



# The Regenesi Report



National Edition

Innovative Homeowner Association Management Strategies

Priceless

**Regenesi** means making new beginnings using eternal principles in innovative ways.

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

**The Regenesi 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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## Webs We Weave

"A spider's engineering odyssey begins at a high point, from which it releases a single silken thread into the breeze. After the fine strands finds something to cling to, the spider moves across adding silk around the gossamer scaffold, which will serve as the support line. The minute architect then secures a second, slack line, end to end, just below the initial strand. Moving to the center of the lower thread, the spider descends, via a third strand, to a bottom attachment point completing a martini-glass shape; this serves as the framework for the web. Next, the remaining spokes are added. The spider then begins spinning the radial lines starting from the center. The finishing touch is the silk which is interlaced between the radial frame threads." *Shervin Hess*

Like the spider's web, homeowner association frameworks are intended to provide a system for efficient management of the HOA business. But many operate like a spider on LSD with random and ill conceived processes tied together by urgency or neglect. It's not pretty.

In truth, managing an HOA is a highly complex undertaking. It involves the intricacies of sophisticated property management system tethered to an understanding of human behavior that would cause a seasoned diplomat's head to spin. Yet many boards seem oblivious to this and even more surprised when their efforts are criticized by the members. "It's a thankless job," they'll say.

Whether the members appreciate it or not should not be the primary objective. The greatest thanks there is effectively protecting and enhancing the HOA assets with thoughtful planning and execution. Take it as patting yourself on the back. When the board properly manages business, good things will happen. Costs will be contained, repairs will be done when needed, rule breakers will be smited when appropriate and residents will live in harmony. There is much cause for celebration here.

Part of weaving this mystical web is for the board to realize that it can't be done alone. This one is sometimes hard to overcome because a pattern was set years ago by the first board which thought it could be done alone. Or early boards forced to do it due to an inadequate budget with no room for professional management and other experts needed to do it right. But once the current board is totally worn down or worn out, it will occur that maybe there is a better way...hire people that get paid to do it. When the hue and cry arises that it costs too much, the facts usually indicate otherwise. Costs for professional management often amount to \$20-\$30/month/unit. How much is *your* time worth?

And what about paying for experts like lawyers, reserve study professionals, engineers, etc.? Since boards rarely have this kind of inside talent, making informed decisions requires spending money for sage counsel and advice. Spending money this way usually saves money by better focusing goals and outcomes. So, include money in the budget for the experts and don't be afraid to spend it.

An important part of the web is rules. Only add those that are really necessary. Include reasonable fines to make them enforceable and a right of appeal. Sample rules and policies are available to Gold Subscribers of [www.Regenesi.net](http://www.Regenesi.net) for only \$99/year.

The saying goes, "Oh, what a tangled web we weave when we practice to deceive." But when the board purposefully weaves together good management practices, the resulting web is a thing of truly lasting beauty. 🕸

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## Ask The HOA Expert

**Q** Our board is discussing a possible rule preventing minors from entering the sauna without adult supervision. In light of Fair Housing regulations regarding the discrimination of minors, is this advisable?

**A** What is the board's goal, health and safety or to reduce vandalism? Typically, children under 8 should not be in the sauna for health safety reasons. Ask the sauna manufacturers about health and safety guidelines and let the board post them. Coming up with some random policy may indeed get challenged under Fair Housing guidelines. If found guilty, the penalties are severe so the board should not do anything that would attract this kind of challenge or attention. Safety guidelines, though, are reasonable.

**Q** Our master association governing documents have always had a restriction concerning logos on vehicles, especially trucks and vans. However, variations on such logos have gotten more complex and hard to define. For example, law enforcement and governmental vehicles are usually exempted. Then there are medical supply vans that presume to have emergency calls, etc.

Historically, we have required magnetic flexible covers over logo signage, or vehicular covers, if the vehicle is not stored in the garage. Do you have any advice regarding logo signage?

**A** How about full body vehicle decals? Yes, this issue has gotten very complex. Parking restrictions are usually intended to control the number of commercial vehicles parking in the HOA like vans, trucks and delivery vehicles used strictly for business purposes. Since vehicle advertising has changed a lot, the board should be more lenient when a personal vehicle is being used (real estate agent, insurance agent, etc.) with a small decal or magnetic sign. Having to cover up all vestiges of signage large or small is a losing battle. Focus on

strictly commercial vehicles.

