



The Regenesis Report



National Edition

Innovative Homeowner Association Management Strategies

Priceless

Regenesis means making new beginnings using eternal principles in innovative ways.

Regenesis believes that the goal of every homeowner association board should be to promote harmony by effective planning, communication and compassion.

The Regenesis Report provides resources and management tools for just that purpose. Every month, articles of common interest to homeowner associations nationwide are offered along with innovative strategies for addressing common problems.

Managing an HOA can be a lonely and frustrating task. Take heart. Help is on the way.



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Controlled Chaos

There are those that believe homeowner associations are the essence of an insidious and malicious tyranny. To them, the board exists solely to exact misery upon the members. The nay sayers plot the demise of the HOA concept. They plant pink flamingos in their yards to thumb their noses. They fly Old Glory or Don't Tread on Me as symbols of their freedom to do whatever they want. They distribute libelous newsletters to their neighbors. They incite discontent.

However, behind the rebellion and bravado there is an element of truth. Some boards *are* dictatorial. Some *are* out to lunch and no one is steering the HOA's ship. But that's a people problem, not a governmental theory problem. HOAs are governments not unlike others. They just have special needs. And most boards are doing pretty well considering their limited training. Governing an HOA is difficult even under the best of circumstances.

Better board education is the answer. In the past, information and education was difficult or expensive to get. The few that had it exacted a high toll for bits and pieces. Some promoted the myth of unresolvable conflict because it was in their interest to do so. By keeping boards in the dark, they could control the chaos and get paid for doing it.

For many years, it was believed that HOAs were neither a government or a business, just a bunch of neighbors sharing property. But the sharing aspect creates substantial interdependencies that don't exist in the typical subdivision. Property doesn't manage itself. Boards that didn't understand that failed miserably in long range planning, collections, rules enforcement, budgeting and maintenance.

These HOAs have paid a high price in ongoing conflict and sliding property values. These problems were all predictable. But it took decades before

they hit the fan in a big way. At about 20 years, roofs, fences, decks, paving, pools and other expensive components begin to fail. But with no plan and no money, unfair special assessments are levied. Angry finger pointing and conflict ensue. This is the stuff that nay sayers use as ammunition. But these problems were all preventable.

A new day is dawning. As the HOA philosophy matures, efficient planning processes are developed and workable solutions are devised, HOA living is becoming more enlightened and harmonious. Much of improvement is rooted in sound business practices that, when applied with compassion and clear communication, work quite well. Sunshine laws force board business into the open to help keep it accountable. And now it's understood that HOA management is very different and more challenging than every other form of property management. These revelations have all been healthy. Denial has been a major weakness of HOAs. There is a clear call to action, not more denial.

Chaos is the natural state of no government, no principles and self serving leaders. HOAs have a clear calling to maintain property values, livability and harmony. Focusing on those principles helps the board create the processes to achieve them. There are books, videos, articles, seminars, rules and policy samples to be had to Gold Subscribers of www.Regenesis.net. Take control and chase chaos back into a dark corner. Educate thyself and be healed. ☀

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Ask the HOA Expert

Q Is there an industry standard fee that HOA's charge for document copy requests? We have a member that is hounding our management company not only for copies but information regarding the developer's duties, responsibilities, etc. The premise is that he wants to understand how the turnover will happen. Does an HOA have the right to charge for manager time?

A Yes, the HOA can and should charge manager time for making copies and doing personalized research for individual member requests. Of course, much self-help information like rules, regulations, governing documents, budgets, financial statements, etc. should be available on the HOA's website for no charge. (Your HOA does have a website, right?)

Q The board recently imposed a \$500 annual fee on all landlord owners. Is this discriminatory?

A It is absolutely discriminatory and probably illegal. The governing documents define how HOA fees are assessed to members and singling out a class of member (landlords) for special assessment is not allowable.

