entities has a budget of \$39 million, comparable to Laguna Niguel's budget and larger than Aliso Viejo's. But Laguna Niguel and Aliso Viejo each control their own money. Third Mutual does not. Laguna Niguel and Aliso Viejo have their own corporate bank accounts, a treasurer to approve and pay invoices, an accounting firm to audit their books, and independent legal counsel. Third Mutual does not.

Ronald Stone, a certified fraud examiner, says a homeowners association has "a fiduciary responsibility to all the owners to exercise good business judgement, adding that they must also keep adequate books, records and files....paid bills...and bank statements."

It is difficult if not impossible for Third Mutual to exercise proper "fiduciary responsibility to owners" when its treasurer has no money and no bank account, no accounting firm for audit and control, and no independent legal counsel for guidance.

It is difficult, if not impossible for Third's Treasurer to exercise good business judgment when Third's funds are comingled with those of United, Mutual 50 and GRF. Without a separate bank account for Thirds funds its treasurer will never know how much money Third has and where the money is going.

Third's Treasurer doesn't have books, doesn't have bank statements for reference, and doesn't have records and files of paid bills. In fact, Third's Treasurer doesn't sign any checks and pay any bills. He blindly sends a lump-sum "blank check" payment of \$1.5 million each month.....\$18 million a year..... to GRF to pay for Third's "expenses". In truth, Third's treasurer doesn't know how this \$1.5 million is being spent.

"Homeowners associations, as nonprofits handling large sums of money....are especially at risk because they lack the checks and balances, and financial acumen, of most commercial businesses." writes Nelson. "Nobody watches the money" says David Harvey, past treasurer and now president of Diamond Head, a homeowners association. With a budget of \$94 million Laguna Woods Village today, with its four corporations, has become too large and complex to be managed as one business entity with its funds comingled in one bank account, audited by the same accounting firm and counseled by the same attorney.

"Sometimes homeowner apathy is so widespread that the normal oversight flowing from the involvement of interested and caring residents is missing", continued Nelson. We should heed these warnings. If we care about the financial health of our community and the quality of life for our elderly we need to improve the way we do business in Laguna Woods Village.

A past chair of a Committee for Internal Audit said: "We just feel there is a more efficient way to run this place...and that it can be done." We agree. Dr. John Paulus is Treasurer of Third Mutual. He is a competent and willing Treasurer who has taken a giant step forward in "understanding" Thirds financial condition. But, he has a long way to go to establish the level of effective oversight we are lacking. Dr. Paulus should be given authority to: establish a separate and independent bank account for Third Mutual; audit, approve and pay Thirds bills; retain the services of a small, independent accounting firm; and, employ the services of independent outside legal counsel when needed. We urge the Third Mutual Board of Directors to introduce a resolution at the next meeting to implement this program.