**Q** We live in a building built in 1939 and converted to a condo in 1987. The building has never been well maintained and needs renovation to the roof and walls, lobby and hallways at a cost \$450,000. Many of us paid high prices for our units and we want to upgrade the building to a high quality standard. What financing alternatives are available?

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**A** The most expedient way to raise money is by special assessment, where each member pays a proportionate share of costs according to guidelines in the governing documents. But before you consider this, the board should order a professional reserve study which takes into consideration the cost and timing of *all* common element repairs, not just the ones you list. Reserve studies take into consideration all such repairs over a 30 year projection period. PRA (Professional Reserve Analyst) members of the Association of Professional Reserve Analysts carry the highest credential available to perform this work. See [www.apra-usa.com](http://www.apra-usa.com) for a list of PRA members.

While borrowing money is an option, it carries a higher interest rate, short term

pay-back and will significantly raise the monthly assessments to all member that participate. It is usually much more cost effective to have individual members fund their own share of the costs by whatever means available and leave the HOA out of the banking business.

**Q** Our property manager is also a leasing agent for several unit owners in our homeowner association. The board has given full authority for the manager to handle HOA maintenance requests. Does the manager have a conflict of interest between the HOA and landlords?

**A** As long as the manager is providing leasing only services that comply with HOA guidelines and is careful to enforce all applicable HOA rules on the tenants, there is no conflict of interest. The role you describe is very common in HOAs where there are many second homes. It is important to have a local agent overseeing the rentals and the HOA manager is often the best fit.

**Q** Our treasurer owns three of forty condos and serves on our four member board. Our governing documents require 75% of the members to approve a bylaw change. We often get only a handful of members to attend the Annual Meeting. It looks he can control the vote.

**A** Normally, the 75% approval requirement means that 30 of 40 members in this case must approve a bylaw change, not just 75% of those that show up to the meeting. This can be accomplished in person or by proxy. A proxy allows another person to vote on behalf of a member. Your treasurer could get many others to give him their proxy to control the vote outcome but this would take a lot of work to get them.

**Q** Since the participation rate is low at our Annual Meetings, the board never holds elections and just "ratifies" the current board members every year to continue serving.

**A** This is a huge red flag. No board has the right to suspend elections or “ratify” (whatever that means) existing board members. HOAs are *required* to hold elections every year so that all members have the opportunity to run and serve on the board if they get enough votes. The current board could easily engineer the process that you describe by failing to distribute proxies and agendas in advance so that other members are not informed or able to attend the meeting. This board needs to be called on its illegal maneuvering.

**Q** Our HOA property manager holds voting proxies from landlord client members. Is this a problem?

**A** While anyone can technically carry a proxy on behalf of a voting member, this particular arrangement is a huge conflict of interest since the property manager is also under contract to serve the HOA. This proxy arrangement would allow the manager to vote on the members of the board that supervise him. The board should make it clear that the property manager accepting proxies is not allowed.

**Q** Our board commingles operating and reserve funds. This inevitably leads to overspending each year since there is an illusion of more spendable money than there really is. So, every year, the board overspends the operating budget at the expense of reserves.

**A** The universally accepted protocol (and IRS mandate) is that reserves need to be held in a separate bank account for the very reasons you state. That means, at minimum, the HOA should have two checking accounts. Reserve funds are typically invested in CDs, savings or other federally insured investments to produce interest revenue.

This one is a no brainer. Open another checking account and move reserve funds there *today!* Restrict check writing from that account to reserve related expenses only and limit access

to selected board members (typically the President and Treasurer but not the property manager.🚧)

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### Insurance Victimization

An oft repeated scenario in common wall communities is water damage which originates from a neighboring unit. Whether a broken pipe or washing machine hose, surf's up! and usually between midnight and 4 am (disasters are funny that way).

While victim frustration and irritation always results, the most natural reaction is looking for someone to blame. However, this is a crime that usually has no perpetrator. Rarely does someone consciously set out to flood the neighbors. This is one of those irritating events controlled by unseen forces commonly referred to as “S\*\*t Happens”. What now?