Changing the fee structure takes an affirmative vote of the members which may be as high as 100%. That only makes sense. Otherwise, a majority could simply vote to increase fees for the minority. That said, the board can pass on reasonable costs to members. For example, if manager or maintenance cost is incurred to deal with move ins and outs (changing security access, preparing an elevator for moving furniture, etc.), that cost should be passed on to the member that triggers it. But this cost should apply to all, not just landlords.

Q Our president likes to get only one proposal from a company. (For example, we are having \$7000 worth of tree work done). Then, without a board meeting to discuss the proposal, he goes door to door and collects director signatures

avoiding those that would disagree the proposal. I thought that approving expenditures required a vote of the *entire* board.

A Unless the \$7000 was already approved in the annual budget, three proposals are in order. Those proposals should be presented at a regular board meeting and approved with the usual motion, second and vote of all attending directors. The meeting minutes should reflect this board action.

Based on the facts as presented, the president is playing loose with his authority and needs to be reined in. The president serves at the pleasure of the board. If he won't play by the rules, the board majority can remove him from office and replace him with a director that will.

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Q Our HOA has five buildings, two are three story wood structures and the others are nine story concrete towers. The towers are having substantial concrete repairs done. Some of the work is for the common breezeways but most is related to unit balconies. Should the whole HOA share the financial burden for these repairs?

A Unless your governing documents specifically state that repair and maintenance of limited common areas (like unit balconies) is a unit owner's responsibility, the expense is shared by all members. From a practical perspective, the HOA would not want individual owners messing with structural components or, as is more likely, simply not maintaining them at all. The only way to assure consistent and professional repairs is for the HOA to take responsibility and pay for them.

It sounds like the repair responsibility of the two types of structures (low

versus high rise) wasn't separated according to ownership as it should have been. Getting that changed would require an amendment to the governing documents which often requires a super majority and a vote next to impossible to achieve.

Q It was discovered last year that many of our condos have defective furnaces. To verify this, the board had all units inspected by a licensed heating professional. Many unit owners replaced their furnaces but we still have a number of owners who have refused to comply. The furnaces are a potential fire hazard. Do you have any suggestions on how we should handle this?

A The HOA has the right to demand furnace replacement where there is a documented fire safety issue. A letter from the Fire Marshall would help together with a demand letter that the HOA is prepared to force the issue legally. If such was necessary, the owner would be charged the related legal expenses.

But rather than swing a legal hammer, the board could offer to facilitate cost savings by arranging multiple installations simultaneously. Doing this would result in substantial cost savings over an individual installation. Each unit owner would, of course, reimburse the expense. Also, the local utility company or state energy program might offer financial incentives for upgrading old furnaces. Help the hold-outs say "yes" if you can rather than force them to comply.

Q I live in a single family gated community. We have had a problem with vandals destroying our entry access system. What are our options?

A The area should be brightly lit as this kind of crime usually takes place at night. Signs should be installed that read "24 Hour Video Surveillance" along with clearly visible video cameras. While expensive security camera systems with recording capability are available, even cheap fake cameras can

be effective. The goal is to get the vandals to believe that they are being watched. If persuaded, it often curbs their bad behavior. Deterrent is the goal. And a more bulletproof entry access system should be installed.🔒

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Best Practices

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Pluralistic Ignorance

Homeowner associations sometimes come under attack for suppressing free speech. Sometimes the accusation is one of principle (I'm not allowed to do what I want) rather than a specific instance (I'm not allowed to post signs). While the media makes it appear that this phenomena is pervasive in HOAs, in reality, they are isolated cases caused by an overly aggressive board, member, or both, who lock horns. Most HOAs actually enjoy an incredible amount of consensus. And why is that? Is it a herding mentality?

According to ChangingMinds.org "Groups all have norms of attitude and behavior which are shared and which help form the identity of the group. Adopting these norms, even if you do not agree with them, is a part of the individual sacrifice that people accept as a price of group membership. It is thus possible for groups to have norms which hardly anyone agrees with, but with which everyone conforms. These situations typically occur when the norms are older than all members of the group or when one member or a small group is dominant and can force their attitudes on the rest of the group."

