



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

Weaving a Web

"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, a homeowner association board should 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 is effectively managing the HOA 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 are forced to do it due to an inadequate budget to pay 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.Regenesis.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 a web of good management practices, the result is a thing of truly lasting beauty. 🕸

Ask The HOA Expert

Q Our HOA files a tax return using Form 1120-H which is designed for homeowner associations. Our reserve fund interest earnings above \$100 are subject to a 30% tax. Is there some way to avoid or reduce the tax?

A You can offset interest income earned on investments and savings with certain expenses. The IRS doesn't specifically detail what expenses can be taken against interest income, however, numerous tax courts have ruled that 100% of some expenses and a certain percentage of other expenses can be used to offset interest income and other non-member income on the 1120-H. These expenses include tax return preparation fees, management fees, state taxes, audit or review fees. So, depending on what type of expenses your HOA has, it could reduce or eliminate taxable income. *By Doug McLain - Currie & McLain CPAs*

Q We have been having board discussions at meetings about our HOA pool safety. We have a four foot tall fence with key locked gates. We have rules and consequences if they are not followed. Should the pool be supervised by an HOA lifeguard or pool monitor?

A Unless your HOA is wealthy enough to provide a life guard during pool hours, pool operations are typically "use at your own risk". That said, the homeowner association is responsible to keep the fence, gates and locks in good condition.

When the pool season is over, a safety type cover should be installed. All safety covers must conform to the Standard Performance Specification set by the American Society for Testing and Materials (ASTM), be able to support a certain amount of weight, not permit gaps that a child or pet could squeeze through, and remove standing water. Loop Loc brand covers, for example, are built from extremely strong material and secured tightly to the deck by heavy-duty springs and anchors. This design prevents children and pets from falling into the pool.

The Regensis Report

Prohibiting after dark swimming makes sense since it will likely disturb the neighbors and often attracts party goers that may be intoxicated. Minors 14 years old and younger and all guests should be accompanied by an adult resident.

Finally, ask your HOA insurance agent about other suggestions to reduce pool risk. They are usually prepared with a laundry list.

Q Our board has been enacting rules without consulting the members. Some are way off base or totally unnecessary. What can be done about this?

Regensis.net

The world's best information resource for condominium and homeowner associations. Includes Ask the HOA Expert™. Unlock the vault of knowledge for pennies a day.

Subscribe Today!

A My basic rule about HOA rules is that they should be few and necessary. Unfortunately, some boards feel when it comes to rules, the more the merrier. The reason that quorums are required is so that a few can't control the many without their consent. If the quorum concept is abandoned, the current board can crown itself emperor and wield the scepter of power with impunity.

Kidding aside (*I was kidding!*), gaining legal quorums is often difficult for annual meetings. That is why the concept of "proxy" is a necessary component of HOA annual meetings. A proxy is a person appointed by another person to act on their behalf. Virtually every HOA is allowed to use them for annual owner meetings so that quorum and voting majorities can be attained.

Proxy forms should be distributed along with the official meeting notice with instructions to complete and return them at least a week before the meeting. The proxy giver should have the option to appoint "a director of the board who is not running for election"

if no one else is able to attend. The proxy authority can also be designated "for quorum purposes only".

A week before the meeting, the proxy returns should be tallied. If there are not enough to meet the quorum, more. Whenever there is evidence that a rule is needed, polling the members should be the very first step. There are few rules that are so urgent that allowing time for member review and comment couldn't allow a better perspective. The public relation aspect alone justifies the effort.

Some boards make rules to control a few offenders who will never be controlled. Scofflaws eat rules for breakfast so making new ones only feed the beast. Whatever rules that are enacted need to have an ongoing and widespread need.

Q We have had a very hard time getting a quorum at our annual meetings. Regardless, elections are held and directors elected. It seems to me that the elections are illegal if there isn't a legal quorum.

A can be collected door to door until a quorum is achieved. That way, there will always be a legal meeting. All proxy givers that attend can retrieve their proxy and vote as usual. Either way, the meeting stays legal.

There is a sample Proxy in the Forms section of www.Regensis.net available to Gold subscribers.

Q Our HOA has a resident that often interferes with the landscape contractor. The contractor has threatened to quit due this interference. The resident has been advised in writing to cease and desist but it continues. Suggestions?

