



# The Regenesis Report



**National Edition**

**Innovative Homeowner Association Management Strategies**

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**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.



**RICHARD L. THOMPSON**  
EDITOR & PUBLISHER  
rich@regenesis.net

**Regenesis, Inc.**  
PO Box 19605  
Portland OR 97280

**www.Regenesis.net**

## Frequency of Recency

One of the more common mental biases that affects people is known as "recency". Recency is the tendency to consider the most recent information as more important when making a decision instead of weighing all information equally. This kind of thinking can be pervasive in the homeowner association environment. In the heat of discussion, the most recent hot topic can loom large and perspective lost. Recency causes skewed decision making driven by passion. How does this phenomena manifest itself?

Consider the enactment of a rule designed to control the scofflaws. An example is the guy that has five vehicles and only one parking place. After repeated notices to thin out his car collection, the board decides to take radical action, enact a no-nonsense tow-on-sight rule to smite the offender. This approach, however, also applies to everyone including the occasional offender and guest. The towing policy is not necessarily a bad one but needs to be approached with reason.

As a rule, rules need to be widely applicable. They should never be enacted to control the few. The few, frankly, often could care less about rules. When a narrow rule is enacted, the many that live in harmony with their neighbors are netted with the few that don't. This is a bad mix and bound to create ill will or inconsistent enforcement of the rule.

Consider money collections and an habitual slow payer. The board may react and enact an iron clad collection policy punctuated by a foreclosure option. The manifestation of this recency thinking again affects all members, including those that have a legitimate excuse for their delinquency (job loss, disability, etc.). The board needs to be very careful in "one size fits all" rules and policies.

Consider reacting to a guest member's bullying at a board meeting. One of the great advantages of an advance meeting agenda is that the board is given the

opportunity to reflect on upcoming discussions even if they're controversial. If member concerns are required to be on the advance meeting agenda to receive board action, impromptu meeting tirades and demands can be deflected to a future board meeting. In other words, the board is never obligated to react to a tirade or demand unless it wants to. In truth, tirade passion usually dwindles over time and the board rarely needs to deal with these issues at all. Use the meeting agenda to avoid shoot-from-the-lip decisions.

Consider reaction to rumors. This is the most insidious recency of all because it is accomplished by stealth. If the accuser is confronted, they simply deny they said it or claim what was said was distorted or exaggerated. Trying to defend against rumors is like trying to catch the wind. It's at its worst when the rumor mill is churned by a board member who is privy to board discussions and decisions. While the best approach is to try to ignore such undermining, it's also good to confront the perpetrator directly and demand change.

When recent events stir the body politic, it's usually time to put the matter on the slow track. Time heals all wounds and wounds all heal. If a meeting discussion takes on a personal tone (like, "You worthless %#@%#!"), it's time to adjourn to another time and place so that reason, and not recency, prevails. There are few issues in an HOA that require immediate board action. When the effects of recency begin to taint board thinking and policies, shake them off and sloooooow doooooown. ☹️

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## Ask the HOA Expert™

**Q** Our board recently presented the coming year's budget at the annual meeting. A number of members said the increase was too high for them and that they couldn't afford it. A couple of others chimed in with the same tune. The board president reacted by caving in. Without first consulting with the rest of the board, he stated the proposed increase would be reduced by half! Now we don't have enough money to properly fund operating and reserves. How can this have been avoided?

**A** There are several ways this could have been handled differently. Other board members could have challenged the president for promising something beyond his authority (like reducing the budget). This would have been embarrassing but not out of line considering the consequences of his unilateral action.

The other more political approach would be to respond to the complainers that "the board would take their comments under consideration at the next board meeting". This removes a volatile topic from the meeting but doesn't dismiss the concerns expressed.

The third and best response is to patiently explain why the HOA needs this budget to properly care for the common elements. Proper maintenance of the common elements has a direct affect on individual member home values. Failing to maintain properly will cause values to fall and may make selling and refinancing more difficult. One way or another, the consequences good or bad will cost the members money. Wouldn't they rather pay for good consequences?

Now as to the president problem. Board presidents do have certain authority but not to reverse a board action or vote. This person needs to be reminded that the mark of an effective leader is that they do not buckle under pressure.

