



The Regenesis Report



National

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.



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

Regenesis, Inc.
PO Box 19605
Portland OR 97280

www.Regenesis.net

Security Perception

Personal security is a vexing and elusive state of being. For crime victims, one minute, life seems warm and fuzzy and the next, the end of the world seems near. Homeowners associations are often called on to provide some level of security. Some provide controlled entry, armed patrols, video cameras and other high tech gadgetry. Others build fences and walls. All of this is costly. Does it really work?

Security is largely perception. Both residents and intruders perceive security from a different point of view. For example, a resident may feel secure because of a new video surveillance system. The intruder may laugh because the whole system can be neutralized easily or has major gaps.

One thing is clear. The HOA needs to be careful about preempting local law enforcement, especially when considering break and enter or physical altercations. There have been a number of significant court cases that found the HOA responsible for facilitating assaults, rapes and other violent crimes by failing to provide promised "security". In most of those cases, claims of security were boasted. Never make such boasts. They are a challenge to criminals and great fodder for lawsuits.

Many security measures rarely work for long because, as the saying goes, "Locks only keep your friends out". Residents are often the worst gap in security. They leave gates open, hand out keys and security codes, and rarely question strangers even if they see them breaking into someone's car.

For this weak link, a Neighborhood Watch Committee is helpful. If resident security laxness is detected, individuals can be reminded personally or periodic reminders sent or posted about specific security issues. The Committee's job is to keep residents aware, not scared. Information distribution and meetings are particularly effective following a crime. The Committee can also host meetings with guest speakers like police, detectives and security companies. We all know what we should

do. Reminders help keep us better security focused.

While cameras and guards seem like a good idea, bad guys rarely parade in plain view. It's better to have residents make repeated calls to local police requesting more frequent patrols. Police do count the calls in determining where they should place patrols. Another cheap and effective security measure is posting highly visible "24 HOUR SURVEILLANCE" signs. If the bad guys can read, a fair number of them are deterred. Fake video cameras in visible locations with red blinking lights also work. The fact that there is neither 24 hour surveillance nor real cameras doesn't inform the criminal of that. If you can deter 3 out of 5, you've just reduce crime by 60%.

While the HOA could pay for expensive guard services, the guards can't be everywhere at once. And you can buy expensive security cameras and recorders but who's going to monitor the equipment? And even if you catch someone on camera, the chances of identifying the "perp" are slim.

On the other hand, the HOA should be conscious of the security issue and make the buildings and grounds reasonably safe and secure. There are many relatively inexpensive things that can be done such as:

1. Exterior lighting should be well placed and working.
2. Gates and locks should be industrial grade.
3. Landscaping should be trimmed to reduce cover and to allow light to disperse.

Get the residents' security perception in alignment with the intruder's. Once both are on the same page, security becomes closer to reality. 🗺️

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Ask the HOA Expert

Q Our HOA has ongoing problems with cigarette smoke which permeates the hallways and stairwells every time a resident smoker comes and goes from their unit. The ventilation system recycles the smoke throughout the common areas. Besides the bad odor, I'm concerned about health hazards.

A Second hand smoke (also called ETS-Environmental Tobacco Smoke) is a serious health hazard and the board is obligated to deal with it if it is impacting residents and their guests. The numerous deaths related to second hand smoke are well documented. This issue is much more than just a nuisance and the board needs to respond to complaints with real action. The easiest place to start is a ban on smoking in all common areas, including decks, patios, common hallways, stairwells, elevators, lobbies, building entries and meeting rooms. You might consider the pool area as well.

Some boards worry that bans on smoking will negatively impact property values. In reality, there is growing support for smoke free HOAs which would be highly prized by non-smokers who would pay a premium to live there. Something to think about.