A It's not uncommon for certain residents to engage contractors in conversation, usually trying to be sociable or helpful. This is particularly true of landscape contractors. Most landscapers know this and should be instructed not to respond or instruct the resident to "talk to the board".

September 2024

If this has been done without success, I suggest someone on the board meet with this person and discussed the reasons for his interference. Some of his concerns may be legitimate. If so, address them in writing with the landscaper and send the owner a copy of the letter. But if the interference is just meddling, other tactics need to be used.

Try one more letter stating that the previous courtesy letter has been ignored so the landscaper will bill for additional time in dealing with him if he continues to slow them down. Add that if the HOA is billed, he will be charged for it. Then, ask the landscaper to monitor the situation and to journal when interference happens. If it does, ask him to submit a bill to the HOA for the time at his normal rate is. Bill the owner. This usually stops the meddling. If not, have the landscaper submit another bill and charge him again. Make sure to enforce collection if it goes unpaid. Some folks can be pretty stubborn but most come around.

Our townhomes each have a rear deck. Two adjacent owners submitted a request to add a brick patio in between their two decks. Besides the fact that there is a utility easement (buried cable) where they want to install the bricks, it seems inappropriate to allow this installation since future owners might not be so neighborly. Thoughts?

This was probably a cost sharing scheme to develop additional patio space for half the cost. There are several approaches to responding to the request. If the expansion area is common area, the board has no authority to permit individual owners using it for private space. Case closed. If the space is limited common area, the utility line easement access would be compromised. Case closed. Your observation about how this would impact future owners of this property is also valid. Case closed.

I recently got elected to the board. I was reading the bylaws and it occurred to me that we didn't have a quorum so the election was illegal. I did further

research and discovered that we've *never* had a quorum in the three years that the HOA was turned over from the developer. I'm concerned that since none of the board members were legally elected, their acts have not been legal either. I believe all the liens, contracts and other approved actions should be redone. Our property manager believes I'm overreacting, stating that most of the annual meetings she coordinates lack a quorum for elections. Am I making too much of this?

Your concerns about the quorum are valid. While it's true that many owners don't choose to attend the annual meeting, using apathy as the reason to run roughshod over quorum requirements is a lame excuse. The board is responsible for properly noticing the annual meeting.

Your concern about redoing past board actions is unrealistic and opening this Pandora's Box would allow challenge to anything and everything the board has done. While it's possible a member may raise the issue to justify violating some policy or rule, it's unlikely. It's better to let sleeping dogs lie and strictly adhere to proper quorum requirements going forward. 🗳️

Regenesi.s.net
Checklists
Subscribe Today!

HOA Myth-takes

The board of a homeowner association (HOA) has various and sundry tasks which are often not what the board thinks they are. Here are some of the HOA myths:

HOA fees should be kept low. The board is elected to maintain the HOA assets properly. There is a big difference between being a good steward and a tightwad. Tightwads skip routine and necessary maintenance services which erode the value of the assets. It takes money to do it right and

the board should spend the money necessary to accomplish the tasks. That means hiring the right people to get the job done, not the cheapest or none at all.

Volunteer boards aren't held to high standards. Even volunteers are charged with running HOA business in an informed and business like manner. This means taking care of things in a timely manner, planning ahead to anticipate problems, getting and acting on good advice. Is your board acting or reacting?

The HOA is small and so are the needs. Large HOAs have the advantage of volume discounts. The smaller the HOA, the more important proper planning and adequate budgeting are since the cost per owner goes up.

We're too small for professional management. In areas like financial management and rules enforcement, all HOAs should have professional management. Collecting money from neighbors and controlling their antisocial behavior is bound to cause problems for the person doing it. It's even worse when you live next door to the offender. There are management professionals that do these tasks 24/7. Why would you want to save a few management bucks and take on such disagreeable tasks for nothing?

The board is elected to do property management. Wrong. The board is elected to hire and supervise competent service providers including property managers.

The board job is 24/7. The job can be all-consuming if the board is not doing what it was elected to do. If the board is properly organized, management assigned to a professional and other maintenance tasks assigned to qualified contractors, the board's job should usually take only a few hours a month.