This phenomena is called "pluralistic ignorance" (PI) by social psychologists. It is a state of mind in which people mistakenly think their own thoughts and feelings are different from those of people around them and look to others for cues instead of trusting their own instincts.

PI is particularly vexing when the situation involves imminent danger. When the danger appears to be

ambiguous (unsure if the danger is real or perceived), the social rules of belonging and acceptance trump looking different or alarmist. Once the situation is correctly interpreted as dangerous, pluralistic ignorance fades and logic takes hold: RUN!

But can PI explain what goes on in homeowner associations? Do HOAs really adopt norms that few agree with but with which most conform? Well, yes and no. Norms come in all shapes and sizes. Some are contentious and others really don't matter that much. Most issues in HOAs simply aren't worth fighting over. There has to be some standard and while no standard will reflect everyone's standard, some standard is better than no standard. The driving consideration is whether the standard is "reasonable".

Humans seem to possess an innate sense of fair play. It's sometimes described as "live and let live". Part of that sense is the willingness to sacrifice a personally held belief for the greater good, as long as that sacrifice doesn't land too close to home. So, if the board enacts a policy that is "reasonable" (not hot, not cold but juuuuust right), most will accept it and move on.

On the other hand, those that have their closely held beliefs challenged or denied often respond aggressively, even taking the matter to court, or in a few extreme cases, resorting to murder. This much is clear: challenges to matters of principle can trigger disproportionately large responses. There are numerous court cases where extensive time and money has been expended to debate those matters of principle. But when the judge's gavel has fallen, win or lose, the adversaries will return to being neighbors trying to find a way to get along. Only now, a wall of pride usually takes the place of the contested principle. The feud isn't over by a long shot.

A survey once stated: "It's said that the two greatest problems in America are ignorance and apathy. What do you think?" Answer: "I don't know and I don't care". There is a degree of those attitudes in HOAs. Some members just don't want to be bothered. That leaves

HOA matters in the hands of the few that do. The rest mill around in the stockyard of indifference chewing their cud.

Of the few that remain, some serve on the board and others watch what the board does. Again, the watching generally is just that because most HOA boards do pretty well about avoiding controversy. But sometimes the board isn't handling business properly or at all. In an effort to avoid confrontation, some boards neglect to collect money or enforce the rules. Board watchers are quick to blow the whistle.

But is anyone listening? Is pluralistic ignorance getting in the way? Or is it a lone voice crying wolf in the wilderness by throwing stones at glass houses? Holy mixed metaphor! Clearly, how well the board manages business has a profound affect on the member home values and community livability. Whether the other members are engaged or not, it behooves the board to strive for excellence.🔒

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Newsletter Basics

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Unfeather Your Nest

When people are elected to positions of power, there is always the possibility that a conflict of interest will develop. As often as not, there is no intention to fall into one. However, anyone can find themselves in circumstances that lead to a conflict of interest. It's almost impossible to avoid them. But how they are handled is critical. They come in several shapes and forms:

Imbalanced Reserve Repairs. Due to poor reserve planning, the board is called on to make judgment calls based on inadequate money. Invariably someone gets service and others don't. If the board president approves painting his building instead of others, there is a conflict of interest, even if that building clearly needs it more than the others.

So, while good reserve planning can help clear up the inequity, the question remains on which building gets painted today. Avoid the perception of self dealing by having an outside "expert" make the call. Rather than be exposed to criticism, why not ask a local paint company design consultant to make the call? This same principle can be used for many other kinds of repairs.

Voting. Another technique for avoiding conflict of interest is to abstain from voting when the outcome is self-benefitting. And make sure the secretary records in the meeting minutes that "(fill in blank) abstained due to a conflict of interest". That way, the written record will show no intent to affect the vote.