Of the two entities that victims would like to blame, the neighbor or the HOA, both have legitimate alibis. The neighbor's toilet supply line probably broke when the neighbor was gone so there is considerable damage done their unit as well. And the event was nothing they had control over. Your neighbor may have even called his insurance agent about fixing his and your damage. The agent often replies either, “We'll fix yours but not your neighbor's” or “Call the HOA's insurance carrier. They'll pay for the damage to both”. Technically speaking correct, but practically speaking, wrong advice.

Like the neighbor, the HOA usually isn't negligent in causing the damage. Things happen. And unless the result is catastrophic, involving many units and tens or hundreds of thousands of dollars of damage, the HOA's insurance should not be involved in the repairs even if the policy covers it. Why? Insurance companies set their rates according to the number of claims

filed and the dollar value of those claims. HOA insurance and rates assume that it will rarely be needed. To keep premiums even lower, higher deductibles like \$2500-10,000 are opted for. This encourages the board not to file small claims which may jeopardize the HOA's insurability. Too many claims result in cancellation.

All unit owners are required to carry homeowner insurance for a good reason: to spread the risk around and ensure that each owner has the correct amount and appropriate kind of insurance. Some need relatively little and some need more to cover valuable contents, home businesses and other special needs. It is important that owner insurance be the first line of defense when possible. In the scenario discussed here, unless either the neighbor or HOA was negligent in some way, the owner victims would file claims on their own insurance and pay the deductible out of their own pocket.

The HOA can assist in sorting out claims and responsibilities by enacting an **Areas of Responsibility Policy** which clearly defines who is responsible for insurance and maintenance according to building and grounds components. This one page document establishes the guidelines for the board, owners and insurance agents and eliminates most disputes. A sample is available to Gold Subscribers of [www.Regenesis.net](http://www.Regenesis.net) in “Policy Samples” section. Once adopted, the board should be careful to follow it. Fixing unit damage that the HOA is not responsible to fix will establish an expensive precedent.

Avoiding insurance victimization is a matter of proper planning and notification. Make sure all owners know what's what with an Areas of Responsibility Policy. Then, owners won't get caught with their insurance pants down.🚧

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## Noise Plays

Noise is a common complaint in common wall communities. That new and beautiful hardwood floor in Unit 2A is Unit 1A's worse nightmare. Suddenly, a normally soft shod neighbor sounds like a flamenco dancer at full crescendo. While new construction usually provides an extra measure of sound protection, older construction is often woefully inadequate. Is there anything the board can do besides turn a deaf ear?

Since construction related noise complaints are bound to be heard again and again, the board should indeed be proactive and there are a number of things it can do. Here are some plays to deal with noise.

**Quiet Hours Policy.** Have a formal policy that promotes a quiet environment. Quiet hours like 9 pm to 9 am Monday through Friday and 10 pm to 10 am Saturday - Sunday are reasonable. In defining what noise is, rather than get into specifics like stereos and barking dogs, something like "any sound disruption that significantly interrupts sleep and the quiet enjoyment of the neighbors" works best.

**Dealing with Complaints.** The board should not get involved in noise complaints unless several documented attempts have been made by the affected parties to resolve the issues. They need to recite the nature of the disturbances, frequency, dates, times, action taken by the complainant and response from the noise maker. Do not circumvent this step by accepting requests to intercede prematurely. In most cases, neighbors dealing directly with neighbors will solve the problem.

Accept only the hard and documented cases. And never intercede in events that normally would be handled by the police (domestic disturbances and other violent activity). Also, frequency of the disturbance is a critical element. There is a big difference between two complaints over a six month period and two within a week. A repeat disturbance within no more than two weeks is a reasonable standard.

**Call in the Experts.** If there is a flaw in the building sound design, it isn't necessarily fatal. There are a variety of corrections varying from lifestyle changes to architectural modifications. To help sort them out, hire a qualified architect or engineer to analyze the problem and provide a list of solutions that can be shared with owners. Those should include modifications made by both noise senders and receivers. A soundproofed ceiling may be more expedient than expecting the upstairs neighbor to rip up the oak floor. Most neighbors do not want to be a pain and will follow the recommendations.

**Set Architectural Standards.** In the interest of community peace and quiet, the board does have the authority to establish reasonable standards for architectural design. While this generally applies to exterior appearance, structural components that impact the neighbors, like floor surfaces, can also be included. For example, any owner that wants hardwood flooring should be required to install a sound proofing material under or over it to reduce or eliminate sound transmission. Let remodeling owners know the requirements before the floor is installed.