The board is entrusted with the most valuable asset most people own, their home. The responsibilities of an HOA board are not unlike those of any Fortune 500 company board. In both cases, there are physical and human assets entrusted to the board's oversight. Is your board asleep to the

true scope of its job? If so, don't make the same "myth-takes". 🗡️

Regenesi.s.net
Article Archive
Subscribe Today!

Hammer Time

Why is it taking so long to collect delinquencies? Can we close the pool to the deadbeat? Why can't we collect on that judgment? These are questions that too many board members and managers ask...mainly because there is no collection policy.

A clearly worded, communicated and enforced collection policy is the solution to collections. A collection policy simplifies one of the board's most disagreeable tasks: collecting money from neighbors. Since the course of action is predetermined, the board doesn't need to wring its hands over each case. Here are some of the essential components:

- ✓ Payment Date: ___ of the month
- ✓ Payment Late: ___ of the month
- ✓ Late Fee: \$ ___
- ✓ Finance Charge: ___% per month
- ✓ Payments applied to oldest balance first
- ✓ Type of notices (10 Day Notice to Pay, Notice of Intent to Lien, etc.)
- ✓ Who provides the notice (association, attorney)
- ✓ When account is referred to an attorney
- ✓ Collection costs paid by the debtor
- ✓ HOA has right to obtain a personal judgment (garnish wages, attach personal property, etc.)
- ✓ Amenities (pool, tennis court, clubhouse) are suspended for delinquencies of a certain dollar amount

Copy Assessment Payment Checks

For the record, photocopy a check from each owner when received, whether delinquent or not. The information will be valuable if collection is necessary and may save a \$100 - \$200 "skip trace" cost later.

Get Work Phone Numbers. Getting a judgment or lien doesn't guarantee payment. In most jurisdictions, a collection can receive up to 25% of a debtor's "disposable" wages (after withholding). Ask all owners for work phone numbers for "emergencies" with a pool or car registration form.

Give Notice to All Legal Owners.

There may be more than one owner on each unit title. Make sure all applicable names are on the notices. A title company can assist with this information. All owners are equally responsible for the entire debt.

Checks Marked "Paid in Full".

Cashing checks so marked could be considered binding. Make sure the amount truly is "paid in full" before depositing.

Record Liens. Liens alert lenders, purchasers and title companies of a "cloud on title" that needs to be cleared up. For this reason, long standing delinquencies often get cleared up at refinancing or sale closings. A recorded lien improves the odds of collecting even if an owner files bankruptcy or a lender forecloses. If the lender forecloses, the association can collect if there are surplus proceeds. If there is no lien and the property is sold, the association has no claim.

Let the Attorney Handle It. After several rounds of written notices and 60 days have passed, turn the matter over to the HOA's attorney. Cease communications with the debtor. Referring all calls to the attorney will expedite the process. One attorney letter often does the trick.

Take Away Privileges. Many homeowner association governing documents allow the association to withhold access to amenities like pool and parking. If allowable, do it.

Shut Off HOA Provided Utilities

Sometimes, drastic action is called for. Your collection policy can call for shutting off utilities like water. This may require a plumber. Make sure that your governing documents and state statute do not prohibit such actions.

There's no magic money tree for HOAs. If one member doesn't pay, the rest have to ante up. When you are an anvil, bear. When you are a hammer, strike. Make it hammer time!

For a sample Collection Policy, go to www.Regenesi.s.net 🗡️

Regenesi.s.net
Best Practices
Subscribe Today!

Bit of a Bother

"Nuisance" has been defined as "something that causes harm" and "a bit of a bother". Nuisances are a pretty common occurrence in homeowner associations since living in close proximity is bound to create friction from time to time. Most HOA governing documents include language like: "No resident shall engage in offensive activities which are a nuisance, or interfere with the quiet enjoyment of other residents."

These "nuisance" provisions trigger the need for the HOA to control resident behavior that qualifies. The problem is, there is a growing belief in the legal community that these provisions themselves may be a nuisance for the boards responsible for enforcing them.