**Q** What can be done about a board president lying to the board about legal opinions obtained from the HOA's lawyer?

**A** All board members are entitled to see legal opinions generated for the HOA and, indeed, should always review them before making decisions that concern that legal opinion. If the president withheld this information when requested, the board should take issue with him. Board officers serve at the pleasure of the board majority. If the president is disseminating false or misleading information, the board majority can remove him from office and appoint another director.

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**Q** Our board uses Roberts Rules of Order to conduct our meetings and discussion is limited to board member deliberations with no comments allowed from guests. Some members have asked us to reconsider and to allow open comments from the audience. Is this a good way to go?

**A** Board meetings are meetings of and for the board, not the general members. Once the

board meeting is called to order, guests should be advised that they are there to listen only. The chair can make an exception to this rule during the meeting if there is a good reason to do so, such as asking a particular guest with special knowledge for comment. But this exception should be used sparingly or it will be perceived to be an invitation for other guests to jump in.

**Q** We have a homeowner who likes to tell the board how to take care of business. He now wants a board member to represent him, read his statements at the meeting and have them incorporated into the minutes if he is unable to attend the meeting.

**A** If he has something to say, he should attend the meetings. And even if he did, what he has to say is not appropriate for the meeting minutes. Minutes should reflect *board business decisions*, not discussions or opinions.

**Q** Our board wants to send a registered letter to all owners requesting a vote to approve a special assessment. The letter will state that failure to respond will be considered a "yes" vote. Is this proper?

**A** No response to the letter is not a vote one way or another. The board cannot interpret no response as approval. It must get the number or percentage of yes votes to pass the special assessment.

**Q** Our HOA restricts the number of occupants to a maximum of four per unit. One of the units now has five occupants. How can the board enforce occupancy requirements?

**A** The HOA or board generally does not have the authority to restrict occupancy numbers. Unit interiors belong to the unit owners and it's up to them to decide how many occupants is reasonable. Most landlords would not allow more

occupants than reasonable because of heavy wear and tear.

There is also the Fair Housing Act to consider. Restricting the number of occupants might be construed to discriminate against families. The basis for restricting numbers must be reasonable and consistently applied or the HOA runs the risk of getting sued by the government.

However, if additional occupants are burdening limited parking or significantly increasing the load on HOA provided services (like trash) or utilities (like water and sewer), the board can take issue since the occupancy level is impacting the common elements and costs.

**Q** We have an owner that rents out his unit but drops by every week to use the HOA's dumpster to empty his garbage. Help!

**A** If an owner rents his unit, his use privileges are transferred to his renters. So, this landlord should be advised in writing not to use the HOA's services further. A similar situation arises when a landlord owner shows up to use the HOA's pool or clubhouse. If he is either a landlord or not a guest of a resident, he is not entitled to use HOA services or amenities. ⚠️

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## 8 Rule Components

When writing rules, homeowner association boards should use simple concepts and words. If residents understand rules, they're more likely to comply with them. Some board members may try to lend authority to their rules by using "legalese". Though rules should have a solid legal basis, those who read them must be able to

understand them. Few residents would understand the meaning of "Section 35.641 of the Code of the City of Pleasantville is hereby incorporated by reference."

The following eight characteristics of good rules will help board members avoid the traps of complexity and misunderstanding.

**1. Good rules are transparent.** Rules should require people to do what they would have done naturally without the rule, after merely thinking about it. When Dwight Eisenhower was president of Columbia University, there was a great deal of study as to where to place paved paths through the huge quadrangle of grass within the campus. Dwight suggested that they merely pave where the grass was worn. Thus, if rules require what reasonable and decent people would do anyway, then rules only have to be enforced against the few who aren't reasonable and decent.

**2. Good rules are few rules.** Good rules are the minimum necessary to provide for the comfort and safety of the residents and the equitable use and enjoyment of facilities.

**3. Good rules are easy to obey.** Residents must understand the need for the rule and comply with it voluntarily. Neither the board nor the manager is in a position to police the community.

**4. Good rules are efficient.** Good rules accomplish exactly what the board intended them to accomplish. Unfortunately, some HOAs try to solve a problem by passing rules that are either too harsh or too broad. Such rules may set off a number of chain reactions including situations in which:

- Residents ignore the rule and call the board autocratic or dictatorial.
- Residents ignore other rules.
- The newsletter adopts a scolding tone.
- Residents complain about the board to the manager.
- Residents complain that rules aren't uniformly enforced.