There is no Constitutional right to smoke. Moreover, inflicting a health hazard on others is against the law. The board should take this issue seriously. *For a sample No Smoking Policy, see the "Policy Samples" section at www.Regensis.net.*

Q Our HOA has extra parking spaces which are first come/first serve. There are several residents which park extra vehicles and boats there for extended periods. This doesn't seem fair.

A If the HOA has extra parking spaces, it should not allow any one resident to commandeer them, especially for no cost. These are revenue generating assets which can be rented long term at market rate. In many urban settings, a reserved parking spot is worth \$50 or

more a month. The board should charge market rent on a yearly basis. This way, parking revenue benefits *all* HOA members by helping reduce HOA fees.

Q Our governing documents prohibit co-owners from serving on the board at the same time. Does this principle apply to committees?

A Committees can be composed of anyone that has an interest in serving, including renters. As long as the members are serving effectively, the board should encourage such participation. Since committee members are appointed rather than elected, the board can unappoint them if they aren't doing their job.

Q Our HOA board wisely ordered a reserve study this year. The study was completed and indicates that we are seriously underfunded. The study includes a funding recommendation that will substantially increase our fees. Is increasing reserve contributions a decision that the board alone can make? Do the general members have the right to voice their opinions, concerns, etc. prior to the board's decision. Should the reserve study be available to the membership to review?

A As long as the governing documents give the board authority to set the budget (usually the case), the board alone can make the decision. The board doesn't have to follow the reserve study provider's recommendation but departing from it will encourage greater challenge from members, particularly those that don't want to pay more. ("If the board can propose an increase lower than the professional, why not propose one even lower still?")

If the governing documents require the board to get member approval for increases over a certain amount, the board will have to bring the matter for a vote. In either case, it's wise for the board to hold a special meeting to discuss the reserve study and its implications, particularly if there is a significant increase in fees indicated. Ask the reserve study provider to

present the study and answer questions. This will add a much higher level of credibility to the process and take the spotlight off the board.

One mistake some boards make is deciding ahead of time that the members won't approve a large increase so a much smaller one is proposed. It is always preferable to present the higher recommendation and let the chips fall where they may. If the case for the professional's funding plan is made and a majority of the members still vote it down, future shortfalls can be blamed on the membership, not the board. If the board decides on its own to under fund, it has failed in its fiduciary duty to budget properly and should be held responsible for shortfalls.

For more, see Reserve Planning at www.Regensis.net

Q We have an owner who has not paid an assessment for several years. The property is being used as rental property.

A Your board needs to adopt a formal Collection Policy. There is one you can use as a model at www.Regensis.net in the Policy Samples section. That policy calls for filing a lien against the property and other aggressive measures which can include an assignment of rents provision. Have the proposed Collection Policy reviewed by a knowledgeable attorney to ensure it complies with the governing documents, federal and state statutes. Then, the proposed Collection Policy should be circulated for comment to the members before enactment. Once enacted, start enforcing the provisions on any owner who is delinquent. ⚠

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Tenant Tenets

One of the issues that many HOAs grapple with is renters. Some ban them outright, others limit their number.

Most live and let live. Interestingly, the HOA has no direct legal authority over renters, only its members. This disconnect creates some practical problems for the board or manager in communicating with tenants since there is always a middle person to deal with. So how does this all play out?

Rules Enforcement. The HOA has the right to expect all residents, whether owner or renter, to play by the rules. But with renters, it's up to the landlord to enforce them, not the HOA. So, the board should adopt a policy that requires all landlords to provide a set of the governing documents and all rules that have been adopted that affect the renter. The Board can also require that all rental agreements specifically make reference to and be subject to those documents. If a tenant violates a rule, the landlord should be informed of it immediately along with the expectation of enforcement. If there is a fine or penalty, the landlord should be levied for it as if he did the dirty deed himself. It's up to the landlord to get reimbursement from the tenant.