**Facilitate the Upgrade.** One of the real advantages of homeowner associations is group buying power. If there is a building wide problem, even if it exists within the units, the owners can join together by way of the HOA to address the problem as a whole rather than sending individual owners off on their own. By joining together, the whole problem is solved at the same time and at a volume discount.

**Fines.** Fining is usually a last resort solution for hard cases. The noise fine policy should lay out a series of increasing penalties like first disturbance, a written warning; second, \$25 fine; third, a \$50 fine; fourth, a \$100 fine...make the penalty enough to get their attention but not so outrageous that a judge would spank the board for being dictatorial.

**Right of Appeal.** All notices of violation and fines should be in writing and include an appeal process. That

ensures a record of the event and no misunderstanding of the issues. Fines should be billed and collected just like regular assessments. If not paid, follow the normal collection routine.

**Defensive Action.** Sometimes a good defense is the best offense. Some noise complaints are the result of over sensitivity or mismatched schedules like a swing shift worker trying to sleep during the day. In such cases, it makes more sense that the complainer take defensive action rather than expect unreasonable changes from the neighbor. Using "white noise" like a box fan or fountain can drown out many noise problems and cost little.

Noise can be a vexing issue, especially when the offender is insensitive. The board can reduce widespread complaints by enacting noise reduction standards and providing proactive solutions. Using these creative noise plays in your community, peace and quiet will soon be heard loud and clear. 🗿

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## Kid Rules

Every board at one time or another has had to deal with children who break the rules. This is particularly true in homeowner associations that have a concentration of elementary and middle school kids. They scrawl graffiti, skateboard at all hours and places, pull fire alarms for fun or run amuck in the pool. Does the board have an obligation to discipline such behavior? No, however, since these activities often result in personal injury or damage to the common area, action is called for.

The governing documents give the board authority to require parents to control their children. It's the same kind of authority which allows the board to hold landlords accountable for actions of renters. If someone's child misbehaves, the board can penalize the

parents as if they personally did the deed. That approach is better than trying to set some kid straight. Allow the parents to do the correction by “encouraging” them with fines and repair costs.

However, it’s also important for the board not to get overly legalistic. Kids are a very important part of a homeowner association and they have rights which should be respected. If there is an issue that affects many community kids (like places to play basketball, rollerblade or skateboard) why not hold a special meeting to hear their side of it? Such a move will help the kids own their actions.

Rather than rule over the kids, find ways to make them positive contributors to the community. Give them ways to be productive instead of destructive. And try to catch them doing “good” things. It’s a lot cheaper and less stressful than chasing vandals.  
*by Marilyn Lincoln* 🐶

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### Spring Walkabout

Finally! The sun is shining a bit more and plants are starting to poke their heads out of the ground. Before you get mesmerized by Spring Fever, do a quick “walk about” for post winter grounds and building maintenance:

**Buildings.** Look for sagging gutters, loose window frames, deteriorating concrete or brickwork, rotted siding, missing roof shingles, or water damage under.

**Landscaping.** Clean up fallen branches and leaves. Use a mulching mower to spread clippings evenly over the lawn and fertilize naturally. Loosen the soil around perennials; plant annuals or a vegetable garden. Prune shrubs and trees; repair sprinkler system.

**Paint.** Prime, patch and paint as necessary.

**Turn on Outside Water.** Hook up the hoses and inspect for cracks or leaks. Replace old washers.

**Windows.** Wash and repair caulking.

**Check Vents.** Make sure all exhaust fans and are clean and remove lint buildup from the clothes dryer vents.

**Repair Wood Decks.** Hammer loose nails or replace them with galvanized deck screws. Replace any broken boards or rails. Power wash to clean dirt, moss and algae, then apply an all-weather sealer or stain. Set up patio furniture.

**Repair Fences.** Repair broken fence boards and paint or seal them as needed.

**Prepare for Pool Opening.** Purchase pool chemicals and needed equipment. Schedule and perform cleaning. Clean pool furniture.

**Spring Clubhouse Cleaning.** Remove cobwebs and wash grimy areas. Wash heat registers. Remove drapes for dry cleaning. Clean carpeting and bathrooms. Wax floors. Polish woodwork.