**5. Efficient rules** accomplish their goal without undue side effects. Good rules resolve rather than create problems. For example, the board of the ABC HOA is concerned about teenagers damaging lawn areas when they play ball. In an attempt to resolve the problem, the board prohibits groups of three or more people over the age of 10 from playing on the lawn. The teens react by playing on the street or on the lawns of adjacent HOAs, resulting in complaints from motorists and the neighbors. Prevent this type of situation by considering the likely side effects of a rule when drafting it.

**6. Good rules are enforceable.** Make sure the board has the authority to enforce a rule before drafting it then make the rule specific. Vague statements, such as "Loud and boisterous activity should be avoided" leave unanswered the questions "By whom?" "Where?" "When?" "What does *avoid* mean?" Both mini-bikes and lawn mowers are loud. Should they both be restricted? Does noise from late Saturday night parties create the same problems as noise from a Sunday afternoon wedding reception or barbecue?

Overly specific rules can also create enforcement problems. For example, the ABC HOA institutes a rule that states: "Between the hours of 10 pm and 7 am no noise shall be permitted in a unit that measures 30 decibels or greater for more than 10 seconds in the nearest adjacent unit or public area." Though specific rules may be easy to enforce in court, the board may find it difficult to obtain voluntary compliance.

To write an effective rule, the board must balance specificity with simplicity and compliance. No rule will meet each criteria equally.

**7. Good rules are flexible.** Good rules allow flexibility and the use of reasonable judgment and mediation in enforcement.

**8. Good rules must be communicated.** HOAs don't always publicize rules as effectively or as often



as they need to. The board should distribute the current rules to all purchasers when they first move into the community. Since these documents may get filed away with other settlement papers, and since purchasers may lease to others, redistribute copies of the rules periodically, also consider putting up signs in pool and playground areas, listing rules in the newsletter or putting them on the HOA's website.

*From HindmanSanchez PC* 🏠

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## 12 Pet Rule Provisions

There's a maxim that the greatest challenges at homeowner associations are Pets, Parking and People. A carefully executed policy will promote the harmonious integration of pets and people. The following provisions are offered to help you shape such a policy:

1. Only dogs, cats, birds or other traditional household pets are permitted.
2. Reptiles, rodents and [fill in the blank] are not considered to be household pets.
3. No animal shall be kept or bred for commercial purposes.
4. Pets may not exceed \_\_ pounds when fully grown.
5. Total number of pets and offspring per residence is limited to \_\_\_\_\_.
6. All pets shall be registered and inoculated as required by local ordinance.
7. No pets are permitted to run at large.
8. All pets must be kept on a leash or restrained at all times when on the grounds.

9. All pet damage is the sole responsibility of the owner. Damage to HOA property will be repaired and reasonable repair costs billed to the resident (or the unit owner if the pet owner is a renter).

10. Owners shall pick up and dispose of all pet litter immediately. Any owner failing to clean up after a pet is subject to reasonable cleanup cost plus a \$\_\_\_ fine for each occurrence.

11. Any pet that disturbs the neighbors, creates excessive noise, is allowed to run freely, is aggressive to people or destructive to HOA property is subject to permanent removal from the property. In such case, the pet owner (or the unit owner if the pet owner is a renter) will be given notice to remove the pet from the property within \_\_\_ days. If the pet is not removed by the deadline, a fine of \$\_\_\_ per day will be chargeable to unit owner's account and subject to normal collection procedures established by the homeowner association.

12. Procedure for complaints: If a pet is being offensive, offended party should first discuss the issue with the pet owner and request correction. If the condition persists, submit a written request for relief to the board (or management agent, if applicable) explaining the offense, time and place.

Since pets are considered cherished parts of their owner's family (and may even be an owner's only family), try not to be too "dog-matic" or you may run "a-fowl" with "cat-astrophic" results. 🏠

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## Paint Prep Primer

A clean sound surface is essential for the long-term success of any paint project. Even the highest quality paints

will fail prematurely if applied to a surface that has not been prepared properly. Part of the preparation process is to identify and address key issues before painting can begin. The Big List includes:

**Mildew.** Mildew is a fungal growth that can form on the surface of exterior and interior paint or directly on the surface of most substrates. It is usually black, gray or brown in color. It is most noticeable on white and light-colored surfaces. It can be visually confused with dirt. However, applying a few drops of household bleach will dissolve the discoloration if it is mildew.