There are several exceptions to the landlord middle man enforcement process. If a tenant parks illegally in a fire lane, the HOA has the authority to have the car towed and the tenant will, naturally, pay to retrieve the car. There are some things the HOA should not interfere or get involved with. When a renter crosses the line between HOA rule and civil law infraction, the HOA has the right to call in proper authorities. Those authorities include the police, fire safety, FBI and drug enforcement.

Short vs. Long Term Rentals. Most HOAs deal with renters who have entered into long term rental agreements (30 days or more). Most governing documents, in fact, require that the rental agreement be long term to avoid what would be a hotel operation. In resort areas, (mountains, beach, etc.) the HOA may have been expressly built and sold allowing owners to rent their homes short term. (These homes or units are owned outright and are not timeshares with professional site management.) However, unless virtually every owner has that in mind, there will be an ongoing clash between permanent

residents and short term renters. Short termers have no allegiance to the community, don't know the neighbors and frequently are in party mode.

These factors point to ongoing problems with the locals. If this is a reality, it's important for the Board to press for consensus among the owners.

If the majority want the flexibility to short term rent, it makes sense to have an onsite manager to control these issues and others like key exchange and housekeeping. The manager could be funded partly by the HOA to handle regular maintenance and partly by landlords to care for rentals. It's a win/win.

Controlling Tenants. Renters generally are no better or worse than owner residents. Ongoing problems result from lack of landlord standards (or enforcement of those standards) by the HOA. Here are Landlord Standards which all HOAs should adopt:

1. Landlords must provide a set of governing documents (CC&Rs) and rules to renters before move in.
2. HOA rules & regulations must be a condition of all rental agreements.
3. Landlords are held accountable for renter infractions.
4. Renters must communicate requests to the HOA through the landlord.
5. Board may demand termination of a tenant with multiple rule violations.
6. Landlord must provide a copy of each rental agreement to ensure compliance with the HOA's standards and for emergency contact purposes.

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Renter Surcharges & Fees. Some HOAs impose a Move In/Move Out or Renter Fee on landlords. Unless this fee is imposed on all residents, owner or renter, it is discriminatory. If a

particular renter causes damage to the common area moving in or out, the landlord should be charged for it. Never surcharge classes of residents.

Communicating with Landlords. All tenant violations should be directed to the landlord in writing along with specifics, including date and time. The communication should be clear on what the landlord's course of action should be. It should also reinforce that it's up to the landlord, not the HOA, to deal with a renter.

Limiting Rentals. At one time or another, someone presses to limit rentals. There are right reasons for doing so, but avoid the wrong one: The belief that renters are undesirable. While some tenants may be problems, so are some owners. Each must be dealt with as individuals, not a class. The only valid reason for limiting rentals is to protect financing and market values.

Many lenders view HOAs with a high number of rentals as investment property. Investor loans are more expensive and in a tight market, loans may be hard to get. Since availability of cheap money drives market values, it's important to avoid lender restrictions. Although there is no hard and fast guideline, maintaining at least two-thirds owner occupancy seems to pass muster with most lenders. Falling below that level causes closer scrutiny by some lenders. When lenders scrutinize, it usually means the interest rate or fees go up. Restricted financing options cause market values to fall.

Limiting rentals to protect financing is a worthy rationale for doing so. However, placing a system in place that allows some owners to rent but not others has many problems. The board must oversee the rental restriction policy and establish guidelines for who gets to rent and when. Also, there will be hardship cases (disability, job loss, down real estate market, etc.) that will press the board to bend the policy.

And consider if a landlord simply ignores the restriction and rents his unit. The HOA has control over the owner but not tenants who are protected by Landlord-Tenant laws. For a variety of reasons, if limiting rentals is desirable, it should apply to all

owners. A total ban on rentals doesn't completely eliminate the board's oversight, but it at least makes it fair to all owners. (For a sample Rental Restriction Policy, see www.Regensis.net.)