Disclosure. The idea behind disclosure is that any possible conflict is brought to the attention of the board up front. If the board has no problem with it, it *may* be okay. But beware. Technically, if you advise the board to hire your brother in law, the landscape contractor, you've provided disclosure. However, to an outside observer, it would still be nepotism (hiring family members) or possible money kickbacks. The board fiddles while the members burn. While disclosure may explain away a conflict, look at the situation with a critical eye. If the issue is significant or costly, it's best to shy away from it rather than have to justify it again and again.

Deal Openly. One of the best ways for the board to avoid self dealing is to hold open board meetings, even if other members don't attend. Draft minutes should be completed within a week of the meeting and distributed to all. Regular newsletters (at least four per year) should advise of significant board business and upcoming events. Board business should be *transparent* (nothing to hide). If the board knows the owners are watching and aware, it's less likely to engage in self serving activity.

Ban Board Scofflaws. To have a director who violates the rules is bad enough. But to allow this kind of conflict of interest to continue is unconscionable and invites challenge

from every community member accused of rule infraction. Habitual board rule breakers should be held to the same standards as everyone else including fines and sanctions.

Developers. Many HOA developers are shortsighted when it comes to conflict of interest. The goal to make a profit causes them to set the budget too low to keep HOA fees low and attract buyers. This strategy will invariably backfire after the HOA is turned over to the homeowners since there won't be enough money to properly cover costs. When the HOA runs out of money, guess who gets blamed? To avoid this problem, all HOA developers should use outside budget consultants to eliminate the conflict of interest. Using consultants keeps the developer "arm's length", more credible to buyers and defensible if the homeowner board ever raises the question of the developer under budgeting.

Conflicts of interest always feather someone's nest and raise suspicion. And no matter how hard you try, one will appear. Ask yourself if something the board is doing could be misconstrued by outsiders. Trust is a fragile thing so treat it like fine crystal. Find ways to "unfeather" your nest. 🦋

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Life Blood Infusion

Assessments are the life-blood of homeowner associations. Without the continuous infusion of funds, HOAs suffer the same fate as an individual suffering a heart attack. So, every HOA needs a cohesive and consistent collection process to thrive.

Whether they realize it or not, all HOAs have a collection philosophy. Some do it haphazardly, others consciously adopt a philosophy which fits the homeowner association. Collection philosophies run the gamut from "HOAs are businesses and must be run like businesses" to "collections

are messy; if left alone, the members will eventually pay voluntarily" (Ha!).

One approach to developing a collection philosophy is to prepare a Total Quality Management (TQM) style mission statement. It might look like this:

1. We want to collect as close to 100% of assessments as possible.
2. We believe in clear and regular communication with delinquent members.
3. The process should provide for graduated penalties for late payments.
4. The procedure must be written.
6. The procedure must be enforced in a consistent and uniform basis.
7. Members must be treated with respect throughout the process.

The centerpiece of an effective collection process is an administrative resolution enacted by the board and distributed to all members. Its purpose is simple: to communicate exactly what actions the HOA will take to pursue collections.

A Collection Resolution should include:

1. Assessments are due on the first of the month.
2. After ___ days, late charges of \$ ___ apply.
3. Balances due over 30 days will be assessed ___% per month.
4. A Notice of Intent to Lien is sent to members more than 30 days delinquent.
5. A lien will be recorded against any member more than 45 days late.
6. Assessments will be accelerated to end of fiscal year (if allowed in the governing documents) for delinquencies of more than 3 months.
7. Property foreclosure will be processed for delinquencies of more than 4 months.
8. After institution of foreclosure action, all payment plans or settlements require board approval.

Enforcement Mechanics

Notice of Intent to Lien. It serves as both a warning regarding the lien if debt is not paid by a certain date.

Lien Recording. It secures payment of the delinquent assessments. The preparation, recording and service of

the lien is best handled by a qualified attorney who needs this essential information:

1. Member's property legal description
2. Mailing address for owner of record
3. Tax identification number of the property
4. A statement detailing amount owed, late charges, interest charges and any payments made.