One problem is simply defining the term "nuisance". The obvious goal of nuisance provisions is to prevent residents from making other residents miserable. But the broad wording of typical nuisance provisions leads to arguments of whether such provisions apply to almost any activity, or none of them. This ambiguity causes board members charged with enforcing them to echo former Supreme Court Justice Stewart's statement about the difficulty of defining obscenity: "[I can't define it], but I know it when I see it."

In the same vein, many HOA boards would agree that they recognize a nuisance when they see it. However, this approach has mixed results. Behavior that infuriates one person

might go unnoticed or overlooked by another. Hyper-sensitive residents may deem all sounds as offensive, while others may refuse to recognize how their neighbors could find the most offensive behavior unacceptable.

The typical nuisance language in HOA documents doesn't offer much guidance to the boards who must mediate these disputes. One option is to list the activities or behaviors that will constitute a nuisance. Generally, the board has the authority to adopt resolutions "to clarify" the governing documents. A nuisance resolution could include:

1. Barking dogs at any time.
2. Unsupervised pets in the common areas.
3. Loud music, TV, singing. etc. between 10 pm and 8 am.
4. Obnoxious odors.
5. Use of chemicals or equipment that cause life or fire safety concerns.
6. Tobacco or barbeque smoke that migrate between units.
7. Housekeeping that causes fire safety or health conditions (overly cluttered, attracts vermin, mold, etc.)
8. Other activities that the Board deems to be a nuisance (catch all provision)

Is a nuisance a bit of a bother or something that causes harm? Good question. But this is an area that the board needs to establish a policy that works most of the time and then focus on those special cases that require more thought or mediation.🐾

Regenesi.s.net
Reserve Planning
Subscribe Today!

Herding Cats

At times, it can appear that trying to unify a homeowner association board is like herding cats. Freedom of expression is what America is all about, right? While it's true each citizen is allowed freedom of thought and expression, having a group of special interests fighting over the same turf is

contrary to the interests of an HOA. It is up to the president to build a team, a coalition that can prioritize and get the job done.

Coalitions take the strengths of differing viewpoints to accomplish a unified result by focusing on a common objective. In the case of homeowner associations, the primary objective should be to sustain and protect owners' property values. This object is the "filter" by which decisions are made.

So what does it take to build a coalition of cats? For this, we turn to the supreme artists of change, politicians. Here's what successful politicians do:

Don't Wait for Crisis. Like the Boy Scouts, "Be Prepared" by getting to know your board members personally. Understand their motives for serving. There may be more to it than you imagine. This information could be very useful in the future.

Establish a Filter. A filter is the philosophy by which all issues must pass. For example, a good basic filter could be that creating harmony by sustaining property values should drive board's decisions. This filter allows disagreement on priorities but forces all issues to answer the question: Will this action sustain our property values and increase harmony?

Partner with the Opposition. Look for someone that wouldn't be a natural partner. Be prepared to support some of their issues with the expectation that they will do the same for you. Those in the middle will be naturally drawn into the cooperative spirit.

Focus on Consensus. When divisive issues begin to take center stage, it's time to refocus the group on the priorities which hold clear consensus. This may require diversionary tactics. For example, if a director or homeowner demands satisfaction on some divisive issue, appoint that person chair of a committee to "research" the issue. Ask for a written report with recommendations. This method shows clear concern for the divisive issue

without endorsing it. And, in the vast majority of cases, the issue will vanish when the committee chair is actually faced with the prospect of building real work.

Sell the Vision Thing. Create some bigger than life goals for the board to accomplish. Instead of just sustaining property values, cast a vision that will *increase* them. For example, in older communities, signage gets tired, building colors become dated and newspaper boxes and illegal signs leer like ugly weeds.

Suggest bringing in a color consultant from the local paint supplier to provide contemporary color combination alternatives. Have color boards prepared and get the owners to vote on their favorite. Declare war on the trashy signs and rid them from your HOA. Vow to unclutter and bring a fresh clean look to the HOA and set a timetable to do it. The Vision Thing is contagious, especially when folks begin to see results.

Herding cats and coalition building has everything to do with moving forward, not merely treading water. Cats stay interested when there is movement. Be a lion tamer. Round up those cats, crack the whip and watch them purrrrrrrrrrr.🐾

Regenesi.s.net
Resource Links
Subscribe Today!