**Sweep parking** lot and private streets.

Time to spring forward into Spring action! 🐶

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### Controlled Chaos

There are those that believe homeowner associations are the essence of 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 matured, efficient planning processes were developed and workable solutions devised. Much of improvement is rooted in sound business practices that 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.

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. There are books, videos, articles, seminars, rules and policy samples to be had. Take control and chase chaos back into the darkness. 🌑

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### Man from Samaria

One day, a priest was walking down a dusty road when he heard cries coming from a ditch. "Help me! Please!" He strained to see into the ditch, saw a bloody man and said, "What happened to you?" "I was traveling to town when I was attacked, beaten, and robbed. Please help me, I can't move," the voice responded.

The priest paused for a moment, then yelled back, "Listen, there's this guy called the Good Samaritan who always helps people in need. He should be coming down the road any time now. He'll help you. I don't know anything about first aid and I wouldn't want to make things worse."

"Wait, you don't understand.." But the priest had already gone.

Soon, another man came walking along the road. "Help me! Please!" I need your help!" "Oh," said the man, gazing into the ditch. "You do sound like someone who could use some help. Wait a minute! Attacked? Beaten? Robbed? What a coincidence. That reminds me of a story I heard once. Actually, I'm in quite a rush. But I'm sure that someone else will be along shortly to help you. Someone called...um...the Good Samaritan! He'll be along soon. This is a busy road, you know."

"Couldn't you help me? I'm feeling very

weak, I can't..." "I'm sorry, but I'm not the Good Samaritan. If I helped you, it would ruin the story. You wouldn't want me to do that, would you?"

"Ohhhh...I can't last much longer," the wounded man said softly.

Soon another man came walking along the same road. He ran over to the ditch when he heard the man crying. "Goodness! What happened?"

"I was attacked, beaten and robbed. Two other men have walked by and haven't helped me. Please help me. I can't move." The traveler peered in at the wounded figure lying on the ground in front of him. Finally he said, "Wait a minute...you look familiar. Where are you from?" "Samaria."

"Oh sure...the Good Samaritan. I was the man you helped! I've been looking for you because I wanted to repay you! Here are two silver coins--exactly what you gave that innkeeper. I feel so much better. This is wonderful!" The grateful man laid the two silver coins in the dust next to the Good Samaritan and cheerfully went on his way.

And so, the Good Samaritan died quietly in a ditch by the side of the road.

Love is more than words, more than a feeling and more than doing what's convenient. Love means getting down in the ditch to give them what they really need. *By Wayne Rice* 🌑

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### Two Cows

**Democrat:** You have two cows. Your neighbor has none. You feel guilty for being successful. You vote people into office who put a tax on your cows, forcing you to sell one to raise money to pay the tax. The people you voted for then take the tax money, buy a cow and give it to your neighbor. You feel righteous.

**Republican:** You have two cows. Your

neighbor has none. So?

**Socialist:** You have two cows. The government takes one and gives it to your neighbor. You form a cooperative to help him manage your cow.

**Communist:** You have two cows. The government seizes both and provides you with milk. You wait in line for hours to get it. It is expensive and sour.

**Capitalism American Style:** You have two cows. You sell one, buy a bull, and build a herd of cows.

**Democracy American Style:** You have two cows. The government taxes you to the point you have to sell both to support a man in a foreign country who has only one cow, which was a gift from your government.

**Bureaucracy American Style:** You have two cows. The government takes them both, shoots one, milks the other, pays you for the milk, then pours the milk down the drain.

**American Corporation:** You have two cows. You sell one, lease it back to yourself and do an IPO on the second one. You force the two cows to produce the milk of four cows. You are surprised when one cow drops dead. You do a press release stating you have downsized and are reducing expenses. Your stock goes up.

**French Corporation:** You have two cows. You go on strike because you want three cows. You go to lunch. Life is good.

**Japanese Corporation:** You have two cows. You redesign them so they are one-tenth the size of an ordinary cow and produce twenty times the milk. They learn to travel on unbelievably crowded and fast trains. Most are at the top of their class at cow college.

**German Corporation:** You have two cows. You re-engineer them so they are all blond, drink beer, give excellent milk and run a hundred miles an hour. Unfortunately, they also demand 13 weeks of vacation per year.

**Italian Corporation:** You have two cows but you don't know where they are. While ambling around looking for them, you see a beautiful woman. You break for lunch. Life is good. 🌑