Renters Have Rights. After considering the various issues, it's important to remember that renters have

rights that must be respected. Besides the state Landlord-Tenant laws, the Fair Housing Act speaks to unreasonable rental restrictions. Never impose restrictions based on gender, faith, culture or race. When it comes to tenant tenets, don't be tentative. 🏠

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Leadership 101

Strong leadership is an essential component of every successful homeowner association. According to the book **Leaders**, "a manager does things the right way and a leader does the right thing." A leader is someone who not only recognizes the "right thing," but who can also motivate others to get the right thing done. How do you recognize who has this special combination of insight and inspiration? Strong leaders should have skills, knowledge, and experience plus the abilities to motivate and command.

A person's suitability should include understanding how the HOA works and familiarity with significant historical events. Newcomers frequently make superb volunteers. However, there are some situations which call for someone possessing a historical perspective. For example, if the HOA is in the midst of sensitive litigation or a new management contract, a newcomer might detract by insisting on covering old ground again.

How much interest has the candidate shown in the HOA and its undertakings? Has there been regular

meeting attendance, response to volunteer requests and participation in activities? If not, investigate the sudden interest. Be particularly careful about "one-issue" candidates who run because they dislike a certain contractor or are opposed to a recent assessment increase.

Consider communications skills. Some volunteers are not particularly articulate, yet are valuable and productive. Leaders should be able to express ideas clearly and persuasively.

A candidate should not have conflicting personal and professional commitments. For example, a candidate may have out of town travel commitments that means spotty participation.

There are personal characteristics that point to strong leadership style. Look for people who display these particular abilities:

Vision. A strong leader understands and promotes the HOA's best interests. Leaders set goals, communicate what's needed to achieve them and then move toward them.

An Open Mind. A leader must be able to approach a problem creatively. Perspective is an invaluable leadership tool. A board afraid of change will stagnate.

Enthusiasm. Enthusiasm is contagious. With it, goals are achieved quickly. Without it, the same goals may be entirely out of sight.

Sound Judgment. A good leader has the ability to identify and prioritize issues, and then weigh alternatives carefully before making decisions.

Decisiveness. Taking a stand involves making mistakes. A good leader takes a stand and if an error is made, acknowledges it and makes a course correction. Avoid those that "play it safe". It usually means stagnation.

Sensitivity. A genuinely caring leader inspires confidence in others. Confidence leads to results. Leaders delegate, give and seek constructive feedback. A leader knows how and when to give praise. Praise is the

simplest and often the most valued form of reward. A leader knows how to criticize constructively by pointing out what is wrong without attacking personalities. A good leader seeks opinions and ideas from others.

Ability to Take Criticism. No one in a position of power will escape criticism. Leaders have the ability to discern when criticism is valid and when it's not.

Leadership Styles. The effective leader has some identifiable styles:

- ▶ **Leads by Example.** Arrives on time, takes charge and demonstrates good work habits.
- ▶ **Solves Problems.** Uses knowledge and experience to help get the job done.
- ▶ **Fosters Cooperation.** Instills cooperation among volunteers, making it easy for them to pitch in together.
- ▶ **Communicates.** Explains, persuades and praises.
- ▶ **Promotes Teamwork.** Pitches in along side others.
- ▶ **Practices the Golden Rule.** Treats others as equals.
- ▶ **Takes Responsibility.** Never blames others for problems.
- ▶ **Listens to Others.** Gives credit when credit's due.

A leader can make or break a homeowner association's spirit. By considering the strength and qualities it takes to succeed, selecting your leader can in a very real way, lead to a more productive and happy community. Choose well and prosper. 🏠

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Excuses, Excuses

An excuse has been defined as "the skin of a reason stuffed with a lie". There are two homeowner association board member sentiments most frequently expressed: "We can't afford the Reserve Funding Plan" and "We'll worry about that next year". But no

matter how many times repeated, it doesn't mean they're true and it doesn't mean they're wise.