Besides moisture, any or all of the following can influence the growth of mildew.

- \* Type of binder (latex resists mildew better than oil or alkyd binders)
- \* Porosity of the paint (glossy paints resist mildew better than flat paints)
- \* Film thickness of the paint (thick films resist mildew better than thin)
- \* Age of the paint film (newer paint resists better than weathered paint)
- \* Substrate (metal, especially aluminum and galvanized, resists mildew better than wood)
- \* Painting over mildew increases the chance that mildew will grow through the topcoat
- \* Shady areas, north-facing walls or under eaves foster mildew growth

If mildew is present, it can be removed with bleach. Light mildew can often be eliminated by simply adding a small amount of bleach to water. More serious growth can be removed by scrubbing the surface with a stronger bleach solution (one part bleach to three parts water).

**Chalk.** Chalk develops over a period of time, especially on old oil base paints exposed to sunlight. It appears as a

white chalk powder on the surface of the paint film. As the paint weathers, the binder in the paint is degraded by sunshine and moisture, releasing the binders hold on the pigment.

In some parts of the country, a small degree of chalking is actually desirable because it tends to rid the surface of a certain amount of dirt and mildew. Too much chalking can harm a paint job in three ways:

\* It can result in “run-down”, which can damage the appearance of the surface below the painted area such as a brick foundation.

\* It can lighten the color of the paint.

\* It can erode the paint film.

Chalk can be removed by scrubbing with a brush or broom, followed by a good rinsing with water. If chalking is severe, consider using a primer engineered to adhere to problem surfaces.

**Staining.** Stain bleed-through is a brownish or tan discoloration that can occur when paint is applied over certain types of bare wood. It occurs when tannins found in woods such as cedar, redwood and mahogany seep through the paint and discolor it. Staining can also be present over the knots of other wood species, especially pine.

To avoid staining, bare wood should be primed with a stain-resistant primer. Even though the primer itself may become stained, it will keep the wood tannins from bleeding into the topcoat. Once staining has occurred, the discoloration should be removed from the exterior surface. The problem area should be sanded and then spot-primed with a stain-resistant primer before applying paint.

**Repairing the Surface.** Once the surface is clean, it must be made sound. The structure should be inspected for rotting and damage to the wood which should be replaced. Cracks, gaps and holes should be filled with a durable,

paintable caulk, wood putty or any other appropriate filler. Old caulking that has cracked or pulled away from joints should be removed and replaced with new caulk. Buy the best, not the cheapest.

Loose, flaking or peeling paint should be scraped and sanded before applying primers and topcoats. After scraping, feather the edges of any remaining paint to a smooth finish. Severe paint failures may require other methods of removal such as heat guns, chemical strippers, power washers and power sanders.

**Final Preparation.** Thoroughly clean all the surfaces that will be primed or painted. Mask windows, doors and other surfaces not to be painted. Protect walkways, shrubs and flowerbeds with drop cloths. As a rule of thumb, surface preparation will usually take twice as long to do as the application of the paint. Don't take shortcuts.

*By Will Humbert of Vista Paint* 🌲

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### **Threat Principle**

If my deep needs are threatened, I will act to protect them. A threat works by attacking a deep needs. Needs are so fundamental that when we are threatened, we forget our higher aspirations and quickly act to protect ourselves.

Threats may include physical punishment, but more usually they are cognitive and social in nature. One of the biggest such threats is that of social exclusion, which affects our belonging needs.

In particular, threats act on our sense of control, as the person doing the threatening is effectively taking control of our lives and preventing us from controlling our own destiny.

Threats do not change minds persuasively but they are often very effective at changing how people act, at least in the short term. Threats are used by criminals and those who lack the finer subtleties as an effective method of coercion. If your or your family may be harmed, then you will go to great lengths to protect them.

Threats are also surprisingly common in family situations. Parents who are tired or stressed and want children to behave will use many variants on the threat. Children learn this behavior and use it to goad parents, peers and others.

The problem with threats is that it can cause a tremendous backlash in terms of the anger and negative emotions that are aroused. Where a trust is betrayed, such as when a confidence is used against a person, anger and hate can be significant.