Duty, Honor & Country

Those three hallowed words reverently dictate what you ought to be, what you can be, what you will be. They are your rallying points: to build courage when courage seems to fail; to regain faith when there seems to be little cause for faith; to create hope when hope becomes forlorn...

These are some of the things they do. They build your basic character. They mold you for your future roles as the custodians of the nation's defense. They

make you strong enough to know when you are weak, and brave enough to face yourself when you are afraid.

They teach you to be proud and unbending in honest failure, but humble and gentle in success; not to substitute words for actions, not to seek the path of comfort, but to face the stress and spur of difficulty and challenge; to learn to stand up in the storm but to have compassion on those who fall; to master yourself before you seek to master others; to have a heart that is clean, a goal that is high; to learn to laugh, yet never forget how to weep; to reach into the future yet never neglect the past; to be serious yet never to take yourself too seriously; to be modest so that you will remember the simplicity of true greatness, the open mind of true wisdom, the meekness of true strength.

They give you a temper of the will, a quality of the imagination, a vigor of the emotions, a freshness of the deep springs of life, a temperamental predominance of courage over timidity, of an appetite for adventure over love of ease. They create in your heart the sense of wonder, the unfailing hope of what next, and the joy and inspiration of life. *General Douglas McArthur* 🌟

Regenesis.net
Ask the HOA Expert
Subscribe Today!

Silent Sermon

A regular member of a certain church abruptly stopped going. After a few weeks, the pastor decided to visit him.

It was a chilly evening. The pastor found the man at home alone, sitting before a blazing fire. Guessing the reason for his pastor's visit, the man welcomed him, led him to a comfortable chair near the fireplace and waited.

The pastor made himself at home but said nothing. In silence, he contemplated the dance of the flames around the burning logs. After some

The Regenesis Report

minutes, the pastor took the fire tongs, carefully picked up a brightly burning ember and placed it to one side of the hearth all alone then he sat back in his chair, still silent.

The host watched all this in quiet contemplation. As the one lone ember's flame flickered and diminished, there was a momentary glow and then its fire was no more. Soon it was cold and dead.

The pastor glanced at his watch and realized it was time to leave. He slowly stood up, picked up the cold, dead ember and placed it back in the middle of the fire. Immediately it began to glow, once more with the light and warmth of the burning coals around it.

As the pastor reached the door to leave, his host said with a tear running down his cheek, "Thank you so much for your visit and especially for the fiery sermon. I will be back in church next Sunday".

We live in a world today which often says too much with too little. Consequently, few listen. Sometimes the best sermons are the ones left unspoken. 🌟

Regenesis.net
Accounting Issues
Subscribe Today!

Word Play

- ☹️ **Intaxication.** Euphoria at getting a tax refund, which lasts until you realize it was your money to start with.
- ☹️ **Reintarnation.** Coming back to life as a hillbilly.
- ☹️ **Bozone.** The substance surrounding stupid people that stops bright ideas from penetrating. The bozone layer, unfortunately, shows little sign of breaking down in the near future.
- ☹️ **Giraffiti.** Vandalism spray-painted very, very high.

- ☹️ **Sarchasm.** The gulf between the author of sarcastic wit and the person who doesn't get it.
- ☹️ **Inoculatte.** To take coffee intravenously when you are running late.
- ☹️ **Hipatitis.** Terminal coolness.
- ☹️ **Osteopornosis.** A degenerate disease.
- ☹️ **Dopeler Effect.** The tendency of stupid ideas to seem smarter when they come at you rapidly.
- ☹️ **Arachnoleptic Fit.** The frantic dance performed just after you've accidentally walked through a spider web.
- ☹️ **Caterpallor.** The color you turn after finding half a worm in the fruit you're eating.
- ☹️ **Ignoranus.** A person who's both stupid and a butthead. 🌟

**REGENESIS
RESERVES**

PACIFIC NORTHWEST
RESERVE STUDY CONSULTANTS

- **Complies with Statute**
- **Custom Funding Plan**
- **Maintenance Plan**
- **Many Satisfied Clients**

NO OBLIGATION PROPOSAL

503.268.1789

info@regenesisreserves.com
www.regenesisreserves.com

MEMBER

Association of Professional Reserve Analysts

September 2024