Most of us are accustomed to living within our means. Some things we can afford and some things (like that red Ferrari!) we can't. So we are regularly making choices about where we spend our limited cash. But there are two logical flaws to this concept of "affording" when it's applied to reserve contributions. First, common area repair and replacement expenses don't disappear if the reserves are underfunded. The claim that you can't afford the Reserve Funding Plan this year only creates more reserve obligations in the future. In addition, delayed contributions generally result in delayed reserve projects, creating deferred maintenance. Many of those deferred reserve projects actually get more expensive when delayed. Delaying doesn't save you money, it costs more.

Boards are obligated to operate the HOA according to state law and their own governing documents. To that end, boards are empowered to set a budget to collect "adequate" funds from the members to maintain the common assets. Making a decision to not budget for those needs exposes board members to personal liability, like a lawsuit against the board because of a special assessment levied to catch up for years of artificially low reserve contributions.

The reality is that under funding reserves is a nationwide problem and more prospective buyers are becoming aware of the issue. FHA underwrites the majority of condominium loans and has minimum reserve funding requirements for condominium associations whose members seek FHA financing. If the HOA is not meeting FHA's reserve funding standards, FHA loans aren't available.

"We'll deal with that next year." The problem with this excuse is that reserve obligations are not future events. Reserve obligations arise from very predictable and ongoing deterioration that occurs day by day. The cost of that ongoing deterioration can be easily calculated, which forms the basis for the reserve contributions. Those repair and replacement costs are as real as any

other "bill" the association must pay. Cultivating a culture of not paying your bills is not only fiscally irresponsible, but inherently unfair.

Let me explain: Is it fair to be forced to pay for a new roof that someone else "used up"? The victims of special assessments or bank loans likely are paying far more than their fair share of that component's cost. Those current owners are being forced to pay the bill of prior owners who underpaid their fair share of the HOA's ongoing cost of deterioration.

"It is the greatest of all mistakes to do nothing because you can only do a little. Do what you can." Sydney Smith

It may be a hard pill to swallow, but boards need to stop making excuses or kicking the can down the road. Do the prudent thing and follow the recommended Funding Plan provided by your reserve study professional. Not only will you then fulfill your responsibility as a board member and protect yourself from personal liability, but being able to afford timely repairs and replacements will maximize property values and go a long way to help overall homeowner satisfaction.

By Robert Nordlund 🌳

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Tree Planning

"God is the experience of looking at a tree and saying "Ah!"" *Joseph Campbell.*

Trees provide beauty, shade and sense of permanency. Homeowner association developers often plant them generously around the property in starter sizes of 8 to 12 feet to satisfy both building code and marketing purposes. And due to the small sizes, they often over plant to make a bigger impact.

With the trend toward smaller lots and bigger housing, there is less landscape space which squeezes available real

estate for trees. Small trees in constricted areas eventually become big trees which cause problems with roofs, gutters, buildings, sidewalks are paving. Besides the inconvenience, this causes real repair and ongoing maintenance expense to the HOA.

Another frequent tree issue is view blockage. Huge money is paid for view and trees can steal it away. When view becomes obscured, certain members become rightly riled up and demand action. Some don't even quibble about the money and offer to pay.

So the winds of a tree war begin to blow and the leaves begin to rustle. It's the View People versus the Budgetary Forces versus the Tree Huggers. Each has a different and reasonable objective with the trees caught in the middle. How is it all to be sorted out?

Winning the tree war requires grasping certain issues:

Poor Placement. Some trees have simply been placed too close to buildings and no amount of pruning can fix it once they get to a certain size. They overhang the roof causing damage and dumping debris which clogs and causes the gutters to overflow which damages the building. They only real solution is removal (of the trees, not the gutters).

Wrong Species. In an attempt to make the biggest impact with the fewest dollars, developers often choose less expensive and faster growing trees to populate the landscaping. These species often are ill suited for the location. For example, trees planted near sidewalks, parking lots and driveways should be deep root varieties that won't damage surrounding installations with surface roots. Planting birch trees next to buildings virtually ensures a year round cascade of gutter clogging debris that, in turn, drives a huge gutter cleaning cost. Again, the only real solution is removal.