Acceleration of Assessments. Some governing documents provide the HOA with the right to accelerate the balance of the fiscal year's assessments in case of default. If the collection process is designed to provide increasing sanctions for delinquencies, like when a four-month delinquency exists).

Foreclosure of a Lien. Some boards prefer to wait until a certain minimum dollar amount of delinquency has been exceeded. This approach can create problems particularly where partial payments have been accepted. It is recommended that foreclosure action be started after a specific number of months of delinquency has passed rather than a dollar amount. Foreclosure actions require the assistance of a knowledgeable attorney.

Collection of Deficiency Judgments. In some circumstances, there may be insufficient equity to pay off the HOA's debt and foreclosure may not make sense. The alternative is pursuing a deficiency judgment against the member. Getting a judgment does not automatically translate into payment. The judgment must be collectible by garnishment of wages or bank account or by attachment of non-exempt personal assets.

Enacting a comprehensive Collection Resolution and adhering to it on a consistent basis is the best hope for a homeowner association to minimize uncollected assessments. 🏠

Reserve Fund Adequacy

Each homeowner association requires a different amount of cash in reserves to perform the anticipated projects on time without requiring special assessments or loans. In addition to the difference in HOA types and ages, when one also considers the difference between reserve plans and reality, measuring reserves adequacy can be a shot in the dark. But an HOA's risk of having adequate reserves can be measured if the right kind of ruler is used.

Winston Churchill said "Saving is a very fine thing, especially if your parents have done it for you!" But how much "savings" does it take to provide an adequate level of comfort? A reserve cash balance that is adequate for one HOA is not necessarily adequate for another. But if actual reserves on hand are compared to current reserve requirements, a relative measuring scale called Percent Funded can be established. This measuring scale allows us to measure how well a reserve fund fits and meets reserve needs.

Large homeowner associations with many common area components have high reserve fund requirements. Conversely, HOAs with a few common area components have smaller reserve fund requirements. You can convert reserve information into numbers by multiplying the current cost of each component by its fraction of life "used up". The result of this computation is called the Fully Funded Balance.

On the table below, for an HOA 0% - 10% Funded, there is more than a 50% chance that there will be inadequate cash to perform its anticipated reserve projects. This will trigger a dreaded special assessment. The higher the Percent Funded, the smaller the risk.

Percent Funded	Special Assessment Risk
0-10%	53.5%
11-20%	36.9%
21-30%	26.6%
31-40%	17.6%
41-50%	11.6%
51-60%	6.0%
61-70%	3.5%

71-80%	2.4%
81-90%	2.3%
91-100%	0.5%

An ancient Chinese proverb states: "Forecasting is difficult, especially about the future." Every Reserve Plan is destined to be inaccurate, since future events are out of our control and never happen as planned. HOAs that have a weak reserve cash balances run a higher risk of special assessment as their Percent Funded drops. Setting a goal for a strong Reserve Fund provides a margin for protection when reserve expenses are higher than expected or earlier than expected.

By Robert M. Nordlund, P.E. 🏠

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Keep on Swimming

The endearing movie "Finding Nemo" includes an addle-headed character named Dora whose motto for life is "Keep on swimming". Since she is a small fish and a potential meal for many bigger fish, this philosophy has profound meaning for her. But it also has great significance for humans.

Life has twists and turns that defy imagination. Some of those twists and turns we bring on ourselves and some are brought to us by others. The good ones are easy to take...bring'em on! But the bad ones seem to come, stay and not go away. The longer they stay, the more they crowd out joy and demand our attention: Look at me!

The more we obsess about the bad things in our life, the more we neglect the good things like friends, family, work and spiritual pursuits. The very things that we neglect are the things that will put the negative in its proper place.

"Keep on swimming" may be an oversimplified life philosophy but it does echo the need to not be paralyzed by negativity. Allowing negativity to control your life is self-induced quicksand. The longer you remain, the

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deeper you sink and the harder it is to escape.