You can use threats to cause short-term behavioral change but be very aware that it can have a significant negative effect including revenge.

*For more persuasion principles, see [www.ChangingMinds.org](http://www.ChangingMinds.org)* 🌲

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### **Sweetness of Friendship**

Your friend is your needs answered. He is your field which you sow with love and reap with thanksgiving. And he is your board and your fireside. For you come to him with your hunger, and you seek him for peace.

When your friend speaks his mind you fear not the ‘nay’ in your own mind, nor do you withhold the ‘aye.’ And when he is silent your heart ceases not to listen to his heart; For without words, in friendship, all thoughts, all desires, all

expectations are born and shared, with joy that is unclaimed.

When you part from your friend, you grieve not; For that which you love most in him may be clearer in his absence, as the mountain to the climber is clearer from the plain.

And let there be no purpose in friendship save the deepening of the spirit. For love that seeks aught but the disclosure of its own mystery is not love but a net cast forth: and only the unprofitable is caught.

And let your best be for your friend. If he must know the ebb of your tide, let him know its flood also. For what is your friend that you should seek him with hours to kill? Seek him always with hours to live. For it is his to fill your need, but not your emptiness.

And in the sweetness of friendship let there be laughter, and sharing of pleasures. For in the dew of little things the heart finds its morning and is refreshed.

*From The Prophet by Khalil Gibran* ☼

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### **Invent Life's Meaning**

In 1990, Bill Watterson, creator of the Calvin and Hobbs comic strip, addressed the graduating class of his alma mater, Kenyon College. Watterson was just ten years removed from his own graduation and shared with the graduates some of the struggles he faced as he worked to break into his chosen field and then dealt with the pressures that come with success.

In a speech entitled "Some Thoughts on the Real World From One Who Glimpsed it and Flew," he notes that "Having an enviable career is one thing, and being a happy person is another. Creating a life that reflects your values and satisfies your soul is a rare

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achievement. In a culture that relentlessly promotes avarice and excess as the good life, a person happy doing his own work is usually considered an eccentric, if not a subversive. Ambition is only understood if it's to rise to the top of some imaginary ladder of success. Someone who takes an undemanding job because it affords him the time to pursue other interests and activities is considered a flake.

A person who abandons a career in order to stay home and raise children is considered not to be living up to his potential-as if a job title and salary are the sole measure of human worth. You'll be told in a hundred ways, some subtle and some not, to keep climbing, and never be satisfied with where you are, who you are, and what you're doing. There are a million ways to sell yourself out, and I guarantee you'll hear about them. To invent your own life's meaning is not easy, but it's still allowed, and I think you'll be happier for the trouble."

Watterson's humor, wisdom and experience are an encouragement and inspiration. Take a moment to read his full speech, go to <http://web.mit.edu/jmorzins/www/C-H-speech.html> ☼

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### **COVID-19 Warning**

People are going crazy from being in lock-down! I've been talking about this with my microwave and toaster and we all agree that things are getting bad.

I didn't mention anything to the washing machine since she puts a different spin on everything.

And I certainly said nothing to the refrigerator as he was acting cold and distant. The iron calmed me down when she said no situation is too pressing.

The vacuum was unsympathetic and

told me to just suck it up. The ceiling fan was more optimistic and said it would all soon blow over.

The toilet looked a bit flushed when I asked its opinion. The door knob told me to get a grip.

The front door said I was unhinged and the curtains told me to pull myself together.

Things are getting a little crazy around here. ☼

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### **Anger vs. Exasperation**

A girl who was writing a paper for school and asked her father, "What's the difference between anger and exasperation?"

The father replied, "It is mostly a matter of degree. Let me show you what I mean." With that, the father went to the telephone and dialed a number at random. To the man who answered the phone, he said, "Hello, is Melvin there?"

The man answered, "There is no one living here named Melvin" and hung up.

The father immediately dialed the same number again. "Hello, is Melvin there?" he asked.

"Now look here!" came the heated reply. "You just called this number, and I told you that there is no Melvin here! The receiver was slammed down hard. The father turned to his daughter and said, "That was anger. Now I'll show you what exasperation means."

He dialed the same number, and a violent voice roared, "HELLO!"

The father calmly said, "Hello, this is Melvin. Have there been any calls for me?" ☼