Too Closely Planted. Close placement produces overcrowding as the years pass. Tree crowns grow together and sunlight no longer reaches the grass, flowers and bushes below causing them to wain and die. The overgrowth blocks area lighting and

causes security concerns. This issue can be addressed by thinning.

View Pruning. Many view blocking trees can be selectively pruned to provide view “windows”. View pruning is not the answer to those that want sweeping views. It’s a compromise between warring factions. It provides some view without removing trees.

Relocating & Replacing. Much of the tree dispute can be refocused with a replacement plan. The plan can call for replanting trees to replace those that are removed. The plan should call for different species which are better located. This approach generally satisfies most members. Of course, big trees will be replaced with small trees but better small trees than no trees.

The Arborist. One of the most valuable consultants available is the certified arborist. Hiring one to assess the entire treescape is advisable at the earliest point. The arborist will inventory all the trees and recommend proper maintenance according to species. If there are problem trees in the making, the arborist can advise early when replacement is cheap and damage has yet to happen. If the arborist is brought in later when trees are larger and causing problems, she can make many recommendations for pruning and replacement that will take the board out of the political target zone.

Proper tree planning produces proper tree planting. Doing it right the first time avoids inevitable and expensive corrections. If faced with the latter, use an arborist to sort out the issues and to recommend a comprehensive plan for correction.🌳

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Finding Wisdom

The Bible has a lot to say about wisdom. In Proverbs, a book devoted to wisdom, we are told that wisdom is the principle thing. Though it cost us all

that we have, get wisdom.

What is this elusive quality called wisdom? How do we get it? First, let's begin by taking a look at the four levels of thinking.

The first level is data—simple facts and figures. Next we have information. Information is data that's been collected and organized. It is a reference tool. Something we turn to when trying to create something else.

The third level is knowledge. This is information that we have digested and now understand. Organized as knowledge, the information we have collected is given a context.

The fourth and final level is wisdom. Today, wisdom has become for many, indistinguishable from knowledge. But they are two different things. Often, what we find touted as wisdom is simply opinion. Knowledge is not wisdom. There is a big difference. Wisdom is the proper use of knowledge. To be more precise, wisdom is knowledge that has been applied in a way that takes into account all its pertinent relationships and that is consistent with universal laws.

A glut of information can be a kind of Catch-22. While it adds to our knowledge, it can be a block to our wisdom. We can be so busy trying to process more and more information, that we don't have the time for the quiet contemplation that is essential for the development of wisdom. Without contemplation, we lose perspective and can lose our grounding. Without our bearings we lose a sense of place. Confused, we are more easily swayed.

It is essential then, that we learn to let the unwanted information we receive go in one ear and out the other and to get the knowledge we need, to stop somewhere in between. It is interesting that armed with mountains of information, we have turned arguing into a national pastime. It seems one can always provide more information to support a claim. We begin to think might makes right—more is better. In turn, relationships fracture as we go off with our own tangential, myopic views. We lose perspective.

Knowledge too, is a funny thing. It can

deceive us into thinking we are wise. Knowledge alone is not wisdom. For example, have you ever known someone who is incredibly smart, maybe they get straight As in school, or maybe they have several degrees, and yet their life is a complete mess?

Perhaps you know someone who is sufficiently educated and yet they can't hold a job, can't act on basic instructions, and they seem to be constantly faced with a host of problems. What's wrong? These people aren't dumb. They don't seem to lack the necessary information to be a success in life. Yet for them, life is one struggle, one upset, after another. Sadly, they lack wisdom. Many people know a great deal but are all the more foolish because of it. They have not yet learned how to apply the knowledge they have. For the successful conduct of life, mere knowledge is not enough.

By Michael McKinney🌳

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?"

"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?"🌳