"Keep on swimming" recognizes that life comes in all shapes, sizes and textures, both good and bad. While the good things are always welcome, we should *expect* bad things to happen.

According to astronomers, the earth is rotating on its axis at 1,000 miles per hour, while simultaneously revolving around the sun at 67,000 miles per hour within a solar system that is moving at 420,000 miles per hour within a galaxy that is moving at 2,237,000 miles per hour. (You don't even want to know how fast the universe is expanding). It's a miracle that we exist at all. Fortunately, there is someone powerful and eternal managing the whole process.

It's how we react to bad things that will surely happen that defines and refines our character. To maintain a balanced life in the face of adversity, cultivate enduring friendships with upbeat people, love your work, play regularly and know that being powerless gives us access to the one with limitless power. Keep on swimming. 🌊

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Loan Approved

After the damage caused by Hurricane Katrina, some New Orleans homeowners seeking financing were challenged with tracing their home titles back hundreds of years since their houses had been passed down through generations of family.

A New Orleans lawyer sought an FHA loan for a client. He was told the loan would be granted if he could prove satisfactory title to a parcel of property being offered as collateral. The title to the property dated back to 1803. After sending the information to the FHA, he received the following reply:

"Upon review of your letter adjoining your client's loan application, we note the request is supported by an Abstract

of Title which only clears title to the proposed collateral back to 1803. Before final approval can be accorded, it will be necessary to clear the title back to its origin."

The lawyer responded as follows: "I was unaware that any educated American, particularly those working in the real estate area, would not know that Louisiana was purchased by the United States from France in 1803, the year of origin identified in our application. The title to the land prior to U.S. ownership was obtained from France, which had acquired it by Right of Conquest from Spain. The land came into the possession of Spain by Right of Discovery made in the year 1492 by a sea captain named Christopher Columbus, who had been challenged to seek a shorter route to India by the Spanish monarch Queen Isabella.

Queen Isabella, being a pious woman and almost as careful about titles as the FHA, took the precaution of securing the blessing of the Pope before she sold her jewels to finance the Columbus expedition. The Pope, as you may know, is an emissary of Jesus Christ, the Son of God. God, it is commonly believed, created the world, so it is safe to assume that God also made Louisiana. God, therefore, would be the owner of origin and his origins predate the beginning of time, the world as we know it and FHA. I hope you find God's claim to be satisfactory." 🌊

Old Farmer's Almanac

Your fences need to be horse-high, pig-tight and bull-strong.

Keep skunks and bankers at a distance.

Life is simpler when you plow around the stump.

A bumble bee is considerably faster than a John Deere tractor.

Words that soak into your ears are whispered... not yelled.

Meanness don't jes' happen overnight.

Forgive your enemies; it messes up their heads.

Do not corner something that you know is meaner than you.

It don't take a very big person to carry a grudge.

You cannot unsay a cruel word.

Every path has a few puddles.

When you wallow with pigs, expect to get dirty.

The best sermons are lived, not preached.

Most of the stuff people worry about ain't never gonna happen anyway.

Don't judge folks by their relatives.

Remember that silence is sometimes the best answer.

Live a good, honorable life... Then when you get older and think back, you'll enjoy it a second time.

Don't interfere with somethin' that ain't bothering you none.

Timing has a lot to do with the outcome of a Rain dance.

If you find yourself in a hole, the first thing to do is stop diggin'.

Sometimes you get, and sometimes you get got.

The biggest troublemaker you'll probably ever have to deal with, watches you from the mirror every mornin'.

Always drink upstream from the herd.

Good judgment comes from experience, and a lotta that comes from bad judgment.

Lettin' the cat outta the bag is a whole lot easier than puttin' it back in.

If you get to thinkin' you're a person of some influence, try orderin' somebody else's dog around..

Live simply. Love generously. Care deeply. Speak kindly. Leave the rest to fate.

Don't pick a fight with an old man. If he is too old to fight, he'll just kill you.

Most times, it just gets down to common sense. 🌊